

Drug and Alcohol Testing - Transportation Personnel

The following procedures shall govern the district's drug use and alcohol misuse prevention program:

1. Program Coordinator

The district's transportation contractor, Mid Columbia Bus Company, Inc. will be designated as the district's drug use and alcohol misuse prevention program coordinator. Mid Columbia Bus Company, Inc. (referred as MIDCO) will coordinate the district's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). MIDCO will:

- a. Ensure that all covered employees receive written materials explaining the district's drug use and alcohol misuse prevention program requirements including:
 - (1) The policy and administrative regulations;
 - (2) A contact person knowledgeable about the materials, policy, administrative regulations and OTETA;
 - (3) Categories of employees covered;
 - (4) Information about the safety-sensitive functions and what period of the workday the employee is required to be in compliance. Safety-sensitive functions shall include such responsibilities as all on-duty time waiting to be dispatched, driving time, assisting or supervising loading or unloading, repairing, obtaining assistance or remaining in attendance upon a disabled vehicle. All time spent providing drug and alcohol samples, including travel time to and from the collection or testing site as needed to comply with random, reasonable suspicion, post-accident, return-to-duty or follow-up testing, will also be considered as on-duty time;
 - (5) Specific information concerning prohibited conduct;
 - (6) Circumstances under which employees will be tested;
 - (7) Procedures used in the testing process;
 - (8) The requirement that covered employees submit to drug and alcohol testing, administered in accordance with 49 C.F.R. Part 382;
 - (9) Explanation of what constitutes a refusal to submit to a drug and/or alcohol test;
 - (10) Consequences of violations (e.g., discipline up to and including dismissal as may be required by the district and removal from safety-sensitive functions as required by OTETA) and notification of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of drugs including the names, addresses and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs. Such information will include the consequences for covered employees found to have a breath alcohol concentration rate greater than the acceptable level. Minimally, no driver tested and found to have a breath alcohol

- concentration rate of 0.02 or greater but less than 0.04 shall be permitted to perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test;
- (11) Information on the effects of drug use and alcohol misuse on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem (driver's or coworker's); and available methods of intervening when such problems are suspected, including confrontation, referral to an employee assistance program as available and/or referral to the administration.
- b. Ensure that employees sign statements certifying that they have received the materials;
 - c. Ensure that supervisors designated to determine reasonable suspicion receive at least 60 minutes of drug abuse training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable drug use and alcohol misuse;
 - d. MIDCO will ensure compliance on behalf of the district with applicable provisions of OTETA's requirements regarding management information system, retention and confidentiality of records;
 - e. Ensure selection of a site with appropriately trained personnel for the collection of specimens for drug testing;
 - f. Ensure selection of a site with a certified breath alcohol technician and evidential breath testing devices for alcohol testing;
 - g. Ensure selection of a laboratory certified by the Department of Health and Human Services (DHHS) to conduct drug specimen analysis;
 - h. Ensure selection of a qualified medical or osteopathic doctor to serve as a medical review officer (MRO) to verify laboratory drug test results;
 - i. Ensure selection of qualified personnel to provide education and training to employees and supervisors in accordance with employee assistance program requirements as specified in OTETA;
 - j. Ensure MIDCO's drug use and alcohol misuse prevention program is maintained in at least outline form, on file and available for inspection at MIDCO's office. They shall maintain the following:
 - (1) Information on the effects and consequences of drug and alcohol use on personal health, safety and the work environment;
 - (2) Information on the manifestations and behavioral changes that may indicate drug and alcohol use or abuse;
 - (3) Documentation that drug training for all supervisory personnel has consisted of at least 60 minutes;
 - (4) Documentation that alcohol training for all supervisory personnel has consisted of at least 60 minutes;
 - (5) Documentation of training given to employees.
 - k. Ensure the establishment of clearly defined communication procedures to include the method (e.g., mail, facsimile) and frequency (e.g., monthly, daily, weekly) as well as the authorized individuals to impart and receive information to meet the documentation and confidentiality requirements of OTETA;

1. Ensure employee organizations receive written notice of the availability of all pertinent drug use and alcohol misuse prevention program information;
2. Pre-employment Testing

MIDCO shall conduct pre-employment testing as follows:

- a. All offers of employment for positions as identified by Board policy and as required by OTETA will be contingent upon drug test results;
- b. Individuals offered employment with MIDCO and employees transferring to positions subject to OTETA contingent on drug and alcohol, must provide written consent for the release of any prior employer positive drug and failed alcohol testing results, refusals to be tested, other violations of testing regulations and, with respect to any employee who violated drug and alcohol regulations, documentation of the employee's successful completion of return-to-duty requirements (including SAP evaluations and follow-up tests) within the preceding two years;
- c. MIDCO shall obtain and review such drug and alcohol information from previous employers of the past two years before the driver is used for the first time. They will provide the driver's written permission for release of information to the previous employers;
- d. Release of such information may be by telephone, letters or any other method that ensures confidentiality. MIDCO will maintain a written, confidential record of each past employer contacted;
- e. MIDCO will not use a driver with a positive drug test or a failed alcohol test while employed with a previous employer or who refused to test while under employment with a previous employer unless the driver is in compliance with the SAP's treatment program and OTETA's return-to-duty test requirements;
- f. Prior to being directed by MIDCO to a collection site for drug and/or alcohol testing, the applicant will be notified that the urine sample collected shall be tested for the presence of drugs and/or the breath or saliva sample shall be tested for the presence of alcohol;
- g. Failure to report to the collection site for testing within the time frame specified by MIDCO shall constitute a refusal to report for testing and result in immediate withdrawal of the employment or transfer offer;
- h. Pre-employment drug testing will be paid for by the contractor;
- i. Tests must indicate negative drug test results. Individuals who fail to meet such drug requirements will not be hired or transferred voluntarily or involuntarily to covered positions;
- j. Such testing will also be required of covered employees each time an employee returns to work after a layoff period that exceeds 90 days if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing or subsequent pre-employment drug and/or alcohol testing will not be necessary following a layoff;
- k. MIDCO will notify individuals offered employment with the district contingent on drug testing of the results of such testing upon request within 60 days of being notified of the disposition of the employment application;
- l. Refusal to submit to drug and/or alcohol testing and/or to provide signed permission for the release of past testing information as required by MIDCO shall result in immediate termination from employment;

- m. The individual may request a screening of the split specimen at his/her own expense. All such requests must be received in writing by MIDCO no later than 72 hours following notification to the applicant of the positive test results.

3. Post-accident Testing

MIDCO shall conduct post-accident testing as follows:

- a. It is the responsibility of the employee to report for post-accident drug and alcohol testing as soon as practicable following a motor vehicle accident which occurs while the employee is performing safety-sensitive functions for MIDCO in which there is a fatality or the employee receives a citation for a moving traffic violation in connection with an injury or tow-away accident or if there are students on board and neither of the previous two examples exist:
 - (1) The employee will report to the designated collection site for post-accident drug and alcohol testing as soon as practicable following the occurrence of the accident;
 - (2) If alcohol testing has not been administered within two hours, MIDCO will prepare and maintain on file a record stating the reasons the test was not promptly administered;
 - (3) If alcohol testing is not administered within eight hours, MIDCO will cease attempts to administer an alcohol test and will prepare and maintain on file a record specifying why the test was not administered;
 - (4) If drug testing has not been administered within 32 hours following the accident, MIDCO will cease attempts to administer such tests and will document why the test was not administered;
 - (5) The employee will contact MIDCO or their testing facility as soon as practicable following the accident giving as much detailed information about the accident as possible (e.g., fatalities, injuries, tow-aways, traffic citation issued, etc.).
- b. MIDCO will provide employees with necessary post-accident testing information, procedures and instructions as a part of its employee training program. Additionally, written instructions to follow in the event of an accident will be provided in district vehicles as appropriate. Instructions will include locations of drug specimen collection and alcohol testing sites and telephone number of MIDCO's drug use and alcohol misuse prevention program coordinator or other MIDCO officials to contact;
- c. The employee shall remain readily available for testing or may be deemed by MIDCO to have refused to submit to testing. Such refusal is treated as if MIDCO received a positive drug test. Nothing in this requirement shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care;
- d. Results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by on-site federal, state and/or local law enforcement officials having independent authority for the test shall be considered to meet necessary requirements provided results of the test are obtained by the district and the tests conform to all applicable federal, state and/or local requirements;

- e. An employee who is involved in an accident involving a fatality, injury and/or tow-away as described by OTETA is prohibited from using alcohol for eight hours after the accident or until the employee undergoes a postaccident alcohol test, whichever occurs first.

4. Random Testing

MIDCO shall conduct random drug and alcohol testing annually as follows:

- a. Not less than 50 percent of the average number of driver positions shall be tested for drugs and not less than 10 percent shall be tested for alcohol in accordance with current minimum random testing requirements of OTETA. Any unfilled, covered positions will be included as part of the total number of positions counted by the district for testing rate purposes.
 - (1) MIDCO will meet and at times exceed minimum testing rates.
 - (2) In exceeding minimum testing rates, MIDCO requires that 50 percent of covered employees shall be randomly tested annually for drugs and 25 percent shall be randomly tested annually for alcohol.
- b. The testing rate may be adjusted by FMCSA based on industry wide data;
- c. The testing process shall, in fact, be random. All employees will remain in the pool of drivers for each subsequent period, including vacations, holiday periods and summer recesses, whether or not they have been chosen for testing in the past;
- d. The selection of employees for random testing shall be made by a scientifically valid method. The process selected by MIDCO's drug & alcohol testing provider will ensure that all employees shall have an equal chance of being tested each time selections are made. They use the following system:

Computerized system :

A random number generating program will be loaded into a computer along with the employees' social security number. All such testing shall be unannounced and dates selected spread monthly throughout the calendar year to avoid predictability and the perception that testing is "done for the year."

- e. Following notification of testing, selected employees shall proceed to MIDCO's selected collection site immediately or as soon as practicable;
- f. Employees shall only be tested for alcohol just before the driver is scheduled to perform his/her safety-sensitive function, during or just after performing such function;
- g. Employees off work due to leave of absence, vacation and layoff will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and tested as soon as practicable upon return to duty but no later than the next selection cycle.

5. Reasonable Suspicion Testing

MIDCO shall conduct reasonable suspicion drug and alcohol testing as follows:

- a. MIDCO will test covered employees when there is reasonable suspicion to believe that the employee has engaged in drug use or alcohol misuse;
- b. Reasonable suspicion will be based on specific contemporaneous, articulable observations made by a trained supervisor, concerning appearance, behavior, speech or body odors indicative of employee use of drugs or the misuse of alcohol. Observations of drug use may include indications of chronic and withdrawal effects of drugs and noticeable degradation of job performance that may be associated with the use of drugs;
- c. Hearsay or secondhand information is not sufficient to require an employee to submit to testing;
- d. Alcohol testing may be authorized only if observations resulting in reasonable suspicion are made during, just preceding or just after the period of the workday that the employee is required to be in compliance with this policy, administrative regulations and applicable OTETA provisions;
- e. A written record shall be made of the observations leading to a reasonable suspicion drug test and signed by the supervisor authorized to make such observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier;
- f. MIDCO will ensure that the employee under reasonable suspicion is transported to the designated collection or testing site.

6. Referrals, Evaluation and Treatment

MIDCO has the opportunity for a Last Chance Agreement. An employee may disclose to his/her supervisor that he/she has a substance abuse problem. If the employee seeks help with his/her drug and/or alcohol problem prior to discovery of it by MIDCO, as an alternative to termination he/she will be provided an opportunity to enter a Last Chance Agreement, in which he/she will agree to undergo treatment for his/her substance abuse problem. In such event, the employee may be suspended from work for a period of time and referred to a substance abuse counselor or program for rehabilitation. Accommodation for the rehabilitation of an employee who voluntarily discloses that he/she has a substance abuse problem shall be on a one-time basis only. The cost of treatment, rehabilitation or counselor resulting from the EAP referral shall be the responsibility of the employee.

An employee who enters a Last Chance Agreement will be given a leave of absence, without pay, to undergo treatment, subject to the provisions of the Last Chance Agreement.

Any Last Chance Agreement entered with an employee will provide that the employee will authorize the treating health care professional to regularly advise the Company of the employee's treatment progress and his/her observance of the provisions of the treatment program. If an employee satisfactorily completes the treatment program, the Company will reinstate him/her to his/her previous job position or a comparable one.

Upon successful or satisfactory completion of an employer approved alcohol and drug treatment program, as confirmed by treatment staff, individual(s) will be eligible to re-test for employment. Any individual re-testing under this paragraph agrees to sign a REHABILITATION TESTING

AGREEMENT and be re-tested (Follow Up Testing which will be DOT's Direct Observation as per 49 CFR Part 40.191) for a period of two years from rehire test date. This testing agreement includes undergoing at least six (6) follow-up alcohol and/or drug tests during the first 12 months following his/her return to duty. The requirement for follow-up testing may extend for up to sixty (60) months from the employee's return to duty based on direction from the Substance Abuse Professional.

7. Drug and Alcohol Testing Procedures

MIDCO, in cooperation with contracted collection and testing facilities, shall maintain drug and alcohol testing procedures as follows:

a. Drugs

- (1) The applicant or employee reports to MIDCO's-designated collection site and provides positive identification (e.g., photo ID);
- (2) A urine sample for drug testing is provided. A "split specimen" (two urine specimen bottles) is prepared from the urine sample;
- (3) Following completion of a chain-of-custody form, both specimen bottles are forwarded to the DHHS certified laboratory for analysis. The split specimen is stored at the laboratory for later testing as may be necessary. Initial testing is performed only on one specimen bottle;
- (4) Testing results are reported to MIDCO's selected testing administrator-selected MRO by mail or electronic transmission. Results may not be given over the phone;
- (5) The MRO will verify both negative and positive testing results;
- (6) The MRO will report the verified negative testing results to MIDCO's selected testing administrator who contacts MIDCO's VP or HR;
- (7) The MRO will report verified positive testing results to the applicant or employee, discuss the type of illegal substance found and determine whether there is any valid medical reason for the positive testing results;
- (8) A verified valid medical reason for a positive test result will be reported as a negative test result to the district;
- (9) If no legitimate medical reason exists for positive drug testing, the MRO will report a confirmed positive test result and identity of the substance(s) to MIDCO's selected testing administrator who contacts MIDCO's VP or HR;
- (10) The employee or applicant may request within 72 hours of a positive test notice that the split specimen (second bottle) be screened. Such screening costs will be paid for by the employee;
- (11) Unlike the original specimen analyzed for specific levels of controlled substances, the split specimen is analyzed only for the presence of drugs;
- (12) The MRO will report results of the second screening to the employee and MIDCO's selected testing administrator;
- (13) The MRO will meet all OTETA requirements including review of chain-of-custody control form, administrative processing of negative test results, verification of positive testing results and maintenance of confidentiality requirements as may be applicable;
- (14) Detailed drug testing procedures may be obtained by contacting MIDCO's drug use and alcohol misuse prevention coordinator or VP of HR.

b. Alcohol

- (1) The employee reports to MIDCO's-designated testing site and provides positive identification;
- (2) Under the alcohol testing rule, an alcohol test result will be considered failing even if over-the-counter or legally prescribed medication is involved;
- (3) All alcohol screening tests will be conducted by:
 - (a) A qualified breath alcohol technician using evidential breath testing devices.

Or, when not available
 - (b) A qualified screening test technician using an alcohol screening device other than an evidential breath testing device.
- (4) Testing may be conducted at a DHHS certified laboratory or other location including mobile facilities equipped for such testing as may meet the requirements of OTETA;
- (5) MIDCO's supervisors should generally not be used as a breath alcohol or screening test technician for covered employees. Under certain circumstances, a properly trained MIDCO supervisor may conduct such testing in the absence of another technician;
- (6) The employee submits to breath or saliva testing;
- (7) If the result of the testing indicates an alcohol concentration rate greater than the acceptable limit, a confirmation breath test is administered after at least 15 minutes, but no longer than 30 minutes, after the initial testing. All confirmation tests will be conducted using evidential breath testing devices;
- (8) The technician will report any invalid tests, confirmed failing and passing results to MIDCO's testing administrator;
- (9) Employee refusal to sign forms as required (i.e., Step 2 on the Alcohol Testing Form) shall be considered as refusal to be tested;
- (10) The breath alcohol or screening test technician will meet all OTETA requirements including such testing procedures, Alcohol Testing Form and confidentiality requirements as may be required;
- (11) Detailed alcohol testing procedures may be obtained by contacting the MIDCO's drug use and alcohol misuse prevention program coordinator or VP of HR.

8. Positive Test Result

When the MRO determines a positive test result is valid, the MRO will report the finding to the Oregon Department of Transportation (ODOT) and the Oregon Department of Education. The person who is the subject of the test results will be notified by ODOT that the person has a right to a hearing to determine whether the test results reported will be placed in the employee's employment driving record.

9. Record Keeping/Record Reporting

Mid Columbia Bus Company shall maintain records of its drug use and alcohol misuse prevention program as follows:

- a. Records related to the collection process:
 - (1) Documents relating to the random selection process;
 - (2) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol testing;
 - (3) Documents generated in connection with decisions on post-accident testing;
 - (4) Documents verifying the existence of an explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing;
 - (5) An annual calendar year report summarizing results of Mid Columbia Bus Company's drug use and alcohol misuse prevention program will be prepared and maintained when requested by FMCSA as part of an inspection, investigation, special study or for statistical purposes.

- b. Records related to a driver's test results, including:
 - (1) MIDCO's copy of the alcohol testing form, including the test results;
 - (2) MIDCO's copy of the controlled substance test custody and control form;
 - (3) Documents sent by the MRO to MIDCO;
 - (4) Documents related to the refusal of any employee to submit to drug and/or alcohol testing;
 - (5) Documents presented by a driver to dispute the results of a drug and/or alcohol test administered in connection with the requirements of OTETA.

- c. Records related to evaluations as follows:
 - (1) Records pertaining to a determination by an SAP concerning his/her evaluation of a covered employee who tested positive for drugs, or failed an alcohol test or refused to test;
 - (2) Records concerning a driver's compliance with recommendations of the SAP.

- d. Records related to education and training as follows:
 - (1) Materials on drug use awareness and alcohol misuse including a copy of MIDCO's policy and administrative regulations on drug use and alcohol misuse and related information;
 - (2) Driver's signed receipt of education materials;
 - (3) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and/or alcohol testing based on reasonable suspicion;
 - (4) Certification that any training conducted in compliance with OTETA meets all pertinent requirements for such training.

- e. Records related to alcohol and drug testing as follows:
 - (1) Agreements with collection site facilities, laboratories, MROs and consortia (includes breath alcohol technicians, screening test technicians and third party providers), as applicable;
 - (2) Names and positions of officials and their role in MIDCO's drug and alcohol testing program(s);
 - (3) Semiannual laboratory statistical summaries of urinalysis as required by OTETA and as reported by the laboratory. MIDCO will document laboratory failures to provide statistical summaries and any district follow-up efforts to obtain such reports.

- f. Records will be retained by the district as follows:
 - (1) Five Years:
 - (a) Records of employee alcohol-testing results with results indicating an alcohol concentration of 0.02 or greater;
 - (b) Records of verified positive drug testing results;
 - (c) Documentation of refusals to take required drug and/or alcohol tests;
 - (d) Drug testing custody and control forms;
 - (e) Employee evaluation and referrals;
 - (f) A copy of each annual calendar year report summary.

 - (2) Two Years:

Records related to the drug and alcohol collection process (except calibration of evidential breath testing devices).

 - (3) One Year:

Records of negative and cancelled drug-testing results and alcohol test results with a concentration of less than 0.02.

 - (4) Indefinite Period:

Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors and drivers shall be maintained by MIDCO while the individual performs the functions which require training and for two years after ceasing to perform those functions.

- g. Records will be maintained in a secure location with controlled access to ensure confidentiality requirements are met as follows:
 - (1) Drug use and alcohol misuse prevention program records will be maintained at the location office. Records relating to individual employee drug and/or alcohol testing, evaluation and treatment will be maintained separately from the employee's personnel file;

- (2) Employees are entitled upon written request to obtain copies;
- (3) MIDCO may disclose information in connection with employee benefit proceedings, Department of Transportation agency action against an employee or National Transportation Safety Board safety investigations;
- (4) MIDCO shall disclose such information to subsequent employers upon written request from the employee (in accordance with 49 C.F.R. § 382.413(a)(1)).