

**COALITION FOR UNIFORM DRUG**

**AND ALCOHOL PROGRAM**

**CUDAP**

**POLICIES AND PROCEDURES**

## **UNIFORM DRUG AND ALCOHOL TESTING PROGRAM**

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## **FITNESS FOR DUTY SPECIFICATIONS FOR CONTRACTORS**

### **1.0 Introduction**

Each company of the Delaware Valley Owners Coalition for Uniform Drug and Alcohol Policy (CUDAP) is committed to providing safe, dependable and economic service to their customers, maintaining a safe workplace and promoting high standards of employee health. To achieve this, CUDAP must have a workforce and workplace that is free of the adverse effects of alcoholic beverages and illegal drugs or legal drugs obtained illegally or taken for purposes of abuse. Accordingly, each member company of CUDAP requires its on-site contractors to adopt and join with CUDAP owners in implementing the drug and alcohol policy set forth herein.

### **2.0 General**

(Individual companies of The Coalition for Uniform Drug and Alcohol Policy (CUDAP) play no role in hiring, compensating or disciplining of a contractor's employees. Accordingly, contractors engaged by individual companies of CUDAP have the sole responsibility for ensuring that all their employees are physically and mentally fit for their positions and perform their jobs in accordance with the highest standards of safety and security.

At the same time, contractors who perform work for member companies of CUDAP pose a special problem. For example, if a contractor employee works unsafely or produces and unsafe product or service, he or she creates a substantial and unusually severe threat to the CUDAP company employees, it's property and the public.

For this reason, each coalition company requires, as a condition for doing work for each company, that contractors assign only those employees who are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause. To meet this requirement, the contractor is required, at a minimum to comply with the requirements set forth herein.

The obligations imposed by this policy specification do not supplant, detract from or otherwise modify any obligations imposed by law, or any Collective Bargaining Agreement. CUDAP companies may contractually require additional obligations on its contractors from time to time.

Contractors are required to inform their employees of the CUDAP Drug and Alcohol Policy and of the actions that will be taken in response to a violation of this Drug and Alcohol Policy.

### **3.0 Drug and Alcohol Policy**

#### **a. Prescribed or Over-the-Counter Medication**

It is the employee's responsibility to inform their supervisor of any prescribed or over-the-counter medication which may affect or impact the employee's ability to properly or safely perform job responsibilities. Advance notification to the supervisor of prescribed or over-the-counter medication may not only aid in avoiding a safety hazard, but also help to explain potential "fitness for duty" concerns that could arise if, for example, the medication causes drowsiness or lack of coordination.

#### **b. Prohibited Conduct**

- (1) The sale or distribution of drugs and/or alcohol.
- (2) The use, possession, concealment or purchase of drugs or alcoholic beverages while on CUDAP company premises or while on duty. All alcoholic beverage containers whether opened or unopened are prohibited. On-duty includes paid and unpaid break and meal periods. CUDAP company's premises include parking lots and vehicles and all areas where the CUDAP company performs work, whether or not owned or leased by the company (e.g., public streets and customer homes). Off-duty use is prohibited on CUDAP company premises including buildings, parking lots, and Company vehicles.
- (3) The on-duty impairment of any contractor employee due to the use of drugs or alcoholic beverages, or an impermissible level of drugs or alcohol in the system of any contractor employee while on duty.

- (4) Off-duty and Off-premises involvement with drugs or alcohol that has or may have an adverse impact on a CUDAP company. Such conduct may have an adverse impact where, for example, it has or may have an effect on an employee's ability to perform his or her duties, may endanger the safety of employees or the public, may damage a CUDAP company's reputation for providing safe and dependable service to the public, or may undermine the public's or government's confidence in the company.
- (5) The use of prescription or over-the-counter medications while on-duty or on-premises is prohibited where this medication may interfere with job performance.

#### **4.0 Chemical Testing**

- a. To provide a means to deter and detect substance abuse and to ensure that contractor's employees are fit-for-duty while on the premises of a CUDAP company, all contractor's employees shall be required to submit to drug and alcohol testing under the following circumstances:
- **Testing prior to the commencement of work.** A contractor's employee who has not been issued a CUDAP certification card or has not been tested may begin work provided the contractor certifies that the employee's sample will be collected within the first eight (8) working hours. Once the employee provides a sample the employee may be allowed to work pending results of the drug and alcohol test.
  - **Testing for cause** i.e., as soon as possible following any observed behavior indicating possible substance abuse; after accidents involving a failure in individual performance resulting in personal injury requiring treatment away from the scene of the accident; and, the occurrence on any negligent or careless act which has or could have caused a personal injury requiring

treatment away from the scene of the accident or, which caused significant property damage. (See Attachment "Explanation of Reasonable Suspicion Post Accident and Incident Testing.)

- **Selection by a lottery pool** of contractor's employees to be administered by an independent agent of the CUDAP companies.
  - A contractor's employee who returns to work following rehabilitation or other form of appropriate counseling shall be subject to a reasonable program of follow-up testing without prior notice for thirty-six (36) months after his or her return to duty.
- b. Substance testing shall, at a minimum, be conducted for alcohol, marijuana, cocaine, opiates amphetamines and phencyclidine.
- c. When conducting reasonable suspicion, post-accident for unsafe practice testing, testing may be conducted for any drug listed in Schedule I or II of the Controlled Substances Act.

## **5.0 Administration**

- a. Because of the importance of ensuring that contractor employees are fit-for-duty while on a CUDAP company's premises, the contractor's responsibility to perform substance testing is delegated to CUDAP's agent, unless the contractor requests the opportunity to retain this responsibility and submits a written program satisfactory to the CUDAP company. Any such contractor program must guarantee that testing will occur in accordance with standards and procedures acceptable to the CUDAP Company.
- b. The contractor shall provide, to the appropriate CUDAP Company, a written list of those contractor employees to be used on the property in the performance of work specified by the contract.

- c. CUDAP specifies that only laboratories that are certified by the Department of Health and Human Services (DHHS) shall be used to perform substance testing.
- d. CUDAP shall use as a guideline the DHHS “Mandatory Guidelines for Federal Workplace Drug Testing Programs”, and subsequent amendments hereto. These guidelines shall be administered by a third-party administrator engaged on behalf of CUDAP companies and shall cover split specimen collection procedures, chain-of-custody procedures, laboratory qualifications, testing methodologies, quality control procedures, and reporting requirements.
- e. The initial test of breath for alcohol performed at the collection site shall be conducted using an evidential-grade breath alcohol analysis device of a brand and model that conforms to National Highway Traffic Safety Administration (NHTSA) standards and to any applicable State statutes. An alcohol breath test will be deemed positive when the blood alcohol concentration is at or above the 0.04 percent cut-off level or such level in the future that may be established by the U.S. Department of Transportation as the allowable limit of blood alcohol content. An individual who has a positive alcohol test may request a confirmatory blood test in accordance with Section 6.0 - **Appeals**.
- f. In order to ensure the full reliability and accuracy of drug assays, the accurate reporting of test results, and the integrity and efficacy of drug testing programs, CUDAP companies may make changes to this specification to reflect improvements in the available science and technology.

## **6.0 Appeals**

- a. A contractor’s employee may appeal the results of a drug test by submitting a written request for independent GC/MS confirmation to the employing contractor within seventy-two (72) hours of receipt of the final test result from the MRO. The employee may specify testing by the original laboratory or by a second laboratory that is certified by

DHHS. The contractor employee shall be required to pay in advance the cost of shipment and reanalysis of the split sample. The employee will be reinstated with back pay, and reimbursed for such re-testing expense if the re-test is negative.

**Since some analyses may deteriorate during storage, the reanalysis is NOT subject to specific cut-off requirements, but must only provide data sufficient to confirm the presence of the drug(s) or metabolite(s).**

- b. An individual who has a positive alcohol test may request further confirmation by voluntarily providing a blood specimen for confirmatory analysis by gas chromatography.
- c. The request for this additional confirmation **must** be made in writing at the time the breath alcohol analysis is completed. Failure of the individual to request a confirmatory blood test will be considered to indicate that the individual accepts the breath test results.
- d. Contractor's employees who have been precluded from performing work may appeal this sanction by submitting a written request to the designated representatives of the coalition companies within twenty (20) working days of notification of the sanction.

## **7.0 Supervisory Training**

It is recommended that supervisors and union stewards of contractor employee's working on companies of CUDAP premises and those who are responsible for evaluating the performance of the workers performing that work be provided appropriate training to ensure they understand:

- a. The effects and consequences of controlled substance use on personal health, safety, and the work environment.
- b. The manifestations and behavioral changes that may indicate substance use or abuse; and,
- c. Their role and responsibilities in implementing the program.



## **8.0 Employee Assistance Programs (EAPS)**

It is recommended that each contractor subject to this specification maintain an EAP or maintain a relationship to an EAP to strengthen the Fitness for Duty program by offering assessment, short-term counseling, referral services, and treatment monitoring to employees with problems that could adversely affect their performance. EAP's should be designed to achieve early intervention and provide for confidential assistance and counseling follow up.

## **9.0 Contractor Management Actions and Sanctions**

- a. The contractor shall remove from CUDAP premises, and preclude from performing any work by any contractor employee who:
  - Violates any of the prohibitions set forth in paragraph 3.0 of this specification;
  - Provides a false or tampered sample in connection with a drug test; or
  - Refuses or fails to appear or provide a sample on the day or at the time requested.
- b. A contractor employee, who reports to work while taking prescribed or over-the-counter medication which interferes with his or her performance and who has not notified supervision as required by paragraph 3.0 b., risks the safety of his or her fellow workers and the public, and is subject to removal from the premises of CUDAP company and preclusion from subsequent work.
- c. A contractor employee, who has been precluded from performing work on CUDAP company's premises, may not return to work at the same company or any other CUDAP Company's premises, may not return to work at the same company or any other CUDAP company until the contractor employee completes an appropriate rehabilitation program satisfactory to CUDAP, passes a drug test administered under this specification, and the Medical Review Officer (MRO) has determined that the contractor employee is fit to return to duty.

- d. Any subsequent violation of the prohibitions set forth in this specification will result in preclusion from any subsequent work with companies in the Coalition.

#### **10.0 Expansion of Application of Policy**

CUDAP will continually monitor the effectiveness of this Drug and Alcohol Policy and may expand its application from time to time by increasing the number of companies within the Coalition. Any expansion(s) of application of the policy will be communicated by separate correspondence and, upon the effective date of that correspondence, the changes will be set forth in full in this document.

#### **11.0 Search Policy**

CUDAP Companies hereby place all of its employees, (employees of contractors) and all other individuals on notice that:

- They and their possessions are subject to search whenever they are on the premises of CUDAP companies. Premises include parking lots, vehicles and all other areas where contractors perform work, whether or not said areas are owned or leased by CUDAP companies.

#### **11.1 Violations**

If an individual possesses or conceals drug(s) or alcohol on premises of a CUDAP company, the individual will be removed from the premises and precluded from performing any subsequent work on any company of the Coalition.

Law enforcement officials will be contacted in the event illegal drugs are discovered.

#### **12. Inspections/Audits**

Audits may be conducted by companies of the CUDAP of those portions of fitness for duty programs implemented by contractors.

Coalition companies may inspect, copy, or take away copies of any contractor documents, records, and reports related to contractor fitness for duty programs implemented to comply with this specification.

### **13. Record-Keeping Requirements**

Each contractor implementing a fitness for duty program to comply with this specification shall:

- Retain records that show a contractor employee failed a drug test, as confirmed by the contractor's Medical Review Officer (MRO), and any records that demonstrate rehabilitation, for at least five (5) years. The record shall include:
  - 1) The reason the test was conducted (e.g., pre-employment, for cause, etc.),
  - 2) The functions performed by the contractor employee who failed the drug test;
  - 3) The prohibited drug(s) used by the contractor employee; and
  - 4) The related administrative actions (e.g., termination, suspension, rehabilitation, etc.)
- The third-party agent for CUDAP will also retain records, of drug tests that show a contractor employee passed a drug test, for at least two (2) years.

### **14.0 Definitions**

For the purposes of these Guidelines the following definitions are adopted:

**Aberrant Behavior** - Significant documented behavior, including deteriorating performance, over a period of time, which deviates from the norm which has been established by the prior behavior of the employee or the norms of behavior which have been established by society and/or member companies of CUDAP; or isolated conduct or action which is a severe departure from the prior behavior of the employee.

**Alcoholic Beverages** - Any beverage containing levels of alcohol, which are controlled under law as to manufacture, use, possession, or sale.

**Alcohol Concentration (or content)** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

**Alcohol Use** - The consumption of any beverage, mixture, or preparation including medication, containing alcohol.

**Aliquot** - A portion of a specimen used for testing.

**Chain of Custody** - Procedures to account for the integrity of each urine specimen by tracking its handling and storage from the point of specimen collection to final disposition of the specimen. These procedures shall require that an approved chain of custody form be used from the point of time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory chain of custody form(s) account for the sample or sample aliquot within the laboratory. Chain of custody forms shall, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody.

**Confirmatory Test** - A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**Confirmed Positive Test** - The result of a confirmatory test utilizing the Gas Chromatography/Mass Spectrometry (GC/MS) technique that has established the presence of drugs or drug metabolites in a specimen at or above the cut-off level, and that has been deemed positive by the Medical Review Officer. For determining blood alcohol levels, a “confirmatory test” means a second test using another breath alcohol analysis device. Further confirmation upon demand will be by gas chromatography analysis of blood.

<b><u>Confirmatory Test Cut-Off Levels:</u></b>	<b><u>ng/ml</u></b>
Marijuana metabolites <sup>1</sup>	15
Cocaine Metabolites <sup>2</sup>	150
Opiates:	2000
Codeine	2000

Morphine	2000
Amphetamines	
Amphetamine	500
Methamphetamine <sup>3</sup>	500
Phencyclidine	25
Benzodiazepines	300
Barbiturates	300
Methadone	300

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<sup>1</sup>Delta-9-tetrahydrocannabinol-9-carboxylic acid.

<sup>2</sup>Benzoyllecgonine

<sup>3</sup>Specimen must also contain amphetamine at a concentration  $\geq 200$  ng/ml.

**Drugs** - Includes the following: (i) any chemical substance whose manufacture, use, possession, or sale is prohibited by law, and (ii) legal drugs (whether a narcotic, controlled substance, or prescribed drug or over-the-counter medication) obtained illegally or taken for purposes of abuse.

**Impermissible Level of Drugs** - A positive test result. An alcohol breath test will be deemed positive when the blood alcohol concentration is at or above the 0.04 percent cut-off level as measured by an evidential-grade breath alcohol analysis device of a brand and model that conforms to NHTSA standards and to any applicable state statutes. The 0.04% cut-off level may be revised in the future to such level that may be established by the U.S. Department of Transportation as the allowable limit of blood alcohol content.

**Initial Test (Screening Test)** - An immunoassay screen for drugs or drug metabolites to eliminate “negative urine specimens from further consideration or the first set of breathalyzer tests for alcohol.

**Medical Review Officer (MRO)** - A licensed physician responsible for receiving laboratory results generated by a contractor’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s positive test result together with his or her medical history and any other relevant biomedical information.

**On-Duty** - Includes break and meal periods in addition to actual working time, regardless of whether the individual is on a CUDAP company premise during said times.

**Positive Alcohol Test** - A test with a result indicating the presence of alcohol at or in excess of 0.04% BAC or BrAC or such level in the future that may be established by the U.S. Department of Transportation as the allowable limit of blood alcohol content.

**Prescribed on Over-the-Counter Medication** - Medication normally taken for medicinal or other legitimate reasons, consistent with directions of a physician or, in the case of over-the-counter medication, consistent with the directions on the package.