



# PRACTICE

Approved by

The Commission

No. 2-26

Initially issued: 09/25/1995

Last amended: 02/01/2017

Last reviewed: 02/01/2017

## CONTROLLED SUBSTANCE and ALCOHOL-FREE WORKPLACE

### AUTHORITY

This Practice was initially approved by the Commission effective September 25, 1995.



Patricia Colihan Barney, Executive Director

### PURPOSE/ BACKGROUND

Controlled substance and alcohol abuse is a serious problem which endangers the health and safety of users, their co-workers, and M-NCPPC patrons. It can adversely affect an employee's overall job performance by impairing decisions and actions, lowering efficiency, and eroding attention to safety and quality. The Practice, as initially issued, has been amended as follows:

- July 15, 2004: Policy reviewed and references updated to reflect applicable policies and federal/state regulations pertaining to drug/alcohol use.
- June 6, 2013: Minor edits made to reflect updated references, and amendments were made to the accompanying Administrative Procedures to incorporate Federal testing protocols mandated by the Department of Transportation (DOT) and the Department of Health and Human Services (HHS) for DOT regulated employees; clarify existing provisions, and amend provisions for improved program effectiveness.
- February 17, 2016: Amendments were made to the accompanying Administrative Procedures to reflect changes in the agency's Employee Assistance Program (EAP) Provider.
- February 1, 2017: Minor amendments were made to the accompanying Administrative Procedures to update definitions and reflect change in medical provider.

### REFERENCES

- Merit System Rules and Regulations including, but not limited to, Workplace Conduct and Discipline;
- Federal Drug Free Workplace Act, as amended in 1996;
- Maryland Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace (Non-State Entities);
- Job-Related Alcohol and Controlled Dangerous Substances Testing, §17-214, Health-General Article, Annotated Code of Maryland;
- The Federal Omnibus Transportation Employee Testing Act of 1991;
- "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," Code of Federal Regulations Title 49, Part 40;
- "Controlled Substances and Alcohol Use and Testing," Code of Federal Regulations Title 49, Part 382;
- Americans with Disabilities Act, 1990 (amended in 2009);

- Federal Department of Transportation Federal Motor Carrier Safety Administration, Rules and Regulations, Drug and Alcohol Program.

## **APPLICATION**

This policy applies to all employees on duty. Employees who hold a Commercial Driver's License (CDL) must comply with all additional federal and state drug and alcohol mandates including CDL drug/alcohol requirements as issued by the U.S. Department of Transportation (DOT) and the Federal Highway Administration. Employees should refer to their respective bargaining agreements for specific requirements.

## **POLICY**

The M-NCPPC prohibits the manufacture, distribution, sale, presence, or use of controlled substances and alcohol in the workplace, M-NCPPC vehicles, and other agency property. Reporting to work while under the influence of controlled substances or alcohol is prohibited. The Commission reserves the right to enforce this policy through controlled substance and alcohol testing.

In accordance with the Federal Drug-Free Workplace Act and Maryland Drug and Alcohol-Free Workplace mandates, employees must notify the agency of any drug or alcohol related criminal conviction that occurs in the workplace. Employees must provide notification of their conviction no later than five (5) days after the date of the occurrence.

Employees in violation of any part of this policy may be subject to disciplinary action up to, and including, termination of employment. At a minimum, employees shall receive a formal supervisory referral to the agency's Employee Assistance Program. Employees will also be required to enroll in and successfully complete any necessary treatment through a certified rehabilitation program.

All disciplinary actions shall be administered in accordance with Merit System Rules and Regulations and any other applicable laws and regulations. Violations of any part of this policy may also result in legal consequences up to and including criminal prosecution.

## **PROCEDURES**

The Executive Director shall take necessary action for the implementation of this policy through the issuance of Administrative Procedures, "Controlled Substance and Alcohol-Free Workplace Program." These procedures shall inform employees and supervisors about the provisions of the policy and include direction for the prevention, reporting, and handling of controlled substances and alcohol in the workplace.

# ADMINISTRATIVE PROCEDURES

Authorized by:

No.	96-01
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*Patricia Barney*  
 Patricia Colihan Barney,  
 Executive Director

Original issue: 09/20/95  
 Last amended: 2/1/2017  
 Last reviewed: 2/1/2017

## Controlled Substance and Alcohol-Free Workplace Program

### AUTHORITY/ BACKGROUND

These Administrative Procedures were issued initially by the Executive Director on September 20, 1995 to implement Commission Practice 2-26, "Controlled Substance and Alcohol-Free Workplace."

Since initial implementation, the Administrative Procedures have been amended as follows:

- June 18, 2004 and July 15, 2004: Incorporated amendments to reflect changes in the Commission's occupational health provider and certified controlled substance/alcohol testing facilities.
- May 1, 2005: Incorporated additional updates in testing locations and changes in the agency's Employee Assistance Program (EAP) Provider.
- June 6, 2013: Incorporated Federal testing protocols mandated by the Department of Transportation (DOT) and the Department of Health and Human Services (HHS) for DOT regulated employees; clarified existing provisions, and amended provisions for improved program effectiveness.
- February 17, 2016: Incorporated additional updates in changes in the agency's Employee Assistance Program (EAP) Provider.
- February 1, 2017: Minor amendments made to update definitions and reflect change in medical provider.

### APPLICATION

These procedures apply to all non-represented employees on duty. Employees who are represented by collective bargaining shall refer to specific guidelines contained in their bargaining agreement. Employees who hold a Commercial Driver's License (CDL) must comply with all additional Federal and State controlled substance and alcohol mandates.

### DEFINITIONS

For the purposes of these Administrative Procedures and accompanying attachments, the following definitions shall apply:

**Alcohol Abuse:** The intentional misuse of ethyl, methyl or isopropyl alcohol is prohibited when their use could impair the safety of employees or the quality of job performance. The presence of alcohol at, or above the agency's established blood-alcohol concentration cut-off level will be reported as a positive reading for alcohol abuse. A copy of alcohol cut-off levels is provided as Appendix A. Should these levels become updated, the Risk Management and Workplace Safety Office will make current standards available.

**Commercial Driver’s License Holders:** Pursuant to FMCSR 382.107, employees who drive a motor vehicle:

- With a gross combination weight of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds;
- A gross vehicle weight of 26,001 or more pounds;
- Designed to transport 16 or more passengers; or
- Of any size used to transport hazardous materials which require the vehicle to be placarded under regulations for hazardous materials.

**The Commission:** The governing body of the Maryland-National Capital Park and Planning Commission, which is comprised of five members from each of the agency’s Planning Boards for Montgomery County and Prince George’s County.

**Controlled Substance Abuse:** The use of:

- Any illegal drug;
- Any prescriptions or over-the counter drug when its use is intentionally inconsistent with the manner in which it is medically prescribed and its use could impair job performance or endanger the safety of others in the workplace or while operating M-NCPPC equipment or vehicles. The mere possession of a valid prescription or over-the-counter drug does not constitute a violation; or
- Any substance misused for the purpose of intentionally impairing judgment.
- Concentration levels for controlled substances set by the Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, are the same levels adopted for controlled substance violations in the agency. The presence of a substance at or above the concentration cut-off level will be reported as a positive reading for controlled substance abuse. A copy of cut-off levels is provided in Appendix A. Should these levels become updated, the Risk Management and Workplace Safety Office will make current standards available.

**Controlled Substance and Alcohol Tests:** Procedures that determine if a breath or urine specimen contains controlled substances, alcohol, or the metabolites of controlled substances or alcohol.

**The Maryland-National Capital Park and Planning Commission (M-NCPPC):** The organizational entity. For purposes of this Practice, the terms “M-NCPPC” or “agency” shall be used to reference the organizational entity.

**Medical Review Officer:** A licensed physician (medical doctor or doctor of osteopathy) responsible for interpreting laboratory results generated by M-NCPPC’s Controlled Substance and Alcohol Free-testing program. The Medical Review Officer has knowledge of substance abuse disorders and has appropriate medical training to evaluate an individual’s confirmed positive test result with his or her medical history and other relevant information.

**Safety Sensitive Personnel:** Employees who:

- Possess a valid Commercial Driver’s License; and/or
- Are required to drive, load, inspect, or service and condition commercial vehicles; or
- Are specifically identified by Federal or State law, by Collective Bargaining Agreements (e.g., Park Police, Equipment Operators, Mechanics, and Welders), or other positions identified by the M-NCPPC as safety sensitive personnel. A listing of safety sensitive personnel may be obtained from the Human Resources Division.

**Test Results:** This is an indicator of whether the employee tested “positive” or “negative” for the use of controlled substance and/or alcohol during testing.

**Positive Results:** A result is reported positive when:

- The presence of a controlled substance and/or alcohol is at or above the established cut-off levels for that category.
- There is a refusal to submit to testing.
- When there is reported evidence by the certified testing facility of any tampering during the controlled substance and/or alcohol testing.

**Negative Results:**

- **Controlled Substance Test Results:** A result is reported negative when the presence of a controlled substance is below the cut-off level as established by Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services (see Appendix A).
- **Alcohol Test Results:** Tests for the use of alcohol are reported negative when the blood-alcohol concentration level is below 0.04. Alcohol test results for Commercial Driver’s License holders are reported if blood-alcohol concentration levels are below 0.02. A result is indicated positive for alcohol when the blood-alcohol concentration level is found at 0.04 or greater. Commercial Driver’s License holders, who have a test result showing a concentration level of 0.02 to 0.039, will be removed from performing safety-sensitive duties for 24 hours.

**OVERVIEW/  
PROCEDURES**

The Commission has developed a Controlled Substance and Alcohol-Free Workplace Program to assist employees in understanding and avoiding the consequences of controlled substance and alcohol abuse. In accordance with Practice 2-26, this document provides implementation guidance for:

- (1) M-NCPPC’s policy on controlled substance and alcohol use in the workplace (Practice 2-26, Controlled Substance and Alcohol-Free Workplace);
- (2) Dangers associated with controlled substance and alcohol use in the workplace;
- (3) Availability of counseling and treatment; and
- (4) Consequences and the handling of policy violations.

Questions should be directed to the Risk Management and Workplace Safety Office (Department of Human Resources and Management) at 301-454-1686/1693 during regular office hours. Contacts for after-hours questions are listed in Section IV (A), Testing.

These Procedures provide information on the following areas:

- I. Responsibilities
- II. Effects of Controlled Substance and Alcohol Use in the Workplace
- III. Counseling and Rehabilitation
- IV. Controlled Substance and Alcohol Testing
- V. Disciplinary Actions
- VI. Record Keeping
- VII. Testing Facilities
- VIII. Resources/Contacts

## **I. RESPONSIBILITIES**

**Employees** are responsible for:

- Following the requirements of the agency's "Controlled Substance and Alcohol-Free Workplace" Policy (Practice 2-26), and complying with testing requirements contained in these Administrative Procedures;
- Seeking necessary counseling and/or treatment before possible violation of M-NCPPC policy;
- Complying with the Federal Drug-Free Workplace Act, State Drug and Alcohol-Free Workplace mandates and M-NCPPC policy by reporting all controlled substance and alcohol-related criminal convictions that occur in the workplace. Employees must notify their Department Head and the Risk Management and Workplace Safety Office no later than five (5) work days from the date of the conviction; and,
- Reporting to their immediate supervisor, the use of any over-the-counter or prescription controlled substance when its use could impair the ability to perform job duties in a safe and effective manner.

**Supervisors** are responsible for:

- Taking appropriate action when there is a violation of the M-NCPPC's "Controlled Substance and Alcohol-Free Workplace" Policy, (Practice 2-26). Department Heads must approve disciplinary actions.
- Providing information on the agency's Employee Assistance Program and encouraging employees with controlled substance or alcohol concerns to seek assistance;
- Formally referring an employee to the Employee Assistance Program when the employee's behavior affects performance, or causes reasonable suspicion that the employee is abusing a controlled substance or alcohol, as defined in this document.
- Notifying employees of any necessary controlled substance and alcohol testing. The supervisor is responsible for providing timely notification, arranging transportation to the testing facility when necessary, and ensuring confidentiality of the testing process.
- Restricting the performance of safety sensitive job duties when:
  - An employee has been sent for cause drug/alcohol screening until a negative test result has been communicated by the Risk Management and Workplace Safety Office to the supervisor and/or
  - When an employee has notified the supervisor that he/she is taking an over-the-counter or prescription controlled substance that could impair the performance of duties in a safe manner. Supervisors must confirm the need for restriction with the agency's Medical Review Officer.

**Department Heads** are responsible for:

- Distributing and communicating the M-NCPPC "Controlled Substance and Alcohol-Free Workplace" policy, Practice 2-26, to their employees and supervisors;
- Reviewing disciplinary actions resulting from a violation in policy; and
- Complying with the Federal Drug-Free Workplace Act, State Drug and Alcohol Free Workplace mandates, and M-NCPPC policy, by ensuring that all known reports of criminal controlled substance and alcohol convictions are forwarded to the Risk Management and Workplace Safety Office within five (5) work days of notification by the employee.

**The Department of Human Resources and Management** is responsible for:

- Providing training and educational material on the Controlled Substance and Alcohol-Free Workplace Program;
- Coordinating controlled substance/alcohol tests and reports;

- The Risk Management and Workplace Safety Office shall provide information on counseling services available through the Employee Assistance Program; and notify the employee and supervisors of all drug/alcohol screening upon receipt of written confirmation of the test results from the Medical Review referral.
- Complying with the Federal Drug-Free Workplace Act and State Drug and Alcohol-Free Workplace mandates, and M-NCPPC policy, by informing Federal fund grantors of all criminal controlled substance and alcohol convictions within ten (10) days of being notified by the employee.

## II. **EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE IN THE WORKPLACE**

The M-NCPPC's greatest asset is its workforce. The Controlled Substance and Alcohol-Free Workplace Policy strengthens the agency's commitment to eliminating hazards associated with controlled substance and alcohol abuse, and providing all employees a safe and healthy work environment.

Controlled substance/alcohol abuse is a serious, but often treatable condition. Left untreated, the presence of controlled substance/alcohol abuse in the workplace can negatively affect an employee's health and work performance; risk the safety of the employee, co-workers and patrons; become disruptive to the family lives of the employee and the stability of the worksite; and/or lead to increased costs related to productivity, absenteeism, health insurance and workers' compensation.

Workers who use controlled substances and/or alcohol do not function at their full capacity even when the impairment may not be obvious to others. Many aspects of performance including perception, judgment, coordination, attention, reaction time, and overall alertness may be affected.

## III. **COUNSELING AND REHABILITATION**

The M-NCPPC offers free and confidential counseling services through the Employee Assistance Program. Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. This program offers day and evening appointments. The agency's Employee Assistance Program is Guidance Resources (1-855-286-1678) or [www.guidanceresources.com](http://www.guidanceresources.com).

The Employee Assistance Program provides initial assessment and counseling services. It does not offer rehabilitation treatment but can make referrals to certified treatment programs. Cost for rehabilitation treatment is the responsibility of the employee. The Employee Assistance Program can coordinate rehabilitation treatment with the employee's medical coverage.

### **Initial Assessment and Counseling Services:**

Employees may request Administrative Leave for those times when they are approved by their supervisor to use the agency's Employee Assistance Program during scheduled work hours. The amount of available leave is subject to approved M-NCPPC policy or applicable Collective Bargaining Agreement.

### **Rehabilitation Treatment:**

Employees must use their own paid leave or apply for authorized unpaid leave (Leave-Without-Pay) when enrolled in rehabilitation treatment.



**Employee-Initiated Use of Employee Assistance Program:**

Employees, who are not the immediate subject of a disciplinary action, may voluntarily use the Employee Assistance Program without a loss of confidentiality or fear of reprisal. Voluntary appointments may be without referral by supervisors.

**Formal Supervisory Referrals to Employee Assistance Program and Disciplinary Action Resulting from Policy Violations:**

Supervisors may formally refer an employee to the Employee Assistance Program when there is a job performance concern or there is reasonable suspicion that an employee is abusing a controlled substance or alcohol, as defined in this document. Supervisors **must** notify employees that they are making a formal referral to the Employee Assistance Program to initiate the formal referral process.

Confidentiality between the Employee Assistance Program and the employee will be maintained. In cases involving supervisory referrals, the employee may be required to work with the Employee Assistance Program as a condition of continued employment. Under these circumstances, the agency will receive reports from the Employee Assistance Program on a need-to-know basis to ensure that the employee is following the recommended treatment program.

Disciplinary action will occur if the employee does not comply with the supervisory referral and/or does not follow the recommendations of the Employee Assistance Program. The employee's pay, leave, and disciplinary status will be determined on a case-by-case basis.

**IV. CONTROLLED SUBSTANCE AND ALCOHOL TESTING**

The M-NCPPC reserves the right to conduct the following types of controlled substance and alcohol testing: Post-Accident, Reasonable Suspicion, Return-to-Duty, and Follow-up. Employees who work in safety-sensitive positions and employees who hold Commercial Driver's Licenses (CDL) are also subject to Post-offer/Pre-employment testing. Additionally, Commercial Driver's License holders must participate in random testing.

Any employee who violates Commission Practice 2-26 will be subject to disciplinary action, up to and including termination and may be required to submit to controlled substance/alcohol testing. At a minimum, the employee will receive a formal referral to the agency's Employee Assistance Program for evaluation by a trained Substance Abuse Professional.

**A. Testing**

- Specimens will be collected and analyzed in accordance with Federal and State mandated protocol. Tests must be performed by testing facilities certified by the Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services.<sup>1</sup>

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<sup>1</sup> Any facility used by the M-NCPPC for testing will be certified by the State of Maryland and by the U.S. Department of Health and Human Services for job-related testing for controlled substances/alcohol. All specimen collections will be conducted in accordance with the procedures established by the U.S. Department of Health and Human Services (Job-Related Alcohol and Controlled Dangerous Substances Testing, § 170214, Health General Article, Annotated Code of Maryland).

- Testing procedures will comply with the Americans with Disabilities Act (ADA).<sup>ii</sup>
- Refusal to submit to testing will be considered a positive test and/or subject to discipline.
- Tampering with a drug/alcohol screen will be considered a positive test and/or subject to discipline.
- Arrangements for testing will be coordinated through the Risk Management and Workplace Safety Office. Immediately following any accident and in all cases involving post-accident and reasonable suspicion testing, the Risk Management and Workplace Safety Office must be contacted to determine whether drug/alcohol testing is required. Additionally, Park Police must be called for emergencies involving fatalities, serious accidents, major damage to M-NCPPC properties, and other life-threatening situations. Risk Management/Safety Representatives may be contacted as follows:

Business Hours: 301-454-1686 or 1692

After Hours: 301-275-5125 or 5126

Back Up: 240-393-0419

If testing is required, the Risk Management and Workplace Safety Office will coordinate necessary testing on a 24-hour basis, seven (7) days a week. The supervisor shall arrange to have the injured employee report to the designated testing facility within eight (8) hours of the accident. If the injured employee is hospitalized, the Risk Management and Workplace Safety Office will make arrangements for testing to be conducted at the hospital.

- The certified Medical Review Officer, under contract with the M-NCPPC, will review and interpret test results before reporting confirmed results to the Risk Management and Workplace Safety Office.
- For testing involving post-accident and reasonable suspicion, employees shall not return to safety sensitive duties (including driving privileges) until the employee's department receives notification from the Department of Human Resources and Management (DHRM) of test results which are negative for the use of controlled substances and alcohol. DHRM will provide notification upon receipt of written confirmation of test results from the Medical Review Officer.

#### 1. Testing for Controlled Substances

Testing for controlled substances is done using urine specimens. A certified laboratory, under contract with the agency, will perform testing using highly controlled conditions ensuring security, integrity, and identity of the specimen. A chain of custody form is used in testing for controlled substance. The form documents the handling and storage of urine specimens from the time they are collected, until the time they are disposed. The form links the employee to his/her urine specimen. Collection of the urine will be done using a split sample. Split-sample testing is used for controlled substances so employees may have an opportunity to request an independent test should the first screening test result in a confirmed positive. During the test, the employee's urine specimen will be split into two (2) samples, a primary sample and a secondary sample.

- **The primary sample** is used in the initial screening test. After a urine specimen has been collected, two tests may be performed on the primary sample of the split sample. The initial test

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<sup>ii</sup> *The Americans with Disabilities Act extends employment protection to recovering alcoholics/drug addicts as persons with disabilities. The Act does not extend coverage to current users. Persons found in violation of this policy including those in rehabilitation programs can be tested for use since they presumably have stopped using drugs/alcohol. Coverage by the ADA, as a person with a qualified disability, requires proof of enrollment in a certified rehabilitation program.*

is the immunoassay test. This is a screening test to determine the presence of the following controlled substances: (1) Amphetamines, (2) Cannabinoids (Marijuana), (3) Cocaine, (4) Phencyclidine, (5) Opiates, (6) Ecstasy, and/or (7) Heroin. If the results of the initial test are below the established cut-off levels for controlled substances, the test will be reported as negative. (See also, Section IV.D, Reporting of Test Results, and Appendix A, M-NCPPC Cut-Off Levels for Controlled Substance and Alcohol Testing).

Should this screening indicate a positive result, that is, the result exceeds the cut-off levels of any of the controlled substances listed above, a second (confirmation) test will be performed on the same (primary) sample. This confirmation test is conducted using gas chromatography/mass spectrometry. Only specimens confirmed positive by the Medical Review Officer will be reported as positive.

- **The secondary sample** is retained in a secure manner by the certified laboratory. Should the employee's primary sample result in a confirmed positive, the employee may request that the secondary sample be tested by an independent certified laboratory of his/her choice at his/her expense.

Employees who want this secondary sample analyzed must advise the agency's Medical Review Officer within 72 hours of being notified of the positive result from the primary sample. (See Section IV.D, Reporting of Test Results). If the rest of the secondary sample is negative, the Medical Review Officer will cancel the positive findings from the first sample.

## 2. Testing for Alcohol

Testing for alcohol is done using breath specimens. Testing will be performed by a certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing (EBT) device. The EBT device is an instrument which determines the concentration of alcohol expressed as "percent by weight". The weight of alcohol in the breath specimen is determined and quantity of alcohol is converted into its equivalent value in blood. Test results are displayed and printed in terms of grams of alcohol per 210 liters of breath. A blood alcohol concentration of 0.10 means one tenth of a gram of alcohol per 210 liters of breath. Alcohol testing may have two separate parts: an initial screening test, and a confirmation test.

The first test is the initial screening test. If the initial test shows a reading less than 0.04, the test is recorded as negative. If the initial test is 0.04 or greater, a confirmation test must be conducted.

**NOTE:** In accordance with U.S. Department of Transportation mandates for Commercial Driver's License holders, the initial test must read less than 0.02 to be recorded negative. Initial test results of 0.02 or greater for Commercial Driver's License holders require a confirmation test.

If a confirmation test is necessary, a 15-minute waiting period will be observed before this second test is conducted. If the confirmation test result is different from the initial test, the lower of the two test results will be used to determine the outcome. (See also, Section IV.D., Reporting of Test Results, and Appendix A, M-NCPPC Cut-Off Levels for Controlled Substance and Alcohol Testing).

## B. Consequences of Positive Results from Controlled Substance/Alcohol Testing

In the event of positive results from controlled substance/alcohol testing, the employee must:

- Report to the Employee Assistance Program for evaluation by a Substance Abuse Professional. Employees must report to the Employee Assistance Program no later than ten (10) work days after notification of a confirmed positive test result. The employee will be required to work with, and follow the Substance Abuse Professional's recommendations for treatment. Treatment may require an employee to enroll in and successfully complete a certified rehabilitation program. Progress in the treatment program must be coordinated through the Employee Assistance Program. Treatment must be completed no later than 120 days from the date of enrollment in a program.
- Undergo a Return-to-Duty test and receive a negative test result for controlled substances/alcohol before return to full duty is permissible.
- Undergo follow-up tests after returning to full duty. Employees must receive negative test results for controlled substances/alcohol on all follow-up tests.

Disciplinary action will be taken if the employee fails to comply with recommended treatment or receives a positive test result during Return-to-Duty testing. A confirmed positive result during follow-up testing will result in termination of employment.

## C. Types of Tests

### 1. Post-offer/Pre-employment Testing

*Commercial Driver's License Holders and Safety Sensitive Personnel Only*

All new and current employees who apply for positions designated for Post-offer/Pre-employment medical evaluation are subject to controlled substance/alcohol testing. Covered positions include those requiring a Commercial Driver's License and those with safety sensitive duties. Applicants will be required to participate in controlled substance/alcohol testing after they have received an offer of employment. Finalization of the job offer is contingent upon reports of negative test results for both controlled substances and alcohol. A report of a positive test result will cause the employment offer to be withdrawn.

### 2. Reasonable Suspicion Testing

*All Employees*

Employees are subject to the controlled substance/alcohol testing whenever there is reason to believe the agency's policy has been violated based on the direct observation of unsafe work behaviors including, but not limited to:

- Discovery or presence of illegal controlled substances or alcohol in the employee's possession while in the workplace or while on other M-NCPPC property;
- Physical signs and symptoms such as reddened eyes or dilated pupils, slurred speech, the odor of alcohol or controlled substances;
- Repeated failure to follow instructions or operating procedures;
- Violations of safety policies;
- Unexplained, significant, or sudden deterioration in job performance;
- Excessive, unexcused tardiness or absenteeism; and/or
- Significant change in personality including repeated abusive behavior, insolence, or insubordination.

Whenever reasonable, two supervisors should observe or review information regarding the employee, before directing the employee to participate in controlled substance/alcohol tests.

All testing for Reasonable Suspicion must be conducted as soon as possible and no later than eight (8) hours from the time of the observed incident or assessment. The supervisor or his/her designee should accompany the employee to the test site. Whenever possible, tests must be performed at a certified testing facility under contract with the M-NCPPC (see Section VII, Testing Facilities).

### **3. Post-Accident Testing**

*All Employees*

Controlled substance/alcohol testing is required following a work-related accident and/or an accident involving an employee operating an M-NCPPC vehicle/equipment that results in any of the following:

- Determination or dispute of fault including but not limited to a citation issued to the employee;
- Personal injury to the employee regardless of fault or damage. Testing is only required when the employee's injuries require treatment beyond first aid and no other conditions exist for required post-accident testing;
- Injury/fatality to other persons involved in an accident regardless of fault or damage;
- Significant damage (\$2,000 or greater) to an M-NCPPC vehicle or property as determined by management, which may include assessment by the supervisor(s), County or State Police, Park Police, fleet manager, and/or the Risk Management and Workplace Safety Office; and/or
- Any damage to other vehicles or public/private property.

Testing will only be required of the operator of the vehicle or equipment involved in the accident.

Testing is not required when the accident involves:

- Being hit by or striking a deer (regardless of amount of damage or injury);
- Being hit by another party while the employee operating the vehicle/equipment is parked or at a complete stop.

Any employee who is seriously injured and cannot provide a specimen at the time of the accident must give the necessary authorization to obtain hospital records and other documents that would indicate whether there was a presence of a controlled substance/alcohol in the employee's system.

All post-accident testing must be conducted as soon as possible and no later than eight (8) hours from the time of the accident. If necessary, the supervisor(s) or his/her designee should accompany the employee or provide transportation to the testing site. Whenever possible, the test should be performed at a certified testing facility under contract to the M-NCPPC (see Section VII, Testing Facilities).

### **4. Random Testing**

Specific positions within the agency require random testing. These positions are identified by Federal/State Law, Collective Bargaining Agreements (CBAs) or position classifications.

- The Federal Motor Carrier Safety Administration determines annually, the number of random tests to be performed in a twelve (12) month period for CDL Holders.
- Random tests shall be reasonably spread throughout the calendar year.

- The M-NCPPC's random testing program is administered by the agency and a certified testing facility and a Medical Review Officer (MRO).
- The agency's MRO shall ensure that these tests are scheduled and performed in accordance with any applicable Federal/State regulations and CBAs.
- The agency's MRO notifies the Risk Management and Workplace Safety Office of Random testing dates, times, and names of employees to be tested. The Risk Management and Workplace Safety Office will notify the employee's supervisor immediately before the testing date and testing time.

## 5. **Return-to-Duty Testing**

### *All Employees*

Any employee who receives a confirmed positive for controlled substance/alcohol, or who has been disciplined for conduct prohibited under Practice 2-26, Controlled Substance and Alcohol-Free Workplace, will be required to participate in an unannounced, Return-to-Duty test for controlled substances/alcohol. Return-to-Duty testing will be administered as follows:

- The employee will be notified of the date, time, and place of the test immediately before the required Return-to-Duty testing.
- The Return-to-Duty test will be scheduled following the employee's successful completion of any Employee Assistance Program and/or the approved treatment program. If the employee fails to comply with the recommendations, the employee will be subject to immediate Return-to-Duty testing.

Employees must receive a test result of negative before being permitted to return to full duty status.

**NOTE:** Employees who hold a Commercial Driver's License must have less than a 0.02 alcohol-concentration level to receive a test result of negative for alcohol. Should the employee show a positive result on the Return-to-Duty test, disciplinary action (up to and including termination) may be initiated. Employees who test positive cannot return to full duty and may be subject to automatic retest within the next 30-day period.

**A positive result on a second Return-to-Duty test will result in termination of employment.** A certified testing facility, under contract with the M-NCPPC, must perform Return-to-Duty testing (see Section VII, Testing Facilities).

## 6. **Follow-up Testing**

### *All Employees*

Once an employee has been released to full-duty work status, the employee must participate in follow-up testing for controlled substances/alcohol as follows:

- Submit to a minimum of six (6) unannounced follow-up tests for one (1) year from the date of the Return-to Duty release.
- The Risk Management and Workplace Safety Office will provide notification for follow-up tests through the employee's supervisor immediately before the scheduled test.

Employees must receive a negative result for each controlled substances/alcohol follow-up test.

**NOTE:** Commercial Driver's License employees must indicate a level of less than 0.02 to test negative for Alcohol. **A confirmed positive for controlled substance/alcohol on any follow-up test will result in termination of employment.**

Follow-up tests must be performed by a certified testing facility under contract with the M-NCPPC (see Section VII, Testing Facilities).

#### **D. Reporting of Test Results**

The testing laboratory reports written test results to the Medical Review Officer (MRO). The MRO will interpret and report the test result to the employee and the agency. Before test results are confirmed as positive, the MRO will review results along with the employee's medical history and other relevant information. An applicant/employee may be asked to submit documentation from his/her treating physician if the MRO believes that the valid use of prescription controlled substances, other medications, or medical treatments could have influenced the test results.

The results will be reported as a confirmed positive if the MRO can find no legitimate explanation, and has concluded that the test result was positive for a controlled substance or alcohol. Notice of positive test results must be provided to the employee within 30 days from the date the test was performed. The testing facility will provide notice of the positive result by telephone or by certified mail. In the case of a positive test, the agency must provide to the employee:

- A copy of the test results;
- A copy of the Commission's policy, Practice 2-26 and Administrative Procedures;
- When applicable, written notice of any disciplinary action; and if there is a positive test result for controlled substances, a statement permitting the employee to request that another test be conducted on the same specimen (split-sample) by a different certified laboratory at the employee's own expense.<sup>iii</sup> If the employee wants this additional test, the employee must advise the agency's Medical Review Officer within 72 hours of being notified of the positive result.

#### **V. DISCIPLINARY ACTIONS**

Disciplinary actions must be carried out by the Department Director in consultation with the Human Resources Director, and conducted in accordance with applicable policies which include the Merit System Rules and Regulations, "Workplace Conduct and Discipline" chapter, and Administrative Practice 2-16, Seasonal/Intermittent, Temporary, and Term Employment. Disciplinary action, including termination, may be taken if the employee:

- Receives a positive test result for controlled substance and/or alcohol use.
- Fails to comply with a mandatory referral to the Employee Assistance Program, or fails to comply with the recommendations of the Employee Assistance Program's Substance Abuse Professional for rehabilitative treatment.
- Fails to complete the recommended treatment program within a maximum of 120 days of enrollment.

#### **VI. RECORDKEEPING**

All test results are to be kept confidential and separate medical records will be maintained in accordance with the Commission's Merit System Rules and Regulations. Original medical records and test results will be maintained in a central confidential file within the Risk Management and Workplace Safety Office.

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<sup>iii</sup> As set forth in *Job-Related Alcohol and Controlled Dangerous Substance Testing, § 17-214, Health-General Article, Annotated Code of Maryland.*

**VII. TESTING FACILITIES**

Any facility used for testing will be certified by the State of Maryland and the U.S. Department of Health and Human Services for job-related testing for controlled substances/alcohol. All specimen collections will be conducted in accordance with procedures established by the Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services.

The M-NCPPC is currently under contract with the following facilities:

Concentra Beltsville  
10454 Baltimore AVE  
Beltsville, MD 20705

Hours: M-F 8:00 a.m. to 8:00 p.m.  
(301) 441-3335

Concentra Gaithersburg  
803 Russell Avenue  
Gaithersburg, MD 20879

Hours: M-F 8:00 to 8:00 p.m.  
(301) 869-0700

**VIII. RESOURCES/CONTACTS**

The Risk Management and Workplace Safety Office is located at 6611 Kenilworth Avenue, Riverdale Maryland 20737. The Office may be contacted at 301-454-1740 during regular business hours. For all after-hour needs, please call 301-275-5125 or 301-275-5126.

The following references are available through the Human Resources Division:

- Educational Materials/Resources on the Effects of Controlled Substance/Alcohol Use.
- Forms for Controlled Substance/Alcohol Testing, Formal Referrals to the Employee Assistance Program and Treatment Agreements.



**M-NCPPC CUT-OFF LEVELS FOR CONTROLLED SUBSTANCE AND ALCOHOL TESTING**

A cut-off level is a value used to determine whether a test is reported positive or negative for the presence of a controlled substance or alcohol.

**Cut-Off Levels for Controlled Substances<sup>i</sup>**

<u>Controlled Substance</u>	<u>Initial Test Cut-off Level</u>	<u>Confirmation Test Cut-off Level</u>
Amphetamines	500 ng/ml	250 ng/ml
Cannabinoids (Marijuana)	50 ng/ml	15 ng/ml
Cocaine	150ng/ml	100 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Ecstasy (MDMA)	500 ng/ml	250 ng/ml
Heroin 6-acetylmorphine (6-AM)	10 ng/mL	10 ng/mL

**Initial Test:** This screening test is conducted using a urine sample. The screening test detects controlled substances listed above. If the initial test result is positive, a confirmation test will be performed. The confirmation test will be conducted on the same sample.

**Confirmation Test:** This second test is conducted to rule out any false positives on the initial screening test. The confirmation test is done using gas chromatography/mass spectrometry on the same sample used in the initial test.

**Cut-Off Levels for Alcohol**

<u>General Workforce</u>		<u>Commercial Driver’s License Holders</u>	
<b>Less than 0.04</b>	Negative test result	<b>Less than 0.02</b>	Negative test result
<b>At or above 0.04</b>	Positive test result	<b>From 0.02 to 0.39</b>	Confirmation test is required if the initial test falls at or between this cut-off level. The employee will also be prohibited from performing safety sensitive duties for 24 hours.
		<b>At 0.04 or above</b>	Positive test result

**Initial Test:** This screening test will be performed using a breath test. If the employee’s test result indicates an alcohol-concentration level of 0.04 or above, the result will be reported as positive for alcohol. All persons who test positive on the initial screening must submit to a confirmation test.

**Confirmation Test:** This second test is conducted to determine the accuracy of the initial test result of a CDL holder who has tested from 0.02 to 0.39. It is required anytime an employee does not test negative on the initial screening test. Note: Commercial Driver’s License holders, who have a test result of 0.02 or above, will be required to submit to a confirmation test.

<sup>i</sup> The M-NCPPC adopts cut-off levels established by the Substance Abuse and Mental Health Services Administration (SAMHSA), formerly known as the National Institute on Drug Abuse (NIDA), Department of Health and Human Services and the Department of Transportation.