



4026 B

Definitions: Transportation Employee

Drug and Alcohol Testing

Regulation 4026 B

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I. PURPOSE

The purpose of this regulation is to designate the Contact Person for the purposes of Policy 4026 and to define terms used in that policy and regulations supporting it.

II. DEFINITIONS

- A. "Accident" means an occurrence involving a commercial motor vehicle operating on a public road which results in:
1. a fatality; or
 2. bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 3. one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
- B. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
- C. "Breath Alcohol Technician" or "BAT" means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
- D. "Commercial Motor Vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle meets any one of the following criteria:
1. Has a gross combination rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 2. Has a gross vehicle weight rating of 26,001 or more pounds; or
 3. Designed to transport 16 or more passengers including the driver; or
 4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded.
- E. "Confirmation (or confirmatory) test" means:
1. In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. (Gas chromatography/ mass

- spectrometry (GC/MS0 is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)
2. In alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.
- F. “Contact person”. The District Contact person for the purposes of this policy is the Director of Transportation.
- G. “Controlled substance” has the meaning assigned by federal law and includes all substances listed on Schedules 1-5 as they may be revised from time to time in federal controlled substances schedules.
- H. “DHHS” means The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
- I. “Dilute specimen” means a urine sample that when tested reveals creatinine and specific gravity values that are lower than expected for human urine. Dilute specimens may be produced if the person consumes significant amounts of water or other liquids shortly before producing the sample.
- J. “Drug” means any substance (other than alcohol) that is a controlled substance as defined in this section and pursuant to Federal regulations.
- K. “Evidential breath testing device” or “EBT” means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath.
- L. “FHWA” means the Federal Highway Administration.
- M. “Medical Review Officer “ or “MRO” means a licensed physician responsible for receiving laboratory results generated by District's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- N. “Random selection” means a mechanism for selection of employees for testing where each employee has an equal chance of being tested each time selections are made.
- O. “Reasonable suspicion” means that the District believes the appearance, behavior, speech or body odors of an employee are indicative of the use of a controlled substance or alcohol. Reasonable suspicion is based on the observation of at least one (1) supervisor or official who has received training in the identification of behaviors indicative of drug and alcohol use.

- P. “Refusal to submit (to an alcohol or controlled substance test)” means that an employee:
1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing; or
 2. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or
 3. Engages in conduct that clearly obstructs the testing process.
- Q. “Safety-sensitive function” means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work and includes the following:
1. All time at a carrier or shipper plant terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
 2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting servicing, or condition of CMV at any time;
 3. All time spent at the driving controls of a CMV;
 4. All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth;
 5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
 6. All time spent performing the driver requirements on the Federal Motor Carrier Safety Regulations relating to accidents;
 7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- R. “Substance Abuse Professional” or “SAP” means a licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Legal Resources:

Minn. Stat. §§ 181.950 – 181.957 (Drug and Alcohol Testing in the Workplace)

Minn. Stat. § 221.031 (Motor Carrier Rules)

49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)

49 U.S.C. § 521 (b) (Civil and Criminal Penalties for Violations)

49 CFR Parts 40 and 382 (Department of Transportation Rules Implementing the Omnibus Transportation Employee Testing Act of 1991)

Cross References:

MPS Policy 4024 (Pre-employment Drug and Alcohol Testing)
MPS Policy 4025 (Drug-Free and Weapons-Free Schools and Workplace)

MPS Policy 4026 (Transportation Employee Drug and Alcohol Testing)
MPS Regulation 4026 A (Procedures for Testing)