

5.08 ALCOHOL/DRUG TESTING

A. Purpose

The purpose of the Drug and Alcohol Testing Policy is to promote safety for all employees, citizens, contractors, customers, and others on or near our worksite. “Worksite” means any office, building or property owned or operated by the employer or at any other site at which an employee is to perform work for the employer.

B. Definitions

Alcohol—alcohol or any beverage containing more than one-half of one percent of alcohol by volume that is capable of use for beverage purposes, either alone or when diluted.

Alcohol Testing—means the use of a breath alcohol monitoring machine.

Approved Laboratories—certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). They will analyze urine specimens to meet federal drug testing requirements.

Breath Alcohol Technician (BAT)—The BAT shall be responsible for collection of breath samples for alcohol testing. The BAT shall be trained in the operation of the device used to conduct the test equivalent to the Department of Transportation’s (DOT) program.

Collection Agency—qualified collection site with qualified personnel and shall follow DOT collection procedures.

Drug—controlled substance as defined by Chapter 3719 of the Ohio Revised Code, entitled “Controlled Substances,” and/or Section 202, Schedules I through V of the Federal Controlled Substance Act, including but not limited to marijuana, hashish, “crack,” cocaine, heroin, morphine, codeine, opiates, amphetamines, “ice,” barbiturates and hallucinogens.

Drug Testing—collection of urine specimen by medical personnel and a laboratory analysis of that specimen by the most current an appropriate technology. No other testing procedures or methods may be utilized unless mandated by Federal Regulations.

Drug Testing Facility—to the extent possible, collection of urine and breath samples for such testing shall be performed by the collection sites whose sample collection protocol has been approved by the County and conforms to Federal regulatory requirements. The procedures and methodology in such testing shall be in accordance with governing Federal regulations.

Medical Review Officer (MRO)—the MRO interprets the laboratory results of the drug tests and reports positive results to the Employer after verifying that there are no valid medical explanations for the positive results. This individual shall be a licensed doctor with appropriate credentials. A Medical Review Officer’s duties and determinations shall fully comply with the Mandatory Guidelines for Federal Workplace Drug Testing programs issued by SAMHSA.

Reasonable Cause/Suspicion—based upon observation and good faith belief that an employee is under the influence of drugs or alcohol while on the job. Such belief may be based upon the smell of alcohol, slurred speech, staggering gait and/or other abnormal physical or psychological behavior typically associated with drug or alcohol intoxication or impairment. Whatever the observation, it shall be made by two supervisors, if possible, and documented in writing.



Substance Abuse Professional (SAP)—the SAP will evaluate the employee’s situation, prescribe an appropriate treatment program, if necessary, and schedule unannounced follow-up testing once the employee has returned to duty. SAP duties and determinations will fully comply with the Mandatory Guidelines for Federal Workplace Drug Testing programs issued by SAMHSA.

C. Types of Testing

1. New-Hire/Pre-Employment Screening

Unless otherwise required by law, all applicants considered for employment may be required to consent to, take and pass a pre-employment post-offer drug screening test and to release the laboratory results for such tests to the County as a condition of employment. A licensed testing facility, designated by the County, will administer the drug testing. Any applicants refusing to take the drug screening test will not be considered for employment. Any applicants who fail the drug screen will not be hired or will have their employment terminated if they have already commenced work.

2. Reasonable Cause/Suspicion

If management has reasonable cause to believe that an employee is under the influence of drugs or alcohol while on County premises or while working, the County reserves the right to require the employee to submit to a drug and/or alcohol screening. Arrangements will be made to transport the employee to a designated medical facility identified by the Employer for testing. After testing, arrangements should be made for safe transportation to the employee’s residence or a place selected by a relative or friend of the employee.

a. Determination

A reasonable cause determination will generally be made by a supervisor. The supervisor must be able to cite specific physical, behavioral, or performance indicators of probable drug use. Instinct or intuition are not to be considered. Generally, more than one factor must be observed before such testing will be initiated.

Factors which may give the County and its supervisor such suspicion include, but are not limited to the following:

- i.** The observed use, purchase, sale, possession, receipt or distribution of any and all illegal drugs or alcohol while working or on County premises.
- ii.** Any physical appearance and/or behavior including but not limited to the following:
 - a) Suspicious odor;
 - b) Slurred speech;
 - c) Dilation of pupils;
 - d) Staggering or uneven posture or walk;
 - e) Obnoxious or bizarre behavior;
 - f) Abnormal or abrupt changes in mood or attitude; and
 - g) Dozing off.
- iii.** Excessive tardiness or absenteeism.
- iv.** Unusual job performance reflective of impairment.
- v.** Reliable complaints or reports of drug or alcohol usage by coworkers corroborated by supervisory observation. Employees who observe suspicious



behavior, such as those listed herein, may report to their immediate supervisor or to a supervisor with whom they are most comfortable.

- vi. Possession of any illegal drug related paraphernalia or equipment.
- vii. Any other factor which may give rise to suspicion by Management of drug or alcohol use.

b. Procedure

A Supervisor/Manager who has probable cause that an employee is unfit for duty must:

- i. Prohibit the employee from working or continuing to work.
- ii. Transport the employee, or make arrangements for transportation, to the designated medical facility identified by the Employer for testing. After testing, arrangements should be made for safe transportation to the employee's residence or a place selected by a relative or friend of the employee.
- iii. Prepare appropriate documentation.
- iv. Supervisors/Managers are prohibited from demanding or encouraging drug or alcohol testing that does not follow the guidelines established in this policy. Willful disclosure of test results to persons not involved in the procedure may merit corrective action, up to and including termination.
- v. If the employee refuses to submit to the test, warn the employee that he/she may not return to his/her covered position until he/she passes a test, and explain to him/her that a refusal to test **will result in termination of employment.**
- vi. No alcohol may be consumed within four (4) hours prior to performing the employee's duties.

3. Post Accident/Injury Testing

a. Industrial/Motor Vehicular Accident

"Industrial/Motor Vehicular Accident" means an unplanned, unexpected or unintended event that occurs on the employer's property, during the conduct of the employer's business, or during working hours, or that involves employer-supplied motor vehicles/machinery or motor vehicles/machinery used in conducting the employer's business, or within the scope of employment. An employee involved in an industrial/motor vehicular accident shall be tested at the management's discretion under the following circumstances:

- The employee responsible for the accident/injury causes an injury to him/herself or to others requiring medical attention;
- A fatality of anyone involved in the accident;
- An injury is treated away from the scene;
- An accident in which a vehicle or machinery is required to be towed from the scene.

b. Management Discretion

The decision of whether or not to administer a post-accident test shall be made by the employee's Supervisor/Manager provided that he/she was not involved in the accident. If the Supervisor/Manager is unavailable, the Human Resources Manager will make this decision. The determination shall be based on the best



information available at the time. At the discretion of the Supervisor/Manager, testing may not be required if the employee's performance can be completely discounted as a contributing factor in the accident.

c. Time Limitations

An alcohol test should be administered within two (2) hours following the accident and the Employer shall cease attempts to administer the test after eight (8) hours. Failure to submit to a test within eight (8) hours shall be deemed a refusal to comply.

The urine sample for a post-accident drug test shall be collected as soon as possible and the Employer shall cease attempts to administer a post-accident drug test twenty four (24) hours following the accident. Failure to submit to a test within eight (8) hours shall be deemed a refusal to comply.

d. Implementation Procedures

Any driver involved in a reportable accident as defined by this policy, shall notify his Supervisor/Manager at the first available opportunity after the accident, at which time the driver will be advised to report to an appropriate collection site in order to provide the appropriate samples. To the extent possible, the driver should not transport himself to the collection site, but should arrange for someone else to transport him. However, if local law enforcement officials are on the scene of the accident and request the driver to undergo urine, and/or breathe tests, the driver shall simply comply with those demands.

In the event that the driver is seriously injured and unable to provide the necessary samples, he/she shall authorize the health care provider to release to the Employer any information necessary to indicate the presence of any controlled substance or alcohol in his/her system.

e. Required Paperwork

Prior to such testing, employees shall be required to sign a form acknowledging testing and to sign for chain-of-custody. Failure or refusal to sign the acknowledgment form or to submit to these tests shall be presumed as a positive test, subjecting the driver to removal from service, which is cause for a charge of insubordination and will result in disciplinary action, which could include discharge.

The Employer shall obtain and retain a copy of the completed [Incident and Injury Report Form](#), including a notation of the citation, for any accident, and state whether testing is/is not required. This Accident Report Form will be kept in the Human Resources department. The Employer shall retain a copy of results from the MRO. The Employer shall retain a copy of the letter from an employee requesting a retest of the original sample.

f. Employee Seeking Medical Treatment After Work Hours or On the Weekend

If the employee seeks medical treatment after work hours or on the weekend, and files an Accident Report, he/she will be required to take a drug test immediately upon employer notification of the injury. Persons refusing to take a test when



instructed to do so, by their supervisor, shall be subject to corrective action for insubordination up to and including discharge from employment.

4. Random Testing

The rules surrounding random testing vary between non-bargaining employees and bargaining unit employees. Bargaining unit employees should consult their respective collective bargaining unit agreements for details.

The County reserves the right to conduct an unannounced drug test that occurs at a pre-determined frequency among randomly selected employees who are required to operate machinery or an automobile as part of their job duties, or hold safety sensitive positions.

Employees who have tested positive and completed an alcohol or drug rehabilitation program may be subject to random unannounced testing during the first twelve (12) months as determined with input from the rehabilitation clinician, after completion of the program.

D. Testing Procedures

The following test procedure shall apply to all employees:

1. Urine specimens shall be collected at the approved laboratory or at an accredited medical facility when necessary after an accident. The employee shall not be observed when the urine specimen is given.
2. All specimen containers, vials or bags used to transport the samples shall be sealed with evidence tape and labeled in the presence of the employee.
3. The testing shall be done by a laboratory certified as a medical and forensic laboratory which complies with the scientific and technical guidelines for Federal drug testing programs and Standards for Urine Drug Testing for Federal Agencies issued by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services. (53 Fed. Reg. 11970 4/11/88; as revised in 59 FR 29908 6/9/94, 62 FR 5118 9/30/97 and 66 FR 162 8/21/01).
4. The Employer may choose the laboratory to be utilized for toxicology testing on a yearly basis.
5. The following standards shall be used to determine what levels of detected substances shall be considered positive. NOTE: These are current levels subject to change by Federally Mandated Regulations. Current Federal Regulations shall be controlling in case of change or conflict:

DRUG	SCREENING TEST	CONFIRMATION
Amphetamines	1,000 ng/ml	500 ng/ml G-MS
Marijuana Metabolites	50 ng/ml Delte-THC	15 ng/ml G-MS
Cocaine Metabolites	300 ng/ml Metabolites	150 ng/ml G-MS
Opiates Morphine	300 ng/ml *25 ng/ml if immune specific for free morphine	300 ng/ml G-MS
PCP	25 ng/ml PCP	25 ng/ml G-MS



Alcohol	.04 Breathe .02--.039 Breath will be removed from driving for 24 hours
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6. Tests which are below the levels set forth above shall be determined as negative. If test results are negative, all non-required documentation regarding supervisor's observations and testing will be designated as unsubstantiated.
7. At the time the urine specimen is collected two (2) samples will be taken. One (1) sample will be sent to the laboratory to be tested at the Employer's expense. If the first sample tests positive then upon written request by the employee within 72 hours, the second sample shall be tested separately at an approved laboratory chosen by the test facility. All test results are to be reviewed by the MRO before being released.
8. Breathe alcohol testing for covered employees, using the EBT device, with any result less than .02 alcohol concentration shall be considered a "negative" test. If any results test between .02 and .039, the operator shall not be permitted to operate a vehicle on behalf of the Employer for twenty-four (24) hours. A test result of .04 or greater shall be considered a "positive" test.

E. Testing Results

1. Employees Who Refuse to Test

Employees who refuse to submit to drug and alcohol testing shall be terminated.

2. Employees Who Test Positive

If the results of the tests administered by the Employer on the sample shows that the employee while on duty was under the influence of or drank, smoked, inhaled or injected alcoholic beverages, marijuana, cocaine, PCP, non-prescribed amphetamines or any other controlled substances, appropriate disciplinary action may be administered after the following procedure has been followed.

The employee shall be given a copy of the laboratory report of the specimen sample before discipline is administered. The employee, within seventy-two (72) hours of receipt of actual notice from the MRO must request that the split sample be forwarded by the first laboratory to another independent and unrelated SAMHSA approved laboratory for conformity testing of the presence of the drug. Failure of the employee to have a second test performed shall not be used against the employee as a basis for discipline or in an arbitration proceeding. For a first offense of the Drug and Alcohol Policy (alcohol over .04, drug any positive test) an employee will be given an opportunity to participate and successfully complete a rehabilitation program. For failure to participate in or successfully complete a rehabilitation program or for a subsequent offense, an employee will be subject to discipline up to and including discharge. A Substance Abuse Professional can be mutually selected by the employee and the Employer.

If an employee who has tested positive for drug or alcohol abuse under this policy is referred to an inpatient or outpatient treatment program, said employee shall sign a release of medical information statement and all drug test results, records of admission progress, discharge and after care will be forwarded to the Employer. Records regarding rehabilitation will be kept in confidential files separate from personnel files. The employee will be permitted to work provided the recommended treatment program does not prevent the employee from working. Work continuation is dependent upon



documentation of the employee's continued, successful participation in the recommended after care programs.

Employees who follow the recommendations of the counseling and rehabilitation program as established by the SAP will be required to provide a negative drug and/or alcohol test prior to returning to work. An alcohol test of over .02 is a positive test for these purposes. The employee is subject to unannounced testing that consists of at least six (6) tests in the first twelve months following the employee's return to duty. Based on the recommendation of the SAP, the Employer may continue follow-up testing for an additional two (2) years.

3. Employees Who Test Negative

Following a negative test result, no additional tests will be conducted on the employee at that time. However, if circumstances arise under this policy, additional testing may be conducted at that time.

