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16. Abstract

This report presents information gathered and analyzed in support of the Urban Mass Transportation Administration's (UMTA's) effort to develop practical guidelines for U.S. transit operators in implementing anti-drug policies and programs. The principal goal of these guidelines is to assist the U.S. mass transit industry to achieve a drug-free transit workforce to protect the health and safety of workers and the public.

The report explains the regulatory requirements for transit operators established by 49 CFR Parts 29, 40, and 653. Guidance is provided on cost effective strategies for implementing anti-drug program elements associated with policy formulation, employee and supervisor training, urine specimen collection and testing, record-keeping and reporting, and establishing Employee Assistance Programs (EAP's). Detailed appendices are provided to amplify guidance provided in the basic text. These appendices include sample forms, correspondence, checklists, reference sources, and other tools to assist transit operators in creating workable procedures to meet regulatory requirements.

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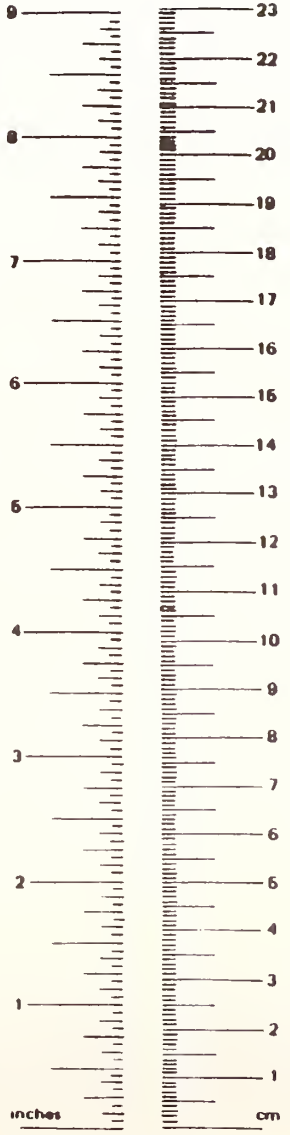
METRIC CONVERSION FACTORS

Approximate Conversions to Metric Measures

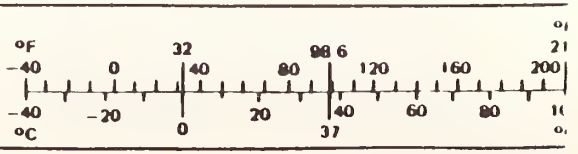
Symbol	When You Know	Multiply by	To Find	Symbol
		LENGTH		
in	inches	*2.5	centimeters	cm
ft	feet	30	centimeters	cm
yd	yards	0.9	meters	m
mi	miles	1.6	kilometers	km
		AREA		
in^2	square inches	6.5	square centimeters	cm^2
ft^2	square feet	0.09	square meters	m^2
yd^2	square yards	0.8	square meters	m^2
mi^2	square miles	2.6	square kilometers	km^2
	acres	0.4	hectares	ha
		MASS (weight)		
oz	ounces	28	grams	g
lb	pounds	0.45	kilograms	kg
	short tons (2000 lb)	0.9	tonnes	t
		VOLUME		
tsp	teaspoons	5	milliliters	ml
Tbsp	tablespoons	15	milliliters	ml
fl oz	fluid ounces	30	milliliters	ml
c	cups	0.24	liters	l
pt	pints	0.47	liters	l
qt	quarts	0.95	liters	l
gal	gallons	3.8	liters	l
ft^3	cubic feet	0.03	cubic meters	m^3
yd^3	cubic yards	0.76	cubic meters	m^3
		TEMPERATURE (exact)		
°F	Fahrenheit temperature	5/9 (after subtracting 32)	Celsius temperature	°C

*1 in. = 2.54 cm (exactly). For other exact conversions and more detail tables see NBS Misc. Publ. 286, Units of Weight and Measures. Price $2.25 SD Catalog No. C13.10:286.



Approximate Conversions from Metric Measures

Symbol	When You Know	Multiply by	To Find	Symbol
		LENGTH		
mm	millimeters	0.04	inches	in
cm	centimeters	0.4	inches	in
m	meters	3.3	feet	ft
m	meters	1.1	yards	yd
km	kilometers	0.6	miles	mi
		AREA		
cm^2	square centimeters	0.16	square inches	in^2
m^2	square meters	1.2	square yards	yd^2
km^2	square kilometers	0.4	square miles	mi^2
ha	hectares (10,000 m^2)	2.5	acres	
		MASS (weight)		
g	grams	0.035	ounces	oz
kg	kilograms	2.2	pounds	lb
t	tonnes (1000 kg)	1.1	short tons	
		VOLUME		
ml	milliliters	0.03	fluid ounces	fl oz
l	liters	2.1	pints	pt
l	liters	1.06	quarts	qt
l	liters	0.26	gallons	gal
m^3	cubic meters	36	cubic feet	ft^3
m^3	cubic meters	1.3	cubic yards	yd^3
		TEMPERATURE (exact)		
°C	Celsius temperature	9/5 (then add 32)	Fahrenheit temperature	°F



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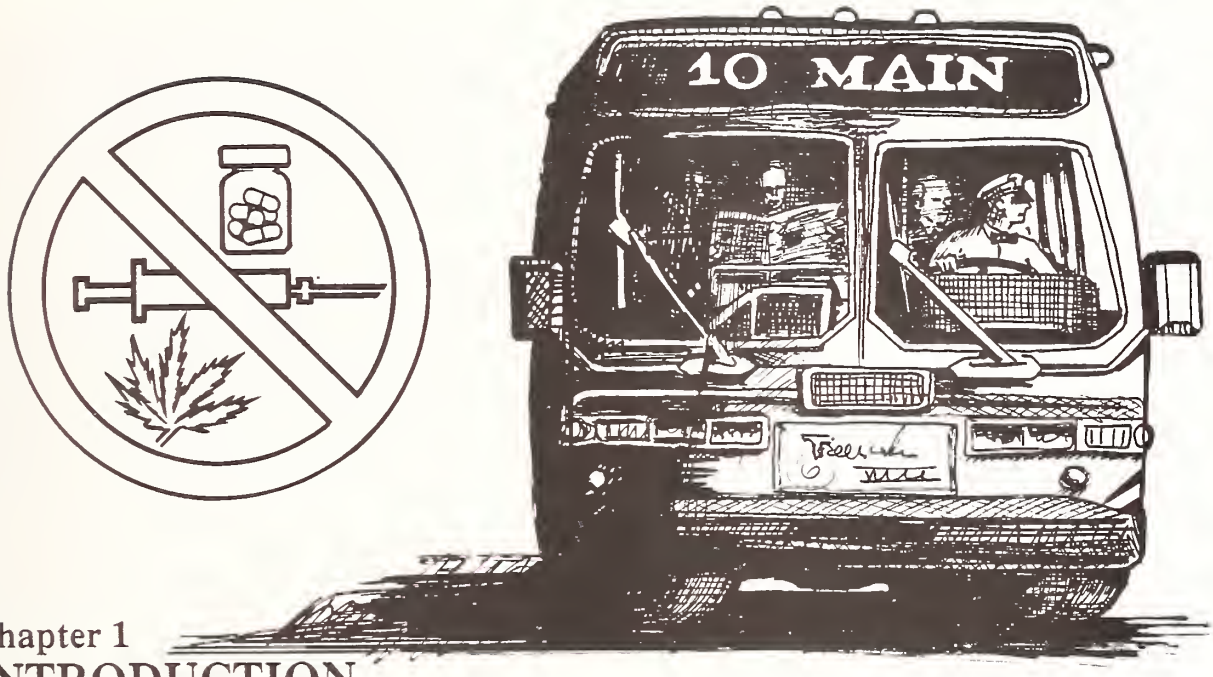


Chapter 1
INTRODUCTION

Section 1. PURPOSE AND SCOPE OF THESE GUIDELINES

The Urban Mass Transportation Administration (UMTA) recognizes that illicit drug use is a societal problem affecting the United States population as a whole. In response to this problem, UMTA has published the regulation 49 CFR Part 653, "Control of Drug Use in Mass Transportation Operations" (see Appendix A) and developed these guidelines to assist transit operators in controlling drug use within the mass transit industry. The purpose of these guidelines is to help transit operators develop and implement effective anti-drug policies and programs. The ultimate goal, for UMTA and the U.S. transit industry, is to achieve a drug-free transit workforce in the interest of the health and safety of employees and the public.

These guidelines explain the essential requirements of UMTA and Department of Transportation (DOT) regulations for the control of drug use as established in 49 CFR Part 653 and 49 CFR Part 40, "Procedures for Transportation Workplace Drug Testing Programs; Interim Final Rule" (see Appendix B). They are written as if the transit operator has no established anti-drug program. Operators with anti-drug programs in place will need to modify those programs as necessary to comply with UMTA and DOT regulations. These guidelines also explain the process for implementing the various anti-drug program elements in a logical sequence and contain examples of documents, checklists, forms, and procedures which may be used by individual transit entities in formulating and implementing their programs. The following required elements of an anti-drug program are discussed:

- Policy and procedure development
- Employee and supervisor education and training
- Specimen collection and drug testing
- Required records and reports.

Transit operators may go beyond these requirements to incorporate additional features (such as employee assistance programs and rehabilitation options), not mandated by UMTA regulation.

The anti-drug program requirements must be fully implemented, and this must be certified to UMTA, by December 21, 1989 or 1990 for large and small transit entities, respectively.

These guidelines also provide a separate brief discussion, in Chapter Nine, of the interim final rule 49 CFR Part 29, published in the Federal Register on January 31, 1989, (see Appendix C) which addresses DOT implementation of the Drug-Free Workplace Act of 1988. However, the principal purpose of these guidelines is to implement the anti-drug program requirements of 49 CFR Part 653; and all other sections of these guidelines refer exclusively to requirements identified with that regulation and with 49 CFR Part 40, which deals with laboratory testing.

Section 2. HOW TO USE THESE GUIDELINES

These guidelines are a **ready reference** for you in the transit industry who must formulate and implement programs to control drug use. They are organized by subject matter topics, each of which is addressed in the general chronological order that it would be confronted in the actual formulation and implementation of a drug control program. Thus, the creation of a policy task force or team precedes discussion of policy and procedure development, just as policy development precedes training and the implementation of drug testing and program reporting.

Each major subject is discussed in a separate section. Key points are highlighted in **bold typeface** throughout the text to permit rapid scanning and review. Appendices amplify basic information in the text; provide sample documents, forms, and checklists; identify additional resources or references; and provide specific detailed information on subjects which may be ancillary to the manual or applicable only to certain situations or transit operations.

The information presented in these guidelines is not intended to be mandatory or prescriptive, and in no case does it take precedence over or alter any requirement established under UMTA or DOT regulations. To assist you in differentiating between program elements required by regulation and optional suggestions for maximizing program effectiveness, certain key words are used throughout the text. Statements in this manual which refer to **regulatory requirements** contain the words "**shall**" or "**must**" (e.g., "An anti-drug program shall contain a policy statement ..."). Program elements which are **not** explicitly **required** by regulations, but which are suggested as an integral part of successful implementation are generally addressed using the word "**should.**" **Optional elements**, or those program features which have several acceptable alternatives, are normally expressed by use of the word "**may.**"

Chapter 2
PROGRAM OVERVIEW

Implementation of the UMTA required anti-drug program may involve the modification of existing substance abuse policies and programs, or in some cases the development of entirely new programs. The critical program element will be drug testing of employees and applicants for employment in positions which require the performance of sensitive safety functions. Such testing is quite controversial, but studies are now showing it to be one of the most effective methods to identify and deter drug abuse in the workplace. It is in this context that you must formulate anti-drug policies, communicate them to your employees, and conduct drug testing. The goals of these activities are to enhance worker productivity and safety and assure positive acceptance of the program.

Section 1. WHAT THE REGULATIONS REQUIRE

The DOT and UMTA regulations require that the following four major program elements be implemented by any recipient of Federal financial assistance under Sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964, as amended; or any recipient of Federal financial assistance under Section 103(e)(4) of Title 23 of the United States Code:

(1) A policy statement on drug use in the workplace

(2) An employee and supervisor education and training program

(3) A drug testing program for employees and applicants for employment in sensitive safety positions

(4) Administrative actions for record keeping, reporting, release of information, certification of compliance, and requesting waivers.

Covered Employees. Employees who perform sensitive safety functions, and their supervisors, must be included in the anti-drug program and are subject to urine drug testing. These functions fall into five general categories as follows:

- Operating a revenue service vehicle
- Controlling dispatch or movement of a revenue service vehicle
- Maintaining a revenue service vehicle
- Maintaining equipment used in revenue service
- Supervising the above functions.

An expanded listing of typical sensitive safety functions is provided in Figure 1 for guidance in determining your affected employee population.

Policy Statement. A policy statement on drug use in the workplace must be adopted by your governing body (e.g., board of directors or cognizant State government office). This written policy shall state that

Examples of Sensitive Safety Employee Functions

Revenue Vehicle Operation. Personnel operating or working as crewmen on revenue vehicles.

Transportation Support. Personnel providing support in vehicle operation activities, i.e., controlling dispatch and safe vehicle movement, including non-operators, working in the following functions:

- Revenue Vehicle Movement Control (e.g., dispatchers)
- Safety
- Safety Training
- Switch Tower Operators (for rail mode)

Revenue Vehicle Inspection & Maintenance. Personnel (e.g., mechanics, technicians) performing inspection and maintenance work on revenue vehicles or components. Activities include major or minor vehicle repairs, road calls to service revenue vehicles, rebuilding and overhauling repairable components and inspecting vehicles or components on a scheduled preventive maintenance basis.

Vehicle Maintenance Support. Personnel performing servicing functions (fueling, oiling, etc.) for revenue vehicles, and repairing damage resulting from vandalism or accidents, including:

- Accident Repairs
- Vandalism Repairs
- Servicing and Fueling
- Inspection and Maintenance

Non-Vehicle Maintenance Support. Personnel providing non-vehicle maintenance or repair support for the following:

- Vehicle Movement Control Systems
- Roadway and Track
- Tunnels, Subways, and Bridges
- Passenger Stations and Equipment
- Communication Systems
- Electric Power Facilities

Supervisors. Personnel who supervise individuals who perform any of the functions identified above.

Figure 1.

no employee may perform a sensitive safety function with prohibited drugs in his/her system, or after failing to pass or refusing a drug test, unless the employee subsequently passes a return to duty drug test.

Education and Training. You must provide employee education and training to all persons who perform sensitive safety functions. This training shall include display and distribution of informational material, a community service hot-line telephone number for employee assistance (if available), and the policy regarding drug use. Information on the effects and consequences of drug use on personal health, safety and the work site, as well as indicators of drug use and abuse must be provided. Supervisors must receive at least 60 minutes of additional training on the physical, behavioral, and performance indicators of drug use if they will make reasonable cause testing determinations.

Drug Testing. You must establish a urine drug testing program using a Department of Health and Human Services (DHHS) certified laboratory, with review of results by a qualified medical review officer (MRO). The categories of testing include pre-employment, reasonable cause, post-accident, random, and return to duty. In addition, employees may request retests, at their own expense, if they fail to pass a test in one of the five categories of required testing.

Administrative Requirements. Recipients, operators, and MROs are required to maintain certain drug testing records for up to five years. Such records and other personal data associated with the drug testing programs are subject to certain conditions for release. Semi-annual reports must be submitted to UMTA to summarize the results of drug testing. You must certify compliance with the requirements of 49 CFR Part 653 within 12 or 24 months, depending upon your classification by the regulation as a large or small transit operator. You may apply for a temporary waiver in the event that state or local laws conflict with UMTA program requirements.

Section 2. WHAT THE REGULATIONS DO NOT REQUIRE

The UMTA regulation is focused on public safety and, therefore, does not address a number of concerns which are considered internal affairs of individual transit operators. Some of the issues which are **not** specifically included in the DOT or UMTA regulations are

- Inclusion in the drug testing program of employees in other than sensitive safety positions
- Testing for other drugs or alcohol
- Employee assistance programs
- Expanded training for employees and supervisors.

It is important to remember when developing your individual program that the UMTA regulation represents a floor rather than a ceiling for program content. Each transit operator is free to expand upon the regulatory requirements and to tailor a program to meet specific needs.

Inclusion of Other Employees. Public safety dictates that all permanent, temporary, and part-time sensitive safety employees be included in an anti-drug program. However, unpaid volunteers, security personnel, and other administrative and operational staff are not required to be included in the program. It may be in your best interest in achieving a drug-free

workplace to include some or all of these employee groups. A program which includes all employees makes a positive management statement against drug use, is perceived as fair and equal treatment by all employees, may preclude labor relations problems associated with partial coverage of bargaining unit employees, and may simplify program implementation and structuring of health care benefits.

Testing for Other Drugs or Alcohol. The UMTA regulation requires testing only for the following drugs and their metabolites: marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines. These controlled substances were selected, in part, because of the prevalence of their abuse, and because they have little or no legitimate medical purpose. Other illicit or improperly used drugs such as barbiturates, hallucinogens (LSD, peyote, mescaline), benzodiazepine tranquilizers (valium, librium), and certain over-the-counter medications, especially when used in combination with other drugs or alcohol, pose serious health and safety risks. In tailoring the reasonable cause element of your anti-drug program, you should consider including these and other drugs to the degree that they are factors within the workplace. If you do so, you must receive prior authorization for testing from UMTA. You may also test for additional drugs, at your option, in the other test categories (pre-employment, random, post-accident, return to duty), but such testing is not an approved part of your UMTA anti-drug program. If you decide to test independently for other drugs, you must submit a separate test sample to a laboratory of your choosing.

The regulation does not require testing for alcohol. However, the potential for abuse of and addiction to alcohol (a mood altering substance that can be legally consumed) is widespread and has frequently been cited as a serious threat to safe transit operations. Thus, you should consider including alcohol in your overall program.

Employee Assistance Programs. Opportunities for rehabilitation and maintenance of job security are not requirements of UMTA or DOT regulations. However, rehabilitation has been shown to be cost effective in many segments of U.S. business. Existence of a viable employee assistance program encourages your employees to voluntarily deal with personal problems, including drug and alcohol abuse, which affect their job performance. Various cost containment options are available to reduce the economic burden to the transit industry through health care insurance providers, employee cost sharing plans, and union contributions for employee assistance services.

Expanded Training. No minimums are established for the duration of sensitive safety employee awareness training. Supervisors are required only to receive a minimum of 60 minutes of additional training if they will be referring employees for reasonable cause testing. Further, there is no requirement that disciplinary actions, available EAP services, or rehabilitation options be explained, since these provisions are not required program elements. However, employee and supervisor understanding of all benefits and potential disciplinary consequences associated with the anti-drug program is crucial to acceptance of the program as a positive way to achieve a safe and productive workplace. Therefore, you are encouraged to provide greater scope and duration of training than the minimum prescribed by regulation. It should be noted that use of existing public service informational materials and training by local health care providers can significantly reduce some of your cost for such expanded training.

Chapter 3

POLICY AND PROGRAM FORMULATION

You must establish a policy on drug use in the workplace which states, at a minimum that:

- An employee may not perform a sensitive safety function with a prohibited drug (or drug metabolite) in his or her system
- An employee who does not pass, or refuses to take, a drug test shall be relieved immediately of sensitive safety duties
- An employee who does not pass, or refuses to take, a drug test shall not return to sensitive safety duties until he or she has passed a return to duty drug test.

Your policy must be adopted by your governing body and should be disseminated to all affected employees.

In addition to policy formulation, you must establish an employee and supervisor education and training program, as well as the protocol necessary to accomplish the required drug testing.

Section 1. HOW TO GET STARTED

The best approach to establishing an anti-drug policy and program is to involve transit management, employees, and labor organizations early and continue their involvement throughout the implementation process. Such broad involvement assures that all critical concerns are addressed and improves the chances for acceptance and support of the program, thereby producing a positive, proactive anti-drug program.

Eight basic steps are generally recommended in implementing a successful program as shown in Figure 2. Appendix D provides an implementation checklist that you can use to assure that all necessary actions have been taken to successfully implement your program.

Steps to Successful Implementation of an Anti-drug Program

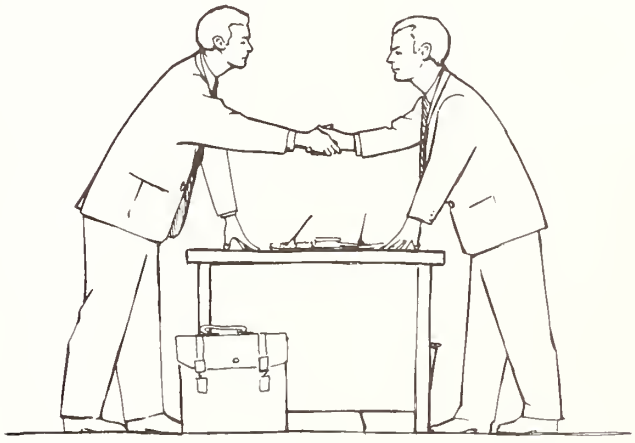
1. Obtain management and union commitment
2. Establish an anti-drug task team and an action plan
3. Define program goals and objectives
4. Develop a written policy
5. Develop program procedures
6. Develop and conduct education and training
7. Implement the drug testing program
8. Evaluate the program

Figure 2.

Step 1: Management and Union Commitment

To be a success, both management and union leadership must support the program and be committed to a drug-free

workplace. Top management commitment should be directly communicated in briefings to all affected employees by the senior transit manager (e.g., General Manager), as well as in writing, at the outset of program development. The union should be briefed on management's mandate and invited to participate in program development, but should also be apprised of your management's right and intention to implement the anti-drug program. It should be clearly understood by union leadership that implementation of the anti-drug program is a requirement for continued UMTA funding, which normally is a major source of financial support.



Step 2: The Task Team and Action Plan

A task team should be formed and given responsibility for formulating policy and implementing your anti-drug program, with management guidance and approval. Only a few persons need be permanently assigned to the task team (usually from the operations and personnel functions), but these should be supported by representatives from each major operational unit; union bargaining unit; and safety, security, personnel and labor relations, medical and legal functions. A facilitator/leader should be appointed for the team. This may be a knowledgeable transit employee, such as the drug program manager, or a contracted specialist in drug abuse prevention. It is suggested that all levels of the employee population, from senior management to first line workers, be represented on the task team.

The first step your task team should take is to develop an action plan to accomplish steps (3) through (8), which follow. It is suggested that a backward planning sequence be used to establish major milestones, starting with program implementation and evaluation and working backward to definition of program goals and objectives.

Step 3: Program Goals and Objectives

Working from a problem statement on the effects of drugs in the workplace, the task team should identify the goals and objectives for the program. Objectives should be measurable (e.g., zero drug related accidents), and clearly stated in terms of the work environment. The goals and objectives you formulate will provide the blueprint for policy and procedure development.

Step 4: Policy

A draft policy should be formulated and distributed to all task team members for review and comment. Reviews by labor relations, the union, and legal staff are especially important. The written policy should be signed by the senior management official and distributed to all employees.

Step 5: Program Procedures

You should develop detailed procedures based upon the policy statement to address such matters as training requirements, drug testing protocol, EAP provisions (if applicable), disciplinary actions, records and reports, etc. Consolidation of such procedures in a separate drug program manual can enhance understanding and emphasize program objectives. Liaison with testing laboratories (and health care providers if utilized) is essential for workable procedure development.

Step 6: Education and Training

Your employee awareness training should begin very early and may include updates on progress of the task team during program development. In any event, all sensitive safety employees and supervisors should receive formal training **before** any drug testing or program related disciplinary actions are taken. Employee understanding of program benefits and penalties is crucial to acceptance of your program and to its success as a deterrent to drug abuse.

Step 7: Program Implementation

After you have developed and finalized all policies and procedures, and all employees and supervisors have received initial training, it is time to implement the drug testing program. A phased implementation may be beneficial. For example, by gradually phasing in pre-employment and post-accident testing, followed by reasonable cause, and then random testing, employees gain confidence in the program. At the same time, your management has an opportunity to assess and fine tune the testing protocol and to refine the program policy and procedures. Remember, however, that all aspects of the testing program must be fully implemented by the UMTA specified implementation dates of December 21, 1989 or 1990 for large and small entities, respectively, whether or not a phased-in approach is used.

Step 8: Program Evaluation

Shortly after the initial implementation, and periodically thereafter, the program's effectiveness should be evaluated. This involves assessing trends in drug use and detection, as well as evaluating the effectiveness of training, specimen collection, laboratory testing, and EAP/rehabilitation services, as appropriate.

Section 2. POLICY DEVELOPMENT

Suggested Elements of an Effective Policy

Purpose. The purpose of the policy should not be merely to ensure compliance with the UMTA regulation, but to support the goal of a **drug-free workplace.** The presence of drugs in the body at levels detectable by the required testing is prohibited. Zero tolerance should be the standard, without regard to fine distinctions between such concepts as "drug affected," "under the influence," or "drug impaired." Any use of prohibited drugs creates the potential for degradation of job performance. Some suggestions to help you formulate an effective anti-drug policy are as follows:

- The policy should reflect management commitment to a drug-free transit operation.
- The policy should be designed to help people, not hurt them.

- It **should** protect your employees and the public from injury and economic loss due to affected employees.

- The policy **should** help to create a deterrent environment discouraging use, possession, and sale of drugs on or off the operator's property.

- It **should** be designed to provide information to those who want it, help to those who need it, and skills to those who need to apply them.

- The policy **should** provide a consistent process for disciplinary action (including termination) when necessary.

- It **should not** place moral definitions on use and abuse.

- The policy **should not** place all employees under a cloud of suspicion or coercion.

- The policy **should not** attempt to do the job of law enforcement authorities.[1]

The following statements are **recommended** for inclusion in your written anti-drug policy, in addition to the basic UMTA requirements:

- Senior management is committed to a drug-free workplace, which protects the operation's most valuable resource -- its employees -- as well as the health and safety of the public.

- The manufacture, use, sale, distribution, possession, or presence in the body of prohibited drugs in the workplace may result in termination.

- The legitimate use of controlled substances prescribed by a licensed physician is not prohibited. Employees in sensitive safety positions should inquire of their physicians, and notify the appropriate employer representative, of the use of prescription medications which may adversely affect job performance.

- All employees in sensitive safety positions shall be subject to urine drug testing prior to employment or assignment, for reasonable cause, following an accident, on an unannounced random basis, and prior to return to duty, if they fail to pass a drug test.

- Any person who fails to pass a required drug test shall be subject to disciplinary action, up to and including termination.

- Any person who refuses to submit a urine specimen, or who adulterates a specimen for drug testing, shall be subject to termination.

- Employees are encouraged to voluntarily utilize the services of the employee assistance program (if provided) to deal with drug use or dependence before it affects on-the-job performance. However, voluntary self-referral to the employee assistance program shall not relieve the employee from responsibility for adequate job performance. Self-referral after notification of a required drug test will not eliminate the requirements to take such a test, nor will it preclude the taking of disciplinary action against an individual who fails a required drug test.

Management Commitment

It is important that your top management not only support the anti-drug program, but that they **demonstrate their personal commitment** by communicating the policy to employees, setting an example, and assuring fair and impartial enforcement of the policy. Management assurances of strict confidentiality and respect for employee privacy and dignity are key elements in promoting the program. Senior transit officials should be thoroughly briefed on the program and must be knowledgeable about the effects of drug abuse and the various rehabilitation and disciplinary action options available. A positive attitude toward achieving a drug-free worksite, openly expressed during small group employee briefings, will do much to achieve a successful program which is accepted and supported by your workforce.

Labor Involvement

In most instances, the implementation of transit operating policies, such as the anti-drug policy, is considered to be a management right and not subject to bargaining. However, whether or not your anti-drug program is a subject for bargaining, it is advantageous to **involve the union** and its leadership in the implementation process. This can best be achieved by inviting union members to participate on the task team and by providing periodic briefings to union leaders on the status of policy and program formulation. Your briefings should stress the health and safety benefits to the transit entity and the union and the need to protect workers from the hazards associated with drug abuse. You may find that your union actively supports a drug-free worksite and may offer financial support for health care under an employee assistance program.

Effective Policy Communication

A policy is of little value if it is not effectively communicated. In fact, with subject matter as controversial as drug testing, the way in which the policy is communicated is probably just as important as the message to be conveyed. It is very important that senior and first line management participate in communicating the policy and that communication be clear and consistent throughout the organization. The following **suggestions** are made to expedite effective communication to your workforce:

- A single knowledgeable person should conduct briefings for relatively small (20-30 person) groups. This will assure that the same policy message is consistently delivered. A senior management representative and the manager of the group being briefed should be present and express their support for the policy.

- Your written policy should be explained orally and a copy provided to each employee. It is recommended that attendance rosters be maintained and that each person sign for a copy of the policy. This will ensure that all employees are briefed. Briefings and copies of the policy should also be provided to union leadership and to affected contract service providers (e.g., subcontracted transit operation or maintenance service providers).

- In dealing with questions concerning the policy, it is very important that the person providing answers be completely knowledgeable concerning all aspects of the program. Generalities, vague

answers, opinions, and guesses should be avoided. If a specific issue has not been resolved or is not addressed by the policy, say so. If you do not know the answer to a question, note the person's name and tell him or her that you will get an answer as soon as possible, then make sure to follow up.

- Employee questions and comments are likely to be extensive and it is useful to remember that they reflect real perceptions and concerns, whether based upon fact or misconception. Dealing with these concerns in a positive and frank manner will foster program acceptance and provide useful input to refine and improve your anti-drug policy and program.

- Displays, bulletin board announcements, and informational pamphlets can be used as reminders to reinforce the key points of the policy.

Conflicts with State and Local Laws

The UMTA regulation clearly states that it does not preempt state or local laws where such laws are in conflict with regulatory requirements. This means that if a State or local law does not permit you to do what the regulation requires, your transit operation will be unable to receive Federal funding from UMTA, since such funding is contingent upon compliance with the UMTA anti-drug regulation. If you note a conflict with State or local law, you should first check to see if your State has "consent" statutes which permit you to take any necessary actions to comply with Federal grant conditions. If there is no consent statute, you should draft your policy in accordance with State and local laws and seek a temporary waiver from UMTA as described in Chapters 4 and 7 of these guidelines. To assure continued UMTA grant funding after the expiration of such a temporary waiver, you should work with elected officials to change any State or local laws that prevent full implementation of UMTA regulatory requirements.

Section 3. HOW TO DEVELOP PROCEDURES

Program implementation will require the development of a number of detailed procedures to guide supervisors and employees. These procedures should be based on the goals and objectives of your anti-drug policy and clearly define how each element of the program is to be implemented. Your management and employee rights and responsibilities should be clearly established. It is suggested that anti-drug policies and procedures be consolidated in a single stand-alone manual which is provided to all supervisors. If properly assembled, this manual can provide your supervisors with everything they need to fulfill program requirements. The manual can even include multiple tear out copies of worksheets and checklists for employee evaluation and referral for testing or for consultation with employee assistance program staff, as appropriate. Figure 3 provides a listing of procedures to be included in an anti-drug manual.

The following are brief descriptions of subjects to be addressed by procedures. It may be appropriate to combine two or more of these topics in a single procedure, but for emphasis each is addressed separately here.

Topics for an Anti-Drug Procedure Manual

- Policy Communication
- Training
- Referral for Testing
- Random Testing
- Sample Collection
- Laboratory Testing
- Employee Assistance and Rehabilitation
- Disciplinary Actions
- Record Keeping and Reports

Figure 3.

- **Policy Communication.** Provide guidance on the use of briefings, bulletin boards, pamphlets, handouts, newsletters, etc., to communicate the policy to employees.

- **Training.** Define scope, duration, scheduling, content, and participation requirements for your employee and supervisor training program. The completion and maintenance of training records should be stressed.

- **Referral for Testing.** The types of drug tests should be defined, as well as supervisor responsibilities and procedures for referring, transporting, and scheduling employees for post-accident, reasonable cause, and random testing. A separate procedure may be needed for reasonable cause testing due to the complexity of identification, evaluation, and referral involved in such a testing decision. The process of properly selecting employees for random testing may also warrant a separate procedure.

- **Sample Collection and Testing.** The process for sample collection and laboratory testing should be defined, to include collection site standards, privacy and confidentiality requirements, chain of custody, MRO reviews, and handling of test results.

- **Employee Assistance and Rehabilitation.** Procedures for referral and use of EAP or rehabilitation services (if provided) should be defined. Pay status, medical benefits, and return to work provisions should be addressed.

- **Disciplinary Actions.** Possible disciplinary actions and expected standards of employee conduct should be defined. Your appeals process should be explained and reference made to union grievance procedures, as applicable.

- **Records and Reports.** Procedures for establishing, maintaining, and retaining program records should be addressed. Confidentiality requirements should be stressed. UMTA reporting requirements should be spelled out, as well as the requirements for testing laboratories and MROs.

Chapter 4
EMPLOYEE EDUCATION AND TRAINING

Improving employee awareness about, and understanding of, substance abuse in the workplace is a key element in your anti-drug program. The UMTA regulation requires education for each sensitive safety employee through

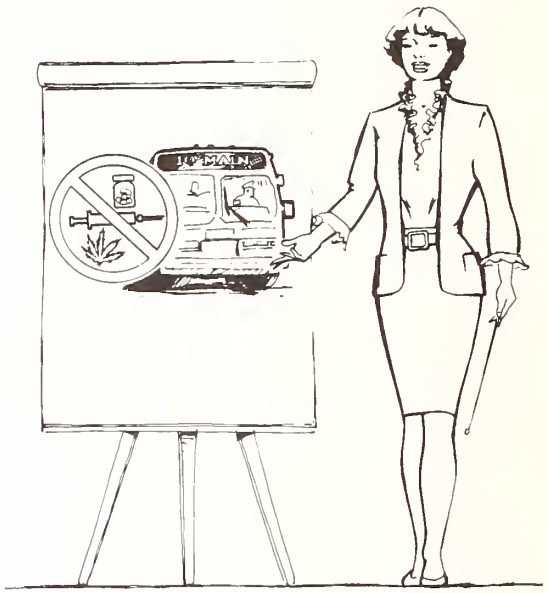
- Display and distribution of informational material
- A community service hot-line telephone number for employee assistance, if available
- Your policy regarding drug use in the workplace.

You are also required to provide employee training on

- Effects and consequences of drug use on personal health, safety, and the work environment
- Manifestations and behavioral clues indicative of drug use and abuse.

Supervisors must receive a minimum of 60 minutes of additional training (beyond that provided to all sensitive safety employees) on the physical, behavioral, and performance indicators of probable drug use if they are making reasonable cause drug test determinations.

These employee and supervisory training requirements are the minimums established by UMTA for initial training. Although the regulation does not specifically require refresher training, it is recommended that refresher training be provided to employees and supervisors annually. In the discussion that follows, duration, scope, and approaches to training successfully employed by others in recent years are identified.



Section 1. EMPLOYEE AWARENESS TRAINING

Employee training heightens awareness of the effects of drug abuse, and heightens understanding of your anti-drug policy. One useful approach is to provide a 60- to 90-minute awareness and policy orientation briefing, reinforced with informational materials and emphasis during other routine training, such as safety program meetings. Success is achieved by integrating a variety of awareness communication techniques on a recurring basis over an extended period.

Most drug abusers will not be persuaded to stop use on the basis of educational messages alone. However, many will change their behavior or seek help through an employee assistance program if informed of your policy requirements for

continued employment and rehabilitation opportunities.

Employee education is aimed primarily at those who do not currently use drugs. A significant value of education is in **creating an informed workforce.** Training can create awareness and concern in employees who will begin to share the responsibility to preserve human resources and maintain a safe and productive workplace. Co-workers and peers play a powerful informal role in encouraging substance abusing employees to seek help. Dealing with substance abuse in your transit organization is not just a management issue or responsibility; it is a workforce and lifestyle issue. Your goal should be to get all employees to share the responsibility for dealing with it.

The following is an **expansion** of the employee education requirements listed in the UMTA regulation. Appendix E provides additional reference material on the characteristics and effects of prohibited drugs. Appendix F provides sample topics and an outline for employee training.

- **Policy regarding substance abuse in the workplace.** This policy makes the UMTA requirements specific and unique to your operation. All employees should be informed of the policy before the effective date of implementation, and employee sessions to explain the policy are helpful. Employees should know how the policy came about. Be sure to recognize those persons and groups involved in the development of the policy. All new or transferred employees should be given a copy of the policy with an orientation session. Videotaping one of the early sessions for later review is an effective way to inform employees hired after the initial training sessions.

- **Informational awareness materials.** Employees need information to understand the serious threat that substance abusing employees present to themselves, co-workers, and the public. The effects of drugs on health, and the general signs and symptoms of use, intoxication, and dependency are topics to be covered. An informed workforce provides a powerful peer influence. Brochures, newsletters, and fact sheets put in displays, mailed to homes, and included in pay envelopes are some of the ways to get the word out.

- **Community service hot-line number for employee assistance.** If employee assistance is contracted, this should be a part of the service agreement. Other resources include a community crisis clinic number, drug hot-lines, and emergency services listed in the front pages of the telephone directory.

As part of the policy review, employees should know what constitutes **reasonable cause** for a drug test. They also need to know which employee classes and prohibited substances are covered. Your procedures to assure chain of custody, accuracy, confidentiality, and privacy in the collection and testing process should be discussed. Employees also need to know what disciplinary actions may result from violation of the policy.

If your policy provides for **employee assistance services**, including drug treatment and rehabilitation, employees should know how and when the services are available. Dealing with a dependency problem early will greatly increase the employee's chance of successful recovery. A representative of the EAP provider should be available for short presentations and question and answer sessions.

Try to avoid the "flare effect," where high visibility is given to your anti-drug program for only a short period of time and then attention and focus fade. Plan a **visible awareness event** each month. Ideas for publicizing your anti-drug program include posters, safety sessions related to substance abuse which encourage sharing employee experiences, outside speakers, mailings of brochures and articles to homes, an article in the newsletter, or a "Did You Know ..." feature in memos and bulletins presenting drug facts and statistics.

Speakers may be representatives from treatment programs, employee assistance and mental health counselors, pharmacists and other health practitioners, recovered dependent persons, or police officers who have specialized training.

Section 2. SUPERVISOR TRAINING

Supervisors who will be making reasonable cause testing referrals of sensitive safety employees must be adequately trained to fulfill their responsibilities in the anti-drug program. They must be able to recognize and act on the signs and symptoms of drug abuse so that impaired employees do not endanger themselves or others. At the same time, they must not overreact to unfounded suspicions of drug use to the extent that employees' expectations of privacy and confidentiality are violated. A well planned supervisory training program can avoid these problems.

The UMTA regulation requires 60 minutes of supervisory training in the physical, behavioral, and performance indicators of probable drug use. This training is to prepare the supervisor to make reasonable cause testing decisions and is in addition to the general employee awareness training. Many transit systems currently provide training in the range of 4 to 16 hours per year. Consider training groups of no more than 30 students to assure discussion from all participants. Identifying and discussing participant concerns and the apparent and real obstacles to implementing the policy should be encouraged. It is important to stress, however, that the goal of the training session is to implement the policy; not to discuss whether it will be implemented.

All immediate supervisors of sensitive safety employees who will make reasonable cause testing decisions **must** attend supervisory training. However, since most decisions relating to drug testing are made at the managerial level, all managers, including the chief executive officer of the transit operation, should attend. An attendance roster should be taken.

If your policy covers employees in other than the sensitive safety positions defined in the UMTA regulation, you should extend training to all affected supervisors. You may want to consider inviting union leadership as well.

Appendix G provides a listing of **drug use behavioral recognition training** objectives and a sample **training outline** for supervisors. Suggested supervisor training topics include

- **Impact of drug abuse on society and industry.** Include statistics and information profiling the drug abuse problem using national and regional data.

- **Profile of the at-risk employee.** Describe typical profiles of the at-risk employee by work characteristics, age, and by the most often used substances of abuse.

- **Identifying the at-risk employee.** Emphasize recognizing unsafe and unproductive work regardless of the cause. Supervisors should also be able to recognize performance signs, behavioral indicators, and physical signs and symptoms of substance abuse. Accurate, ongoing, objective documentation of work performance and specific signs and symptoms are the keys to identification.

- **The drugs of abuse.** Supervisors need to feel knowledgeable in discussing the substances of abuse. Discuss the five drug groups covered by the regulation (marijuana, cocaine, amphetamines, opiates, and PCP), as well as alcohol and other depressants, as appropriate. The discussion should include specific drug use signs and symptoms, effects on mental and physical work performance, duration of effect, and typical forms for use and distribution (i.e., pills, powder, cigarettes, etc.).

- **Drug testing.** Most employees are concerned about the quality, accuracy, and privacy of urine specimen collection and testing. Supervisors should know the general steps for urine collection, handling, analysis, and review of results by a medical review officer. From that awareness, supervisors will appreciate the extent of steps taken to assure individual privacy, dignity, and confidentiality and the integrity of the specimen. Trained supervisors can then be a source of information to allay fears and build confidence in a reliable collection and analysis process.

- **Policy and procedure review.** Supervisors need to know how your anti-drug policy is to be administered. They need to know how testing is to be conducted, the steps involved in reasonable cause, post-accident, and return to duty testing and how to refer an employee for help. Importantly, supervisors need to know what their responsibilities are to properly administer the policy and procedures.

- **Confronting and referring an employee.** Supervisors should be able to conduct a performance related confrontation and intervention, particularly where substance abuse is a contributing factor to performance deterioration. They must also be able to address performance and documentation issues without accusation. They should clearly understand the justification and process required for referring an individual for drug testing under post-accident or reasonable cause provisions. Supervisors should possess the skills indicated in Figure 4.

Skills for Reasonable Cause and Post-accident Testing

- Know the important factors for documentation
- Focus on performance issues
- Determine who to consult and involve in a performance confrontation
- Conduct a performance based confrontation
- Properly refer and transport an individual for drug testing.

Figure 4.

- **EAP/Rehabilitation.** If an EAP is used, supervisors should know, generally, the process of program enrollment, treatment, counseling, and rehabilitation.

Supervisors should have a resource manual detailing the training scope and content. Internal and local sources of information and resources for referral should be provided.

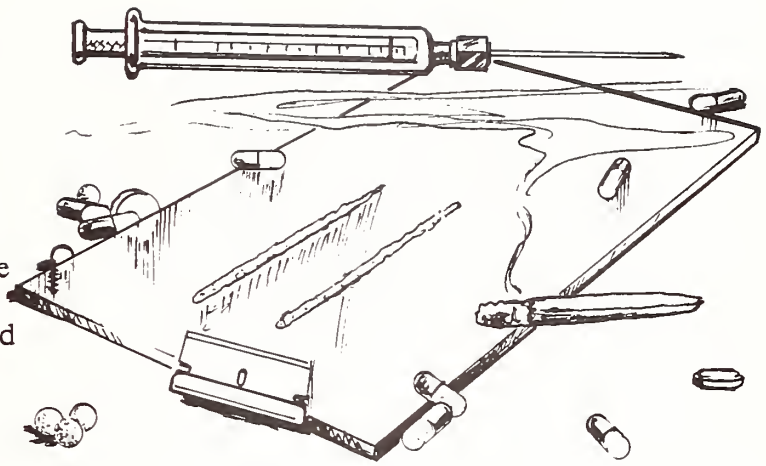
Section 3. TRAINING RESOURCES

Most organizations do not have the technical resources to conduct all aspects of the training. You might wish to consider an external resource to assist. Before selecting an outside resource, however, prepare a training outline and plan. It is important for an outside resource to **train to your specific needs.** Your staff may conduct portions of the training program, such as policy and performance related intervention. The technical aspects of the training are usually left to specialists in the field.

Potential resources include employee assistance and mental health counselors, drug and alcohol treatment specialists, pharmacists, toxicologists, nurses and physicians, and consultants specializing in the field of substance abuse in the workplace. When approaching an external training resource, be sure to ask if they can train to your outline.

Chapter 5

SPECIMEN COLLECTION AND DRUG TESTING



Under the UMTA regulation, you will be required to conduct laboratory **testing for five types of drugs.** Each of these specified drugs will eventually be present in a person's urine if it is ingested. In some cases, the drug will be filtered out by the kidneys in an unchanged form. In other cases, the drug will be chemically altered as it goes through the body and will be excreted in a modified form. This form is called a drug metabolite. Identification of either the drug or its metabolite in the urine indicates use of that drug in the recent past.

The rate of excretion from the body is determined by the drug's solubility in fat. Water soluble drugs (such as cocaine) are excreted quickly, while fat soluble drugs (such as marijuana) may continue to be excreted for periods of several days or weeks after ingestion.

The UMTA regulation requires that testing be conducted for the following drugs (or their metabolites):

- **Marijuana** (cannabinoid)
- **Cocaine**
- **Opiates** (narcotics such as heroin, morphine, codeine, and other medicinal narcotics)
- **Phencyclidine** (also known as PCP)
- **Amphetamines** (racemic amphetamine, dextroamphetamine, and methamphetamine).

Other drugs of abuse which you may wish to consider for inclusion in your testing program include barbiturates, benzodiazepine tranquilizers (Valium and Librium are examples), non-barbiturate sedatives (Quaalude), and non-amphetamine stimulants. If you decide to test for other drugs under the reasonable cause testing requirements, you must receive prior authorization from UMTA, as required by 49 CFR 40.21, to test for the additional drugs (a sample letter request for additional drug testing is provided in Appendix H). The laboratory may test only for those drugs for which DHHS has an **approved testing protocol** and **positive threshold.** You may test for other drugs, without UMTA approval, by collecting a separate sample for submittal to a laboratory of your choice. Such testing is outside the scope of the UMTA regulation and is entirely at the discretion of the licensee or operator.

You must test employees who perform **sensitive safety functions,** for the five prohibited drugs identified previously, under the following circumstances:

- Prior to employment for, or assignment to, a sensitive safety position

- When they are reasonably suspected of using a prohibited drug
- When they contributed to, or cannot be completely discounted as a contributing factor in, an accident
- On an unannounced and random annual basis the number of tests conducted must be equal to 50 percent (25 percent in year one) of all employees who perform sensitive safety functions
- Prior to returning to duty after having refused a drug test or after not passing a drug test.

For ease of reference, these five testing categories are abbreviated in Figure 5.

Required Categories of Drug Testing

1. Pre-employment
2. Reasonable Cause
3. Post-accident
4. Random
5. Return to Duty

Figure 5.

The sections which follow discuss the important aspects of the actual drug testing process. They provide information on establishing and using a collection site, selecting a testing laboratory, the role of the MRO, and the special concerns associated with each of the five categories of testing.

Section 1. HOW TO ESTABLISH A COLLECTION SITE

The following procedures are derived from the DOT "Procedures for Transportation Workplace Drug Testing Programs" 49 CFR Part 40, and apply to all collection sites whether operated by your transit entity or by your contract facility.

The Collection Site. A collection site is defined as "*a place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.*" You are required to designate such a site or sites, depending on your needs. Typically, for pre-employment, reasonable cause, and post-accident testing, the site would be at a physician's office, a medical laboratory, or the emergency room at a local hospital or clinic. Due to the relatively routine nature of random testing, and to reduce employee time lost in travel to an off-site location, you may wish to use a restroom or other secure room with a toilet at the work site for collection. On-site collection also provides a backup capability during periods when other facilities may be unavailable (nights, weekends, holidays, etc.).

Any collection site that you use **must** meet the DOT guidelines established in 49 CFR Part 40. These require, in part, that the location provide a privacy enclosure for urination, a toilet, a suitable clean writing surface, and a water source for handwashing, which, if practicable, should be outside the privacy enclosure. The **collection site must be secured** when not in use or, if this is not possible (e.g., when a restroom is used), the site must be visually inspected prior to use for specimen collection to assure that unauthorized persons are not present and that there are

no unobserved entrance points. Access to the site must be restricted during specimen collection. A bluing agent should be added to toilet water, and other sources of water (such as a sink or shower) should be turned off if they are located within the privacy enclosure where urination occurs.

If you use an off-premise collection site staffed by medical/technical persons, it is imperative that it meet DOT requirements and that collection site staff know and understand their responsibilities. You should provide a complete copy of 49 CFR Part 40 to the selected contract facility representative and require compliance with all applicable DOT requirements as part of the contract.

Staffing the Collection Site. You may choose to **contract for collection site services** or you may staff the site with your own trained employees. Many feel that contracting for this service is advantageous since it eliminates the need to establish a secure collection site and to train staff in collection procedures. Further, it removes your staff from direct involvement in the collection and testing process and turns these functions over to impartial outside technical persons who have no direct relationship with your employees. Contracting for collection services **does not** relieve the operator from responsibility for assuring that the complete collection process meets all applicable regulatory requirements established by UMTA and DOT.

You may **designate your own collection site person** if he/she receives training on preparation of the collection room, sample collection and examination for tampering or adulteration, and proper labeling and preservation of chain of custody of samples. Medical professionals, technologists, or technicians are obvious choices for site collection staff by virtue of their training. Regardless of the background and training of collection site staff, you must assure that they are provided clear and unambiguous **written instructions** on the collection of specimens. These instructions should emphasize their responsibilities to maintain the integrity of the specimen collection and transfer process and to protect the dignity and privacy of the employee providing the sample.

Supplies for the Collection Site. The following supplies, equipment, and documents will be needed at each collection site you use.

- **Single-Use Collection Cups** - The cups must be individually and securely wrapped and shall be unwrapped in the presence of the employee at the time of specimen collection.

- **Single-Use Specimen Bottle** - The bottle should be constructed of heavy duty high density plastic or similar synthetic material, with a leak-proof cap. The bottle must be capable of being shipped in appropriate packing material without leaking or breaking, and must meet the technical specifications of the carrier selected for specimen transfer. Each bottle shall be individually and securely wrapped and shall be unwrapped before the employee at the time of specimen collection.

- **Single-Use Temperature Measurement Device** - The device shall be capable of measuring temperatures within and outside the range of 32.5° - 37.7°C (90.5° - 99.8°F).

- **Urine Custody and Control Form** - This is a carbonless manifold-type form consisting of five parts. Part 1 (the original) should accompany the

specimen to the laboratory, Part 2 should go to the Medical Review Officer, Part 3 is for the employee, Part 4 is retained by the collection site (if distinct from the employer), and Part 5 is forwarded to the employer anti-drug program representative. A sample five part form is provided in Appendix H.

All five parts shall contain the following information:

- A unique preprinted specimen identification number
- The employee's social security or employee identification number entered by the employee
- The type of test conducted (random, post-accident, etc.)
- Notation that the specimen temperature has been read and the temperature if **outside** the range of 32.5° - 37.7°C/ 90.5° - 99.8°F
- A chain of custody block showing purpose for transfer, release signature, receipt signature, and date sent from collection site to laboratory, with the words "Provide specimen for testing" and "Donor" preprinted
- Name of the collection site person, date of collection, collection site address and telephone number, description of unusual circumstances (e.g., refusal to provide sample, insufficient quantity, or unusual specimen characteristics), and a dated and signed certification statement from the collection site person.

Parts 2 through 5 shall contain the following information provided by the employee:

- Employee's printed name, duty location, job title, and date of birth
- A dated and signed certification statement from the employee consenting to laboratory testing of the specimen provided (see Appendix H for example).

Parts 2 and 3 only shall contain an employee statement concerning any medications which should be considered in evaluating test results (see Appendix H for example).

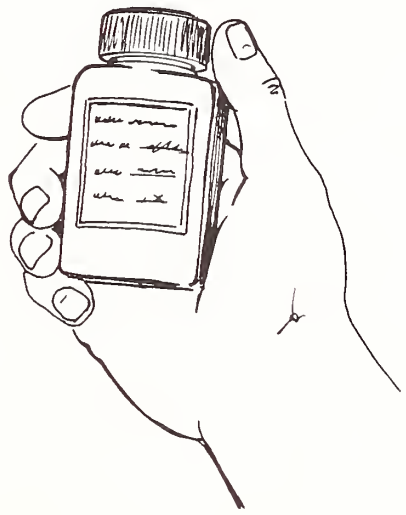
- **Multi-Sample Chain of Custody Form** - In lieu of the multi-part form described above, an employer may choose to use a **Multiple-Sample Chain** of Custody Form together with a **Permanent Record Book** maintained at the collection site to document collection and transfer of specimens. All of the data elements set forth above must be documented, and the record system should be designed to maintain the confidentiality of medical information to the maximum extent practicable.
- **Tamper-Proof Sealing System** - Made up of one or more preprinted labels and seals (or a unitary label/seal) such that the specimen bottle top can be sealed against undetected opening, the bottle can be identified with a unique identifying number identical to that appearing on the urine custody and control form, and space is provided to initial the bottle affirming its identity.
- **Shipping Container** - The container should be acceptable to the carrier for transporting one or more specimens and accompanying paperwork and should be sealable to prevent undetected tampering.

- **Writing Instruments** - An indelible pen or other instrument suitable for making permanent markings on labels and seals and for legibly completing the urine custody and control form should be provided.

- **Written Instructions** - Written instructions should be provided for persons participating in collection and documentation. Employer representatives and employees subject to testing should also be provided standard written instructions setting forth their responsibilities. The collection site person is responsible for the integrity of the specimen collection and transfer process, ensuring dignity and privacy, and avoiding any remarks that may be construed as accusatory or otherwise offensive or inappropriate. Collection site persons without prior medical training shall receive training and demonstrate proficiency in proper collection and transfer procedures. A medical professional, technologist, or technician may serve as a collection site person if he/she has been provided the instructions and performs collections in accordance with those instructions.

Section 2. THE COLLECTION PROCESS

Specimen collection is one of the more critical aspects of the overall anti-drug program. A greater likelihood of human error and of offending employee expectations of privacy, dignity, and confidentiality exists in the collection process than in the actual laboratory testing. The strict maintenance of chain of custody of the specimen is vital. Employee confidence in, and acceptance of, the testing process is enhanced when your collection is conducted with efficiency and professionalism. You should, therefore, assure that your involved transit staff and any contract collection site employees rigorously **follow your guidelines** for specimen collection.



As a transit operator, you should establish a detailed **procedure** or **protocol** for collecting and transporting urine specimens. DHHS certified laboratories generally offer standard protocols as well as supplies for specimen collection and shipping. You can modify the laboratory's protocol as needed to meet your needs. Your written protocol should be given to the collection site (physician's office, medical laboratory, hospital emergency room, etc.) where it should be **available at all times** for reference. Any modifications to the collection process should be immediately incorporated into the written protocol, and this requirement should be part of your collection site contract.

An overview follows of key steps and criteria for the collection process. For specific requirements, refer to 49 CFR Part 40. An abbreviated listing of these steps is provided in Figure 6.

Steps for Successful Specimen Collection

1. Stock all necessary forms
2. Inspect the collection room
3. Verify personal identity
4. Check personal belongings
5. Verify specimen integrity
6. Note failure to cooperate
8. Seal and label specimen
9. Record collection
10. Check signatures
11. Complete chain of custody documents
12. Secure the specimen
13. Prepare for shipment

Figure 6.

1. **Stock forms.** Have all forms in order for quick completion. All designated sensitive safety employees should have had an orientation session before testing begins so they understand the forms and procedure for collection. Minimum forms for on-site use are

- Urine Custody and Control Form
- Medical Release and Consent Form (optional but may be required by the laboratory).

2. **Inspect the collection room.** Inspect before and after each specimen collection. Be sure to note that no soap or other unknown materials are in the room, behind the door, or in the water reservoir (seal it, if possible). Post entrance doors with signs to restrict access and secure from entry any other doors or windows opening into the collection room.

3. **Verify identity.** A picture identification of the employee should be presented prior to collection. If no picture identification is available, verification of identity by the employer representative is permissible. If identity cannot be verified, the collection should not proceed. If the employee fails to arrive as scheduled, notify the appropriate authority.

4. **Check personal belongings.** Ask the employee to remove all bulky outer wear such as coats, sweaters, and vests. In addition, request the employee to remove the contents of pockets and to leave purses, briefcases, and other personal belongings with the outer garments. Request the employee to rinse his/her hands and thoroughly dry them. Do not provide soap as this can be used as a contaminant. Reassure employees that these procedures are for their protection and help to assure valid test results.

5. **Verify specimen integrity.** Do not observe the specimen collection except under specific circumstances defined in 49 CFR Part 40. This does not prevent the collection site person from being in the same room with the employee, if space and privacy permit.

   A collected specimen must contain at least 60 milliliters of urine. If it is less than that, procedures in 49 CFR Part 4 specify how to proceed. If there is sufficient volume of the specimen, its temperature must be immediately taken (no delay longer than 4 minutes). The temperature must be between 32.5°C

and 37.7°C which is 90.5°F - 99.8°F. Any specimen temperature out of that range cannot be accepted as correct.

Finally, the specimen must be visually examined. Any unusual color or sediment should be noted on the collection form. If there is any reason to suspect adulteration or substitution, a second specimen should be collected under direct observation by a collection site person of the same gender and forwarded to the laboratory for testing. If you suspect adulteration or tampering, DOT procedures require that you

- Notify a higher level supervisor
- Directly observe the collection of a second specimen
- Submit both samples for testing.

6. Note failure to cooperate. If the employee refuses to cooperate with the collection process, inform the employer representative and document the noncooperation on the urine custody and control form.

7. Assure adequate specimen volume. If the employee is unable to produce a specimen, or the specimen is not of sufficient volume (60 milliliters), have the employee remain at the collection site and provide drinking water until sufficient urine can be collected.

8. Seal and label specimen. Seal and label the specimen in the presence of the employee. The specimen must be in view of the employee at all times. The label must contain the following information:
   - A unique specimen identifying number
   - Date of collection (time of collection is not required but is recommended)
   - Initials of the employee providing the specimen (initialing verifies that the container contains the identified person's urine)
   - Any other identifying information provided or required by the employer.

9. Record collection. Record the specimen collection on the urine custody and control form.

10. Check signatures. Be sure the collection site person and the employee sign appropriate certification statements on the form regarding authenticity of the specimen and information provided, integrity of the collection process, and medications taken in the past 30 days. A separate medical release and consent form may be required to authorize the laboratory to examine the urine and release the results.

11. Maintain chain of custody. Complete the chain of custody portion of the urine custody and control form to indicate receipt from the employee.

12. Secure the specimen. All collected specimens should be held in a secure location until picked up, delivered, or mailed to the analytical laboratory. A metal insulated box with a hasp and lock on the lid would be sufficient. Chain of custody requires proof that no attempt at specimen tampering could have occurred during storage or transfer. It also means the box must be continuously observed by the collection site person or so secured that it could not be removed without the collection

site person's knowledge. Each transfer of custody **must** be noted on the chain of custody portion of the urine custody and control form. Every effort should be made to minimize the number of persons handling the specimen.

13. **Prepare for shipment.** The sealed specimens shall be placed in containers designed to minimize the possibility of damage or tampering during shipment. The tape seal on the container shall bear the signature of the site collection person and time and date of closure for shipment. Transportation to the laboratory shall be by **receipted** overnight express service, bonded local courier, or employer courier. All **transfers shall be recorded** on the chain of custody portion of the urine custody and control form.

If your policy requires testing for drugs other than the five specified by the UMTA regulation, you may need to modify your collection procedure. With prior approval from UMTA, you may have additional tests completed on the same sample by the same laboratory, provided that there is a DHHS approved protocol for such testing. Otherwise you must collect a second sample and submit it to a laboratory of your choosing to test for those substances which are in addition to the five specified by UMTA.

Section 3. LABORATORY TESTING

Testing Accuracy

The scientific techniques used in drug testing are **virtually error-free** when properly applied. The combination of immunoassay screening with confirmation by gas chromatography/mass spectrometry (GC/MS) makes the possibility of a false positive (identification of a prohibited drug which is not actually present in the test sample) extremely remote. Most errors in test results have been the consequence of **human error** in specimen handling or documentation, both of which have been reduced in recent years by use of detailed test protocols and stringent quality control checks.

Over a period of 36 months, the U.S. Navy submitted 6,000 blind quality control samples to testing laboratories **without a single false positive** result.[2] A recent study by the American Association of Clinical Chemistry sent blind samples to 47 analytical laboratories. In 400 blind tests, only one was found to be a false positive, correlating to an **accuracy rate of 99.3 percent.**[3] To further assure accuracy and reliability, DOT requires certification by the Department of Health and Human Services of any testing laboratory used, as well as an independent review of test results by a Medical Review Officer.

Laboratory Selection

You are free to select the testing laboratory you will use based upon your needs in terms of location, cost, and service provisions. However, the laboratory that you choose **must** be **certified** to conduct drug testing by the U.S. Department of Health and Human Services (DHHS). These laboratories have been

rigorously inspected and tested and meet the highest standards for analytical competence. A list of DHHS certified laboratories (current as of the date of publication of these guidelines) is provided in Appendix L.

Testing Techniques

The DOT and DHHS regulations require an **immunoassay** test as the initial screen. If any prohibited drug registers positive on the immunoassay screen, the same urine specimen must be confirmed by using a combined instrument technique called **gas chromatography/mass spectrometry (GC/MS)**. A brief description of the tests follows.

Initial Tests - The initial tests are immunoassays which are based on the ability of antibodies to recognize drugs in biological fluids. Laboratories may use one of three currently approved tests, known as EMIT, RIA, and FPIA. These highly accurate tests, called screens, are simple to run, are often automated, and are relatively inexpensive.

(1) **EMIT** - Enzyme Multiplied Immunoassay Technique - If drugs are present, added antibodies specific for a certain drug will attach to the drug, changing the light absorbing properties of the mixture. A photometer can measure this reaction, and an approximation of concentration can be established (semi-quantitative results). EMIT is a registered trademark of the Syva Corporation.

(2) **RIA** - Radio-Immunoassay - Radioactive tagged antigens compete for binding sites on the antibodies. The free radioactive antigens give a specific indication of the presence or absence of a drug in the urine. The principal supplier of RIA is Roche Diagnostic Systems which markets it under the trade name Abuscreen.

(3) **FPIA** - Fluorescein Polarization Immunoassay - Drug specific antibodies are combined with the test urine. A known drug standard containing a fluorescein tracer is then added. If a specific drug is in the urine, the drug standard tracer competes with that drug for antibody sites. The amount of light emitted by unbound tracer can be measured and will indicate the presence or absence of a specific drug. The primary supplier of FPIA is Abbott Diagnostics with manufactures under the trade names ADX and TDX.

Confirmatory Tests - The confirmatory tests are more accurate, more time consuming, require use of sophisticated laboratory equipment, and thus are more expensive to run than immunoassay screens. The only confirmatory test permitted is GC/MS.

GC/MS - Gas Chromatography/Mass Spectrometry - Considered the most accurate and reliable test technique available. The gas chromatograph (GC) first separates a concentrated and specially prepared urine specimen into molecular or chemical components. The mass spectrometer (MS) then subjects each separated component to high energy bombardment. The chemicals fragment into ions. The ions have an electrical charge that is measurable. Mass spectrometry provides a unique molecular "fingerprint" characteristic of each drug or metabolite. An analyst can compare the "fingerprint" with 35,000 chemicals to determine the exact drug compound. The GC/MS process can identify compounds in concentrations as low as parts per billion.

Section 4. THE ROLE OF THE MEDICAL REVIEW OFFICER

You are required by DOT and UMTA regulations to have all drug testing laboratory results **reviewed** by a qualified **medical review officer** (MRO). The purpose of this review is to verify and validate test results and to determine whether each tested individual has passed the drug test.

Qualifications and Responsibilities of the MRO

DOT regulations define a MRO as "*a licensed physician responsible for receiving laboratory results generated by an employer'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.*"

UMTA requires under 49 CFR 653.27 that the MRO

1. **Receive the results** of drug tests from the laboratory

2. **Verify** that the laboratory report and assessment of a positive result are reasonable

3. **Determine** whether an individual passes a drug test

4. **Report** each test that **does not pass** to the person designated by the recipient or transit operator to receive results

5. **Determine** whether an individual who refused to take or did not pass a drug test may **return to duty.**

When confirmed positive tests are reported from the laboratory, it is the responsibility of the MRO to

1. **Review** the individual's **medical history**, including any medical records and biomedical information provided

2. Afford the individual an opportunity to **discuss the test** results with him or her

3. Determine whether there is a **legitimate medical** explanation for the result, including legally prescribed medication.

A medical review officer may request the laboratory to analyze the original specimen again in order to verify the accuracy of the test result reported.

In any case, the MRO should not convey test results to the employer's designated representative until the MRO has made a definite decision that the test result was positive or negative.

Selecting an MRO

Not all physicians have experience in treating substance abuse disorders nor may they have specific experience in interpreting laboratory data as they specifically relate to substance abuse.

Physicians who specialize in industrial medicine, consulting physicians to drug and alcohol treatment programs, and physicians who have had experience with drug testing programs in the military or in a residency program are excellent resources. Other licensed physicians may also be well qualified. In seeking them out, you should ask **specific questions** about their

experience. Ask them if they would be willing to spend a day observing the type of work conducted by your sensitive safety employees.

References are important. Ask the physician for companies or organizations where he or she has performed similar work. Be sure to follow up and check out the references.

You should provide the prospective MRO with copies of 49 CFR Parts 40 and 653 and ask if he/she will be able to **comply with every aspect** of these regulations. An important resource is the DHHS publication titled, "Medical Review Officer Manual, A Guide to Evaluating Urine Drug Analysis," (ADM) 88-1526. It is available through the U.S. Government Printing Office, GPO SN: 017-024-01357-9.

The MRO could also be the physician you employ to conduct **pre-employment physicals.** In addition, he/she can act as a **consulting physician** to determine an employee's fitness to continue work due to the legitimate use of prescription and over-the-counter medications taken for illness or injury. The MRO may also be the transit agency's consultant in **return to work** cases involving time loss injuries and substance abuse rehabilitation treatment.

Section 5. MAINTAINING CONFIDENTIALITY

The **confidentiality** of drug testing information is a **critical concern** of all employees. Inadvertent disclosure of the names of employees who were tested and their test results may result in legal action.

UMTA addresses confidentiality in 49 CFR 653.33, which requires that

- Individual test results may be released to a third party **only** if the tested individual signs a specific written authorization to release the results to an identified person.

- Recipients and operators may provide to an individual his or her test results.

Thus, the testing laboratory is prohibited from releasing individual test results to anyone except the designated MRO. Your MRO may report individual employee's test results to your designated representative(s) and to the individual who was tested. The transit operator may not release test results to anyone without the **written authorization** of the tested employee, except where ordered to do so by proper legal authority. The UMTA Administrator or his/her designee may receive summary data of drug testing results.

To assure that confidentiality is not violated, it is your responsibility to clearly define who will receive test results and for what purposes. The tested employee is required to sign a **consent** which is part of the chain of custody form for the urine specimen. This form is shown in Appendix H. You may wish to consider expanding this consent to (1) define the nature and purpose of the test and (2) clearly indicate those specific entities and/or persons that will be permitted to receive test information.

The release of test results is only one concern within the anti-drug program. You must also be sensitive to employee expectations of confidentiality in other areas of your anti-drug program, especially if you have a small transit operation. For example, if it becomes widely known that an employee has been subjected to reasonable cause testing (even though the test results are negative), that employee may feel that his/her expectations of privacy and confidentiality have been violated. Likewise, if referrals to an EAP for rehabilitation become a topic of gossip, employees may lose faith in your program and become distrustful of, and hostile toward, management. Therefore, **confidentiality** should be applied to **all aspects** of your anti-drug program, particularly with respect to identification of any **specific individual**. The general rule of thumb is to apply the same high regard for privacy and confidentiality for personal information of employees that you would want and expect for yourself.

Section 6. REQUIRED CATEGORIES OF TESTING

UMTA regulations require that transit operators conduct **pre-employment, reasonable cause, post-accident, random,** and **return to duty** testing. For some large entities (those which submit 1,000 or more laboratory test specimens per year) **blind performance testing** must also be conducted as a quality assurance measure for the testing laboratory (see 49 CFR Part 40 for details). The rationale for each category of testing and specific concerns associated with each are provided in this section.

Pre-Employment Testing

Requirements. 49 CFR 653.11 states that an individual may not be hired for, and an employee may not be assigned to, a sensitive safety position unless he/she "*passes a drug test.*" The person whose urine is to be tested **must be informed** prior to collection that testing will be conducted for the five prohibited drugs listed in the regulation.

The purpose of pre-employment testing is not to identify drug-dependent applicants. A urine test by itself cannot do that. All a confirmed positive urine test will indicate is that the applicant has consumed a prohibited drug(s) in the recent past. However, the presence of a prohibited drug does indicate a high risk behavior. This behavior has the potential to impact the workplace and may present an unacceptable safety risk to the employee, coworkers, passengers, and the general public.

The UMTA regulation does **not** prohibit hiring an individual who has tested positive on a pre-employment drug test. However, any applicant or current employee selected for a sensitive safety position **must test drug-free** before being assigned to work in such a position. If you choose to hire an applicant who has previously failed the drug test, you may wish to require the individual to provide evidence of wellness from a drug treatment specialist before considering appointment.

Attempts to alter the urine specimen most often occur in pre-employment tests. You should establish specific standards for the collection facility to deter specimen adulteration, substitution, or contamination as previously discussed in Section 2 of this chapter.

The UMTA regulation **permits**, but does **not** require, the release of the results to the person being tested. However, prior to making a final decision to verify a positive test result, the MRO must give the applicant an opportunity to discuss the results.

Steps in Pre-employment Testing. To minimize the costs and inconvenience associated with pre-employment testing, only those applicants who have been interviewed and selected for employment should be tested. Normally, testing will be part of your pre-employment physical examination process. Some employers inform all prospective applicants, prior to initiating the formal application process, of their drug testing program and the requirement to pass a pre-employment drug test. It is believed that this may **serve as a deterrent** to drug users who will either not apply for employment or may withdraw their applications early in the employment process to avoid detection. Other transit operators feel that it is best to notify applicants of the test requirements just **prior** to conducting the physical exam to prevent forewarning the applicant so that he/she temporarily abstains from drug use to avoid detection by testing. Whatever approach you take, remember that you must inform the applicant, preferably in writing, of the requirement for urine testing for the five prohibited drugs specified by UMTA regulation.

Reasonable Cause Testing

Requirements. 49 CFR 653.12 states that "*an employee who performs a sensitive safety function and who is reasonably suspected of using a prohibited drug must be administered a drug test...*". A person is reasonably suspected when "*two supervisors who are trained in the detection of drugs ... articulate and can substantiate specific behavioral,*

performance or contemporaneous physical indicators of probable drug use." A single supervisor may make the reasonable cause determination for an employee of a small operator as defined in 49 CFR 653.5.

Reasonable cause testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of drug use) to **identify drug affected employees** who may pose a danger to themselves and others in their performance of sensitive safety functions. Employees may be at work in a condition that raises concern regarding their safety or productivity. Your supervisors must then make a decision as to whether a reasonable suspicion exists to conclude that prohibited drug use is causing the behavior.

A common definition for reasonable suspicion is *Facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a trained supervisor to reasonably conclude that an employee has violated the prohibited anti-drug policy and/or is under the influence of, or is intoxicated by, a drug or prohibited substance.*[4]

There are several key elements to reasonable cause decisionmaking as follows

- **Objective Observation.** What was observed? What happened and under what circumstances? Does it suggest substance abuse? Hunches and "gut feelings" are not valid in making a reasonable cause determination.

- **Trained Supervisors.** Have the decision makers had appropriate training and/or drug abuse experience upon which to make the decision? They need not be experts, but they should possess basic knowledge and the capability to discriminate between substance abuse and other causes of suspicious behavior (such as fatigue, marital discord, stress, or other emotional difficulties).

- **Reasonable Suspicion.** The standard for reasonable cause testing is **reasonable suspicion,** which does not require an overwhelming burden of proof. If supervisors, with training in the identification of the signs and symptoms of drug use **reasonably conclude** that there are **objective facts** indicative of use of a prohibited drug, this is sufficient justification for testing. The supervisor must only show that there are objective facts pointing to drug affected behavior. A final practical check is whether the supervisor would have been less responsible in not taking action than in asking the employee to submit a urine specimen for examination.

In the end, the decision should pass the "reasonable prudent man test." That test simply requires that a similarly trained and experienced supervisor, being reasonable and prudent and having observed and noted the same facts, signs, and circumstances would have come to the same conclusion.

Keep in mind that the UMTA regulation refers to only five prohibited drugs. However, other substances that are not covered may have similar signs and symptoms. Thus, you may wish to test for drugs other than the five specified in the regulation. Although the scope of testing for workplace incidents often includes five to 11 drugs, most laboratories also have what they call a comprehensive test scope that will examine up to 35 to 50 different substances. The comprehensive test is usually used for drug overdose emergencies, but is an excellent tool for reasonable cause testing. The laboratory

can also look for any unique or exotic substance for which it has a reference standard. If you choose to test for other drugs you **must** submit a second sample to your DHHS approved laboratory or to a separate laboratory, since such additional testing is not required by regulation, or you must seek prior approval from UMTA for such testing.

Thorough **training** of your supervisors is absolutely critical in implementing reasonable cause testing. They must be able to recognize valid objective **signs and symptoms** of drug use and know the proper procedures for **confronting and referring** the drug affected employee for testing. If supervisors are not trained, or are not fair and objective in requesting reasonable cause tests, employee complaints of harassment are bound to result. Be careful not to expect that training alone will make your supervisors experts in detecting drug use. Training is important; however, the overt signs and symptoms of drug abuse can easily be masked and are often so subtle as to avoid direct detection except by experts.

Marijuana is an example. The best indicators that an employee may be using marijuana are seen over time and include a deterioration of work performance, a general reduction in motivation, and a lack of desire to correct the performance problems. If an employee shows such behavioral problems, supervisors should monitor his or her performance to determine whether reasonable suspicion exists that the problems are related to marijuana use. Unless the employee is observed using drugs or has just smoked a "joint," it could be very difficult to directly pinpoint marijuana-induced behavior. The only overt physical sign is reddened eyes. But many things cause the eyes to redden, and eye drops can reduce or eliminate most of the redness.

In making a determination of reasonable cause, the factors to be considered include, but are not limited to, the following:

1. Adequately documented **pattern of unsatisfactory work performance**, for which no apparent non-impairment related reason exists, or a change in an employee's prior patterns of work performance, especially where there is some evidence of drug related behavior on or off the worksite.

2. **Physical signs and symptoms** consistent with substance abuse.

3. Evidence of illegal substance use, **possession, sale, or delivery** while on duty.

4. Occurrence of a serious or potentially **serious accident** that may have been caused by human error, or **flagrant violations** of established safety, security, or other operating procedures.

5. **Fighting** (to mean physical contact) and assaults, or erratic, aggressive or violent behavior.

A more detailed discussion of the signs and symptoms of use associated with the five prohibited drugs identified in the UMTA regulation is provided in Appendix E, "Drugs and Their Effects."

Steps in Reasonable Cause Testing. Many reasonable cause referrals for testing will occur either when the employee first reports to work or when he or she is on duty in a revenue vehicle in service. These referrals are usually the result of some suspicious overt behavior or observable evidence of drug use. The transit vehicle may be stopped due to an incident or may still be in service. If the vehicle is still in service, the complaint or observation which

triggered the reasonable cause inquiry may come from a route supervisor or a passenger. In either event, decisions must be made quickly and correctly. Remember that your decision to test must be based upon **objective** facts and observations. **Two supervisors** must jointly make the reasonable cause determination to test (for small operators only one supervisor is required). The following steps which are summarized in Figure 7. should guide you to a satisfactory outcome in a reasonable cause situation.

Guide to Successful Reasonable Cause Testing Outcomes

1. Focus on Safety
2. Verify Reasonable Cause
3. Isolate and Inform
4. Inquire and Observe
5. Review Findings
6. Transport the Employee
7. Document Events

Figure 7.

1. **Remember, the primary issue is safety.** Any employee believed to be under the influence of a prohibited drug is an immediate hazard to himself/herself and others. Whether management obtains the proof of reasonable suspicion of drug use is secondary to assuring safety.

2. **Verify the reasonable cause decision.** Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable cause referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was substance abuse related? On what basis did they reach their conclusion?

   Talk to the affected employee. What can you observe and objectively document as it relates to physical signs and symptoms, emotional state, physical evidence, and related facts?

3. **Isolate and inform the employee.** Remove the employee from the vehicle or workplace. Explain that you have reasonable cause to believe his/her performance is being affected by some substance and you are requesting him/her to accompany you to the specimen collection site to provide a urine specimen. Inform the employee of the consequences of refusal and that he/she is being relieved from duty.

   It is important to interview the employee in a private setting. Failure to respect dignity and confidentiality may persuade an arbitrator to believe, in spite of the evidence, that the employee was treated unfairly.

4. **Inquire and observe.** Ask the employee to explain the suspected behavior and to describe the events that took place from his/her perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may not deter or prevent you from asking for a urine sample. If you still have a reasonable belief that drugs are a factor in the incident, a request for testing should be made.

   Denial should be an expected reaction. If persons know they will test positive, they will give many explanations and protestations, wanting to avoid drug

testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. As a result, a reasonable cause decision must be based on **objective observations.** Remember, a request for a urine specimen is **not an accusation**; it is merely a request for additional objective data. To the employee it may feel like an accusation; so it is important to stress that this is merely a request for additional data. Explain also that the incident and the test results will be handled with **strict confidentiality.** Many times, just telling the employee, "I'm glad to hear your explanation, and, in light of the circumstances I must ask for a urine specimen which will verify what you have just told me," will calm the situation.

If the employee challenges you, saying that the request for testing is an accusation, you should explain that you neither believe nor disbelieve. State simply that the circumstances require objective data and an examination of a urine specimen will put any ill-founded suspicion to rest.

5. **Review your findings.** During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In most cases, a reasonable cause decision must be made by two supervisors. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable cause determination. Although only one supervisor is required for small operators, two are recommended whenever possible.

6. **Transport the employee.** Do not allow a potentially intoxicated employee to proceed alone to the collection site. He/she could have a medical crisis as a result of the intoxication or a medical crisis could appear as drug intoxication. The person could turn violent and be a danger to self or others. In addition, the employer's exposure to liability if damage or injury occurs is great. No taxi driver or collection facility representative wants to deal with an unattended, impaired person who is facing a urine specimen collection for drug testing. Accompanying the employee also assures that there is no opportunity en- route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person. After the specimen has been collected, you may wish to take the employee home. Allowing an employee who is reasonably believed to be under the influence of drugs to drive home is irresponsible and may create unnecessary liability exposure.

7. **Document events.** Record the behavioral signs and symptoms that support the determination to conduct a reasonable cause test. A sample form for recording your observations and employee data is provided in Appendix H.

Much of the previous discussion has focused on reasonable cause testing as a result of a specific **incident** that includes evidence of drug intoxication and/or overt unusual behavior or events. However, you should remember that drug-affected employees often will **not be intoxicated or under the influence** of prohibited substances at work. However, they may reveal the fact that they are drug affected

(and may even be heavily dependent or addicted) through long- or short-term **changes in behavior patterns.** The signs and symptoms to look for are more fully described in Appendix E. They include such factors as unexplained absenteeism, fatigue, irritability, restlessness, listlessness, excessive sick leave usage, reduced productivity, and increased errors and accidents. These behavioral patterns may be indicative of drug abuse and provide reasonable cause for drug testing as a means to isolate the cause for the behavior.

Post-Accident Testing

Requirements. Post-accident testing is required by 49 CFR 653.13 when an employee *"performed a sensitive safety function that either contributed to an accident [as defined by 49 CFR 653.5(a)], or cannot be completely discounted as a contributing factor to an accident..."*. Following such an accident, a urine specimen *"shall be collected as soon as possible but not later than 32 hours after the accident."*

There is a significant difference between reasonable cause testing and post-accident testing. Reasonable cause requires some evidence of probable linkage between behavior or events and drug abuse before a test can be requested. Post-accident testing is required **unless** employee performance can be thoroughly **eliminated** as a causative or contributing factor in the accident. For your purposes, an accident is defined by 49 CFR Part 653.5 as an occurrence involving a revenue service vehicle (whether in revenue service or not) in which (1) a person dies or (2) a person must be taken to a medical treatment facility, or (3) in which property damage is estimated as greater than $5,000. The $5,000 property damage threshold applies not only to vehicles, but also to damage of property including guardrails, buildings, signs, and signals, etc.

Accidents which Require Testing

- **A fatal** accident
- **An injury** accident requiring medical treatment
- **Property damage** greater than $5,000

Figure 8.

The UMTA regulation specifically defines covered accidents and employees subject to post-accident testing. However, you may wish to expand your policy to include other employees and accidents occurring in circumstances that do not involve a revenue service vehicle.

Steps in Post-Accident Testing. An accident involving property damage or injury is obviously serious enough to generate a great amount of visibility. Because a public transit vehicle is involved, multiple interests of a number of public agencies and private citizens may be at stake. These may include law enforcement; other state, local, or municipal government bodies; passengers or other injured persons; and of course the transit operator. Although each has a bonafide interest, their priorities conflict. The steps to follow in a post-accident situation are summarized in Figure 9. and discussed below.

1. **Treat any injury first.** The driver or responsible employee's physical health is always a higher priority than the collection of a urine sample. You may wish to consider including an examination by a physician as a part of a post-accident investigation. The

Actions to Take in a Post-Accident Drug Testing Situation

1. Treat Injuries
2. Work with Law Enforcement
3. Explain the Need for Testing
4. Work with Medical Facility
5. Collect Specimen Promptly
6. Use coroner in Fatal Accidents
7. Document Events

Figure 9.

physician may observe other signs, symptoms, or organic clues that will help identify the cause of the accident.

2. **Cooperate with law enforcement.** Allow local law enforcement to conduct their investigation. The police may require a breath alcohol test or blood specimen to be drawn for a legal determination of blood alcohol.

3. **Explain.** Tell the employee that a urine test is as much to protect him/her as it is to determine facts for the transit operator. Point out to the employee that a negative finding will objectively put to rest any suspicion of drug involvement in the accident.

4. **Notify the hospital of the need for a specimen.** If the employee is injured and unable to consent to a urine sample, wait until the treating physician determines the employee is able to understand a request, sign the necessary forms, and provide a sample. If the employee is unconscious, ask the treating physician to collect a specimen. Without a medical release from the employee or a family member, the hospital may refuse to obtain the sample. If the hospital takes a sample but refuses to release a specimen, ask them to retain it in their custody, and freeze it with proper chain of custody procedures. While doing so is outside the scope of the UMTA and DOT regulations, you may wish to obtain a blood sample as a more acceptable alternative procedure than obtaining a urine specimen from a comatose or deceased employee because it may be considered less intrusive.

5. **Collect specimens promptly.** The UMTA regulation requires specimen collection as soon as possible but not later than 32 hours after the incident. You should strive to collect the specimen as soon as possible after the accident since, in some instances, drugs may not be detectable as soon as 24 to 48 hours after they are ingested. There may be occasions when injuries from accidents are not reported immediately and specimen collection is delayed. For example, an employee may suffer a soft tissue injury requiring medical treatment some period after the accident. Even though the probability of drug detection decreases with time, the employee should know that a delay in reporting accident injuries does not preclude testing. You should still consider whether belated testing is appropriate given all the facts and circumstances surrounding the accident.

6. **Work with the coroner in a fatality accident.** If the accident results in an employee's death, an autopsy most likely will be performed. As soon after the accident as possible, request in writing and in person that the medical examiner, coroner, or pathologist obtain a urine specimen of at least 100 milliliters to be placed into a specimen bottle and sealed according to directions. Your contract laboratory can provide mailer kits, and several should be kept on hand. UMTA

regulations require urine specimens only. You may wish to expand the specimens collected to include blood and, in the case of death, other body fluids and organs. Caution: Any such inclusion will require thorough review by your legal counsel and careful consultation with the pathologist or coroner.

7. **Collect accident documentation promptly.** In the rush to clear an accident and treat injuries, it is easy to overlook important evidence regarding the accident. Eyewitness accounts, photographs, and police reports may all be of value at a later arbitration hearing or trial regarding your conduct of post-accident testing. You should **collect and document** as many facts and observations as possible immediately following the accident. Experienced accident investigators, either employees or contracted individuals, are excellent resources for accurately documenting critical information. You should note the time and date of both the occurrence of the accident and specimen collection.

Random Testing

Requirements. UMTA requires under 49 CFR 653.17 that an employee "*who performs a sensitive safety function shall be subject to drug testing on an **unannounced** and **random** basis.*" Each UMTA recipient or operator is required to conduct "*a number of tests equal to **50 percent** of all [affected] employees ... each calendar year*" (emphasis added).

During the first year of the program, you must conduct a total number of tests equal to at least **25 percent** of all sensitive safety employees, with the number of specimens in the last collection of the year corresponding to an **annualized** rate of **50 percent.** In subsequent calendar years, you must conduct a total number of random tests equal to at least **50 percent** of all employees who perform sensitive safety functions.

The primary purposes of random testing are to **deter** prohibited drug use and to **detect** drug use for the purpose of removing identified users from the sensitive safety workforce. Such persons may be returned to sensitive safety duties only after they have passed a return to duty test and the medical review officer has determined that they may return to duty.

In order to be truly random, all eligible employees must be placed in a common selection pool. Each employee name (or identifying number) is then matched with a unique random selection number. Through the use of a random number table, or a computer based random number generation program, the required number of persons is selected for each testing cycle throughout the year. Appendix I provides a step-by-step process for your use in randomly selecting employees for testing. Some key aspects of the random testing selection process are listed in Figure 10 and discussed below.

Random Testing Selection

1.Employee remains in pool
2.Use valid random selection
3.Test throughout year
4.Do not announce dates
5.Test 25 percent in Year 1
6.Test 50 percent starting Year 2

Figure 10.

- All sensitive safety employees **remain** in the random selection pool at **all times**, regardless of whether or not they have been previously selected for testing.

- Once the list of unique selection numbers has been developed, it should be used for random selection **without any correlation to actual employee names** to avoid any suspicion of subjectivity. One way to do this is to provide the unique number list to your collection site staff (if a contract service is used) and have them make the random number selection. They would have only the unique number codes and would not be able to correlate the numbers with any employee name.

- Remember that **the process must be unannounced** as well as random. Employees should be notified that they have been selected for testing only after they have reported for work on the day of collection. Ideally, specimen collection should occur as soon as possible after the beginning of the workshift to minimize opportunities for employee action that could invalidate or distort test results.

- The collection of specimens for **testing should be evenly distributed** throughout the year. That is, the number of specimens collected weekly, monthly, or quarterly (depending upon the size of the affected employee population) should remain relatively constant. Conducting all of your random sample collections in a single month, for example, does not achieve the goal of random testing.

- Specimen collection should be conducted on **different days of the week** throughout the annual cycle. This prevents employees from matching their drug use patterns to the schedule for collection. For example, if random samples are collected only on Fridays, employees may be free to use most drugs (with the possible exception of marijuana) on any weekend of the year with little fear that drugs or metabolites will remain in the system long enough for detection on the following Friday.

Steps for Random Testing. The basic steps for specimen collection for random testing are the same as those described in Section 2, "The Collection Process." To minimize the inconvenience and time lost for collection, the following additional steps should be considered.

1. **Establish a standard procedure and practice** for notifying employees who will be asked to provide a specimen. This notification will normally be made upon arrival of the employee at the beginning of his or her shift.

2. **Make prearranged provisions** for call in, or schedule additional personnel to fill in for tested employees on the day of specimen collection. Exercise care in such scheduling so that it does not provide advanced notice of when collection will be conducted.

3. **Consider establishing a random test collection** site at the worksite if you normally use an outside contractor collection facility which requires lengthy travel. This will reduce travel distance and time and may reduce the need for replacement workers if collection involves only a few employees. You should carefully weigh the advantages of on-site collection against those of a contract collection site in terms of overall efficiency and employee perceptions of privacy, confidentiality, and objectivity.

4. If you conduct specimen collection at the worksite, **provide the maximum privacy** possible. Employees should be **individually** and **discretely** notified to report to the collection site. If possible, the collection site should be away from common areas where employees would normally congregate during shift change.

5. Assure employees selected for testing that this is a **routine** random test. They should not feel that they have been singled out for testing for reasonable cause or for some other unstated reason.

Return to Duty Testing

Requirements. The UMTA regulation requires return to duty testing in accordance with 49 CFR 653.19 whenever an employee "*refuses to take or does not pass a drug test*" prior to that person's "*return to a sensitive safety function.*" Such an individual must pass a return to duty drug test **and** the medical review officer must determine "*that the employee may return to duty.*" An employee who is subject to such a test "*may be administered an unannounced drug test for up to 60 months after the employee returns to a sensitive safety function.*"

The purpose of the return to duty test and the evaluation of an individual's return to duty status by the medical review officer is to provide some degree of assurance to the employer that the individual is presently drug-free and is able to return to work without undue concern of continued drug use.

Although the regulation refers only to "an unannounced drug test" over a 60-month period, you should consider ongoing unannounced tests over time after an individual returns to duty. Ongoing testing both motivates the employee to remain drug-free and provides you with assurance that the person has not resumed regular drug use. You should remember that the relapse rates for rehabilitated drug and alcohol dependent persons are often high, depending upon the individual, the substance of abuse, and the effectiveness of treatment.

Steps for Return to Duty Testing. To be effective, the ongoing return to duty testing initially should be conducted frequently, declining over time. Depending upon transit operator desires and any evaluation and recommendation by a rehabilitation treatment provider, testing may be conducted with varying frequency (weekly, biweekly, or monthly) at the outset and may decline to monthly or quarterly testing as the first complete year of recovery is approached. Thereafter, you may wish to conduct sporadic testing for several more years or for the duration of employment. The frequency and duration of testing will vary depending upon the nature and degree of drug use and dependency as well as response to treatment.

Ongoing return to duty testing may be viewed as part of an employee health care treatment plan as opposed to a purely preventative measure or disciplinary check on the person. One way to reinforce this concept, while protecting your interests as an employer, is to negotiate a return to duty contract with the employee. Such a contract spells out desired employee performance goals and obligations (including remaining completely drug-free) and clearly states the disciplinary or medical treatment actions which will be required if the employee fails to adhere to the provisions of the contract.

Chapter 6
RECORD KEEPING, REPORTING, AND CERTIFICATION

Each UMTA grant recipient or transit operator is required to **maintain** certain **records** concerning its drug testing program, to submit **semi-annual reports** to UMTA, and to **certify compliance** to UMTA in accordance with 49 CFR 653.7. A **temporary waiver**, valid for up to 12 months, may be requested by those transit entities which have conflicts between State and local laws and the requirements of the UMTA regulation.

Section 1. RECORD KEEPING

You must maintain records concerning **program administration**, the **collection process**, and **test results** for individuals for whom you have testing responsibility. These required records are illustrated in Figure 11. States that receive Section 18 funds may maintain such records on a statewide or regional basis or they may require individual subrecipient transit operators to maintain the records. Transit operators, who are the direct recipients of Section 3,9 or interstate transfer funds, must maintain their own records. States and direct recipients may enter into consortia arrangements in which a central office or collection site contractor is designated as the repository for collection and test documentation. However, all required records must be retained for the periods specified by UMTA and are subject to examination by the UMTA Administrator or designee. In the case of individuals who do not pass a drug test, all collection and test records must be retained by the employer for **at least five years**. Such records must be retained for **at least one year** for individuals who passed a drug test.

Transit Operator Anti-Drug Program Record Retention Requirements

- Documentation of the random testing selection process
- Supporting documents for post-accident or reasonable cause testing decisions
- Records of the collection process to indicate specimen identification, accountability, and chain of custody
- Any individual records or reports provided to the recipient or operator by the medical review officer
- Records of test results provided to the recipient or operator by the testing laboratory
- Records of test results and any information provided by the affected individual concerning retests
- Records of return to duty tests if an individual who failed to pass or refused a drug test is returned to duty
- Records summarizing any negative drug test results based on scientific insufficiency.

Figure 11.

Unless otherwise instructed in writing by the employer, all records pertaining to a

given urine specimen shall be retained by the drug testing laboratory for a minimum of **two years.**

The records required by UMTA are those pertaining to the actual drug testing program only. The data from the reports submitted to UMTA will be analyzed for trends and may be made available to the public in **summary** form. Recipient or operator personnel records and documentation relating to hiring, disciplinary action, arbitration or litigation, employee termination, or any employee assistance program are the internal concern of each individual operator and are not addressed by UMTA regulation.

PRIVACY AND CONFIDENTIALITY

Individual expectations of privacy and confidentiality must be carefully considered in establishing a record retention program. Remember that, with the exception of the collection site, testing laboratory, MRO, and designated transit operator staff (e.g., drug program manager, or personnel director), the results of individual drug tests cannot be released to **anyone** without the express **written authorization** of the tested individual, unless ordered by appropriate legal authority. You should clearly indicate to each individual, prior to testing, who will receive data (e.g., laboratory, MRO, collection site). If your employee assistance program representative will be notified of positive test results, this should be stated.

To maintain confidentiality, written records should be stored in locked containers or in a secured location. It is advisable that such records **not** be made a part of **individual personnel files**, which are accessible to quite a number of people in personnel and management functions. Separate confidential records management can be achieved by assigning this function to the EAP coordinator, the collection site operator, a medical consultant, or a specific individual with responsibility for the anti-drug program.

OTHER RECORDS

You are required to conduct an employee education and awareness training program and to provide at least 60 additional minutes of training for supervisors who will make reasonable cause testing determinations. Therefore, you should maintain records of **training conducted, attendance rosters**, and copies of **training materials** to demonstrate compliance with training requirements.

Your medical review officer is likewise required to maintain individual test **results** for individuals who either passed (one year) or did not pass (five years) a drug test. You should also require your MRO

to maintain, for at least five years, any other documentation that supports the determination that an individual did not pass a drug test. The MRO also should retain any records that support a **return to duty** determination for the duration of employment of the affected individual. You should retain any return to work contracts negotiated with employees to document the conditions agreed to for continued employment. Such a record may be useful in the event that the employee resumes drug or alcohol use and becomes involved in an accident or incident.

Section 2. REPORTING

Each recipient or operator must submit a **semi-annual** report to the UMTA Office of Safety no later than February 15 and August 15 each year, following initial program implementation. The 13 separate items of information which must be reported, as specified in 49 CFR 653.31, are shown in Figure 12. Appendix I provides a sample form for recording testing data as well as a sample matrix for submitting data in a form acceptable to UMTA. In the case of State agencies or consortia of transit operators, a consolidated report may be submitted if it breaks out information for each transit operation or recipient. Subcontractor data reporting is the responsibility of the contracting transit entity and this subcontractor data should be reported separately from recipient/operator employee information.

One source of data for the semi-annual UMTA report is the **monthly statistical summary of urinalysis testing** that each laboratory is required to send to the employer's anti-drug coordinator. This report, required by 49 CFR 40.27, shall include initial and confirmation test data for the month but does not include any personal identifying information.

49 CFR Part 40 requires that each recipient submit reports summarizing any negative drug test results based on scientific insufficiency. A sample report is provided in Appendix H. Such reports should be submitted to UMTA's Office of Safety together with the semi-annual reports.

Semi-Annual Reports to UMTA

1. Total number of drug tests
2. Number of tests by occupational category
3. Number of tests by test category
4. Number of post-accident tests by accident category
5. Post-accident time (hours) until specimen collection
6. Number of confirmed positive tests
7. Number of confirmed positive tests by occupational category
8. Number of confirmed positive tests by test category
9. Number of confirmed positive tests by accident category
10. Disposition of persons who did not pass a test
11. Number of initial tests requiring confirmation
12. Number of tests reported positive to the MRO
13. Number of confirmed positive tests by prohibited drug

Figure 12.

Section 3. CERTIFICATIONS

The UMTA anti-drug program is one of self-certification; that is, each recipient or operator must certify to UMTA that it is complying with the requirements of 49 CFR Part 653. Under the Section 18 program, the States must certify that their Section 18 operators are in compliance with the rule. Under the self-certification process, UMTA does not review a recipient's anti-drug program policies and procedures, nor does it audit transit operators prior to accepting certification. The process of certification of compliance with the UMTA anti-drug rule will be accomplished as described in UMTA Circular 9100.1B dated July 1, 1988 (the one-time certification process). Each recipient shall submit its initial certification to the cognizant UMTA Regional Office; the certification then becomes part of the annual compliance recertification procedure. The text for certification is shown in Appendix H. Certification for large operators must be submitted no later than December 21, 1989. Certification for small operators must be submitted no later than December 21, 1990.

Section 4. TEMPORARY WAIVERS

In the event that State or local laws conflict with requirements established by 49 CFR Part 653, large operators may request a temporary waiver from UMTA that seeks an exemption from those specific provisions of the regulation. Such **temporary waivers must** be submitted no later than December 31, 1989, and expire no later than 12 months after submittal. In fact, any such waiver should be submitted to UMTA by late November, 1989, for the agency to have sufficient time to review it. Small operators, which have two years to implement the anti-drug regulation, are not eligible for temporary waivers.

Note that the waiver request should cover only the part of the regulation with which the recipient believes it cannot comply. For example, if a recipient is able to comply with every aspect of the regulation with the exception of the random drug testing requirement, the recipient should seek a temporary waiver from that one requirement. Even if granted a waiver by UMTA on random drug testing, the recipient still must make its certification of compliance with all other aspects of the regulation effective no later than December 21, 1989.

The elements required to be addressed in the request for waiver and the mailing address for submittal to UMTA are as shown in Appendix H. Upon expiration of the temporary waiver (no later than 12/31/90), you must be in full compliance with regulatory requirements to assure continued UMTA funding.

Chapter 7
SUBRECIPIENTS AND CONTRACT SERVICE PROVIDERS

The UMTA regulation states that the required anti-drug program applies to all recipients of funds under Sections 3, 9, or 18 of the UMT Act of 1964, as amended, as well as recipients of Federal assistance under Section 103 (e)(4) of Title 23 of the United States Code (interstate transfer funds). Each recipient or transit operator must certify to UMTA that it complies with the requirements of the regulation. If a recipient uses a **contracted public or private operator** or other **service provider** in accomplishing mass transportation operations, the regulation also affects these contracted service providers

A recipient is defined as a direct recipient of Federal funds from UMTA. Thus, the individual States are recipients under the Section 18 rural program and are required to certifiy compliance to UMTA. They may, in turn, require subrecipients (the Section 18 transit operators) to comply separately with the regulation on their own or to adopt a statewide program administered by the State, at the discretion of the State.

Since the regulation also covers sensitive safety employees of contracted entities, it is the responsibility of the recipient to ensure that contracted service providers comply with the regulations. Such compliance assurance is included in the certification made to either the State or to UMTA, depending upon whether the recipient or operator is a direct recipient or a subrecipient of Section 18 funds.

The defined sensitive safety functions for contracted service employees are the same as those of the transit operator. They include paid duties relating to the operation, maintenance, or control of the transit system that directly or indirectly impact upon the safety of transit employees and the public. These paid employees may be full- or part-time workers of the contractor. Contractor supervisors of sensitive safety employees are also covered.

In any case, the **responsibility for ensuring compliance** with the regulation rests with the **individual recipient or transit operator.** Compliance may be achieved by including contracted personnel within the operator's drug testing program or by requiring contractor organizations to develop their own policies and programs in accordance with the transit operator's requirements. If you decide to test contractor employees under your program, remember that these are not your employees and you should not become directly involved in the internal disciplinary or hiring practices of the contractor. Your interest should be confined to determining which employees are permitted to perform sensitive safety functions affecting your operation. All employment decisions affecting contractor personnel should be left clearly to the discretion of the contractor.

Chapter 8
EMPLOYEE ASSISTANCE PROGRAMS (EAPs)

The UMTA regulation does **not** require that your transit operation provide EAP services, or that you provide job security for persons who fail to pass a drug test. However, many organizations have found EAPs to be cost-effective elements of successful anti-drug programs, and this chapter provides guidance on establishing an effective EAP, should you elect to do so.

Generally, an EAP is best defined as a process designed to assist the employee in dealing with emotional and lifestyle issues affecting or potentially affecting work performance and safety. These issues may involve the employee or immediate family members. An EAP can be as broadly defined as all services and help for employees including intervention, assessment and treatment of emotional, psychosocial and financial needs, or substance dependency needs. A narrower view of the EAP function, which is more commonly seen, is to provide services for **problem assessment** and **referral**. This type of EAP screening is sometimes provided by the employer as an internal program, but more commonly is externally contracted.

Section 1. ELEMENTS OF AN EAP

An EAP, regardless of its scope, is designed to assist your employees in dealing with personal problems which can adversely affect job performance. Employees have many needs beyond, or combined with, substance abuse that prevent them from being fully safe and productive at work. Employee assistance programs typically assist the individual in dealing with some or all of the following issues

- Anger
- Communication breakdowns
- Death or terminal condition of friend or family member
- Depression and anxiety
- Divorce
- Substance abuse and dependency
- Fears
- Financial problems
- Job and career frustrations
- Job displacement
- Marriage counseling
- Parenting problems
- Relationship breakup
- Spouse abuse
- Stress and burnout
- Trauma.

A typical EAP provides the following services

- Initial problem identification
- Chemical dependency assistance (Assessment, treatment planning, monitoring, and aftercare)
- Short term counseling
- Referral to community resource
- Re-entry contract monitoring
- Employee awareness
- Twenty-four hour crisis line
- Managerial consulting on employee performance issues.

Section 2. CONFIDENTIALITY AND EMPLOYEE TRUST

State and Federal laws protect the confidentiality of information given to a professional counselor. There is a high potential for liability for employers who improperly receive confidential information

or communicate it to persons who do not have a need to know.

Employees need assurance that the only information their employer receives from the EAP is management data. This data includes a summary report listing number of visits (possibly broken down to distinguish between employee and family members), types of problems encountered, referrals to other support organizations, cases successfully resolved, number of re-entry contracts, and other summary data deemed important by the employer and the EAP. Names are not given.

If management refers an employee to the EAP because of a substance abuse job performance issue, they are usually entitled to receive certain information. This may include data such as an attendance report for treatment or aftercare and a determination that progress is, or is not, being made in treatment. Beyond that, unless there is an issue of imminent danger, the relationship between the EAP (and any treatment provider) and your employee is a legally protected, privileged communication relationship.

Section 3. SELECTING AN EAP SERVICE PROVIDER

Unless your organization has more than 1,000 employees, an internal EAP is usually not cost effective. A contracted EAP frequently can provide a wider range of professional services more economically than can be developed internally. After you determine that employee assistance services could aid your organization, preparing a request for proposal (RFP) is the standard approach to selecting a quality firm. An RFP requires you to specifically state your needs and criteria for service.

Determining Your Needs

A brief series of questions and answers is provided below to assist you in determining the level and scope of service appropriate to your organization.

To whom is the service provided?

- Employees only
- Employees and family members.

What services will be provided?

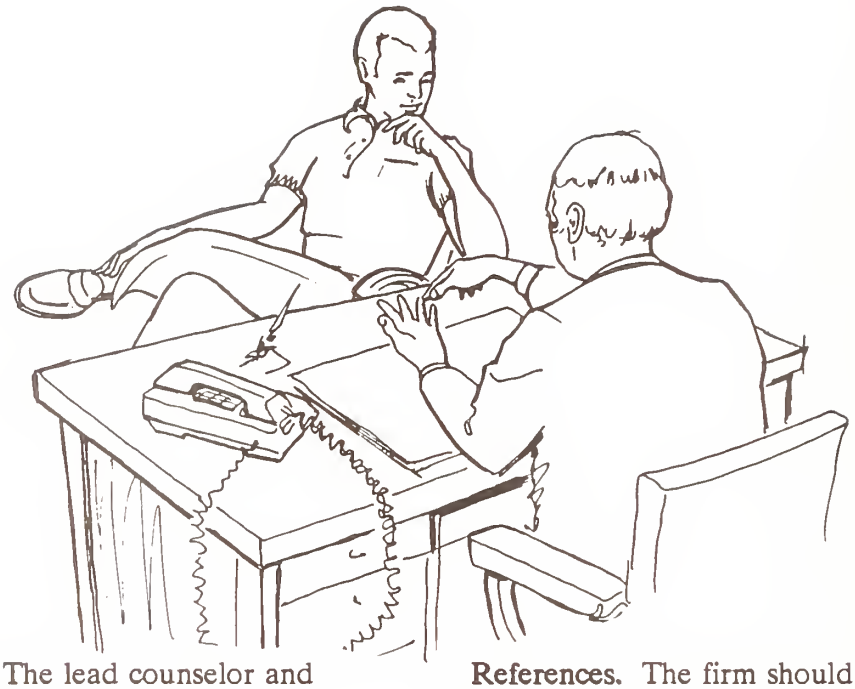
- Crisis intervention
- Diagnostic evaluation and referral
- Substance abuse assessment
- Therapeutic services
- Short-term counseling and assistance.

Where will these services be provided?

- Scheduled worksite visits
- Off-premise office visits
- Telephone hot-line.

Factors for Evaluating the EAP

Credentials. The lead counselor should have a doctorate or masters degree, with clinical experience in psychiatry, psychology, or a related field. Other staff members may have less formal education, but all should hold some credential in substance abuse counseling or clinical counseling. In many cases, State certification is required for a person to be a licensed psychologist or treatment specialist. You should check your State requirements.



Memberships. The lead counselor and staff members should belong to a professional association such as the Employee Assistance Society of North American (EASNA) or the Association of Labor, Management Administrators, and Consultants on Alcoholism (ALMACA).

Experience. Find out how long the principal and associates have been in the general field of counseling and in employee assistance counseling specifically. Ask for evidence of expertise, such as coursework certificates or professional certifications. Ask how many cases the EAP staff members have handled in topical areas and their specific expertise in:

- Alcohol and drug dependency assessment
- Substance abuse intervention
- Divorce and marriage counseling
- Suicide intervention
- Stress management assistance.

Absence of conflict of interest. The EAP firm should not have direct or indirect affiliation with any treatment program for which there is a financial remuneration for referral.

References. The firm should provide a list of clients, social service agencies, and peers as references.

Service. The firm should detail how it will assure confidentiality and should specify the services included in the fee. The firm should also detail how it will plan, organize, and implement services. Ask how your employees will be referred for additional help and what documentation you can expect concerning the course of treatment and treatment outcome.

Section 4. DRUG AND ALCOHOL TREATMENT

Drug and alcohol dependent employees need help, guidance, and advice as they seek an appropriate treatment facility. A contracted intervention specialist, employee assistance counselor, or a staff referral coordinator must be familiar with locally available services. Generally, such services

include in-patient, out-patient, and follow-up services.

Treatment Options

Intensive In-Patient Services. In-patient centers treat severely dependent people and those with physical and/or mental complications. Patients in intensive treatment may need supervised detoxification and may suffer physical withdrawal sickness. As a part of treatment, patients will attend education and awareness lectures and group therapy sessions. Frequently, family members are involved in treatment since dependency affects the entire family. Residential intensive in-patient treatment usually lasts 21 to 28 days. Costs range from $100 to $300 per day or more.

Intensive Out-Patient Services. These services treat moderately dependent patients who have fewer physical or mental complications than severely dependent or addicted patients. They offer effective and less expensive alternatives to residential care. The patient receives education, group therapy, and individual counseling for up to ten weeks, with most sessions scheduled in the evenings (generally three sessions per week). These programs often require some family involvement. Costs are generally about one-third to one-half of intensive in-patient treatment.

Out-Patient Follow-Up Services. Patients discharged from intensive treatment need further help. This may be an out-patient follow-up program lasting from several months to a year or more. If the employee receives this treatment from a psychiatrist, psychologist, or chemical dependency treatment specialist, the cost usually runs from $40 to $100 per visit. One visit per week is typical. Many in-patient and intensive out-patient treatment plans include weekly follow-up sessions at no additional cost.

Support Programs and Services

Several organizations provide ongoing support for the recovering employee.

Alcoholics Anonymous (AA). AA peer support group meetings are available almost daily in most communities to help the recovering alcoholic stay sober. These groups provide support not only for the alcoholic, but also for the spouse and family. AA maintains a low profile in the community, but success stories are many. For AA groups in your area, check the telephone book.

Narcotics Anonymous (NA). NA is a program patterned after AA and specializes in providing support for recovering drug-dependent people. Check your phone book for local chapters.

Alcohol Information Schools. Most states operate these schools for first-time offenders convicted of driving while drinking. Consider these programs, usually from 12 to 72 hours long, for employees whose drinking or drug behaviors have affected work or violated your substance abuse policy.

Drug and Alcohol Assessment Services. Most drug or alcohol treatment programs and employee assistance counselors provide this service. State-licensed professionals determine, through interviews, written tests, and physical examinations, the extent of any employee's drug or alcohol problem. The professional recommends a course of treatment and advises the employer whether the employee can return to work. Costs average $50 to $75 per hour. To enhance objectivity, it is recommended that the professional

conducting the assessment not be directly connected with a residential treatment facility.

Section 5. SELECTING A TREATMENT PROGRAM

Usually your employee assistance counselor develops a treatment program that best meets the needs of the employee in a cost-effective manner. If, however, you must participate in making a treatment referral, the following guidelines will assist in evaluating the treatment program's effectiveness.

- **Cost.** High cost does not guarantee effectiveness. Conduct a cost comparison of programs. It could be, for example, that cost disparities are in the number of professionals per bed, total hours of one-on-one counseling and group therapy, number of days of treatment, amount of aftercare counseling or extent of other medical resources utilized.

- **Reputation.** Ask other substance abuse professionals and former program participants for their candid opinions.

- **Staff qualifications.** A quality program should have a balance of professionals. Intensive in-patient programs should be staffed by nurses, physicians, psychologists, social workers, and formerly dependent counselors. There should be medical management of detoxification. Intensive out-patient programs should be staffed by a mix of psychologists, social workers, and formerly dependent counselors. In both cases, all professional staff should be State-certified treatment specialists or counselors interning for certification.

- **"Whole person" approach.** Chemical dependency is caused by many factors - childhood development, mental instability, heredity, social environment, and lifestyle behaviors. A quality program should meet all needs - physical (diet and exercise), social (communication skills), mental (individual and group counseling), intellectual (education and awareness sessions), and spiritual.

Use the following checklist to refine your list of quality treatment programs:

- Review the treatment protocol.

- Request a list of staff members and their professional qualifications.

- Employ an independent consultant to help you evaluate treatment centers.

- Ask local law enforcement and social service agencies for their evaluations.

- Ask for a recommendation from treatment programs in other cities.

- Check with other major employers to see what facilities they use.

- Speak with a local felony court judge. Because many patients are referred by a court, judges often know which treatment programs are most successful.

- Ask to talk with recovered patients and other companies who have referred employees to the facility.

Although an EAP is not required under the UMTA regulation, an attempt to reclaim human resources makes sense humanistically as well as economically. At first glance, it may seem inappropriate to

allow anyone to work again who has demonstrated a high-risk behavior such as drug and alcohol abuse. However, trained skilled labor is a valuable resource, which demographics indicate will become increasingly difficult to obtain and retain.

You should consider employee replacement costs, as well as the impacts on worker productivity and morale, as you evaluate the cost effectiveness of EAP rehabilitation services.

Chapter 9
OVERVIEW OF 49 CFR PART 29

Section 1. GENERAL PROVISIONS

The interim final rule 49 CFR Part 29 "Governmentwide Department and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," was published in the Federal Register on January 31, 1989 (see Appendix C for this regulation). It is the DOT regulation issued to implement the requirements of Public Law 100-690, "Anti-Drug Abuse Act of 1988," and specifically subtitle D of this Act, entitled "Drug-Free Workplace Act of 1988." The Act and its implementing regulations place certain requirements on individuals and organizations that receive grants from any agency of the Federal Government. These requirements took effect on March 18, 1989 and apply to recipients of funding from new grants, or modifications to existing grants, made after the effective date.

Several provisions of 49 CFR Part 29 are similar to those of 49 CFR Part 653. For example, it requires

- Publishing and providing each employee with a copy of a policy statement on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace

- Establishing an employee drug-free awareness program.

Although similar to 49 CFR Part 653, these provisions contain specific items that you should consider combining with other elements in the anti-drug policy and employee education and training programs discussed in Chapters 3 and 4, respectively.

Other provisions of 49 CFR Part 29 have no counterparts in 49 CFR Part 653 and require additional actions by grant recipients. These include

(1) Notifying UMTA within 10 days of any employee conviction in the workplace under a criminal drug statute

(2) Taking personnel action against such an employee, up to and including termination

(3) Requiring such an employee to participate in an approved rehabilitation program

(4) Taking other actions to continue to maintain a drug-free workplace.

You must take one of the corrective actions identified in items (2) and (3) within 30 days of notification of an employee's criminal drug statute conviction. You should refer to Appendix C to 49 CFR Part 29 for specific requirements and incorporate these into your overall anti-drug policy and program.

Section 2. CERTIFICATION AND NOTIFICATIONS

Appendix C to 49 CFR Part 29, "Certification Regarding Drug-Free Workplace Requirements," requires that you make a separate certification to UMTA that you have met the requirements for a drug-free workplace prior to UMTA's awarding new grant funds. Such certification is required as a condition for any grant awarded on or after March 18, 1989. A sample certification letter is provided in Appendix H. Note that this

letter requires that you identify the site or sites where performance of grant work will be accomplished. Also included in Appendix H is a sample letter of notification of employee(s) conviction under a criminal drug statute. Remember that this notification letter must be submitted to UMTA within 10 days following receipt by the transit operator of notice of the conviction.

Chapter 10
TERMS AND DEFINITIONS

Accident - An occurrence associated with the operation of a revenue service vehicle, whether or not such vehicle is in revenue service, in which an individual dies or must be taken to a medical treatment facility, or in which property damage is estimated to be more than $5,000, or when the occurrence must be reported to the Federal Highway Administration, the Federal Railroad Administration, or the Coast Guard.

Administrator - The Administrator of UMTA or his or her designee.

Aliquot - A portion of a specimen used for testing.

Anti-Drug Program - An anti-drug program required by 49 CFR Part 653, "Control of Drug Use in Mass Transportation Operations."

Certification of Compliance - Written certification to UMTA that a recipient or operator has established and implemented an anti-drug program in accordance with 49 CFR Part 653.

Chain of Custody - Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen as specified in 49 CFR Part 40, "Procedures for Transportation Workplace Drug Testing Programs; Interim Final Rule."

Collection Site - A place designated by the employer where individuals provide specimens of their urine to be analyzed for the presence of drugs.

Collection Site Person - A person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals. A collection site person shall have successfully completed training to carry out this function or shall be a licensed medical professional or technician who is provided instructions for collection. Whenever collection is observed, the collection site person must be a person of the same gender as the donor.

Confirmatory Test - A second analytical procedure to identify the presence of a specific drug or its metabolite. This procedure is independent of the initial test and uses a different technique and chemical principle from that of the initial test 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.

Consortium - A group or association of transit operators/recipients that is formed for the purpose of accomplishing drug testing in a cost effective or efficient manner.

DHHS - The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

DOT Agency - An agency of the United States Department of Transportation, including the United States Coast Guard, the Federal Aviation Administration, the Federal Railroad Administration, the Federal Highway Administration, the Urban Mass Transportation Administration, and the Research and Special Programs Administration.

Drug Metabolite - The specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted in urine.

Drug Test - The laboratory analysis of a urine specimen collected in accordance with 49 CFR Part 40 and analyzed in a DHHS approved laboratory.

Education - Efforts that include the display and distribution of informational materials, a community service hot-line telephone number for employee assistance and the transit entity policy regarding drug use in the workplace.

Employee - An individual designated in the UMTA regulation as subject to urine drug testing and the donor of a specimen. As used herein, "employee" includes a final applicant for employment, or a current employee, who will be assigned to a sensitive safety function. "Employee" and "individual" or "individual to be tested" have the same meaning for purposes of this document.

Employee Assistance Program (EAP) - A program provided directly by an employer, or through a contracted service provider, to assist employees in dealing with drug or alcohol dependency and other personal problems. Rehabilitation and reentry to the workforce are usually arranged through an EAP.

Employer - A transit operator, employing one or more employees, that is subject to UMTA drug use control regulations. As used herein, "employer" is inclusive of an industry consortium or joint enterprise comprised of two or more transit operators, but no single operator is relieved of its responsibility for compliance with this part by virtue of participation in such a consortium or joint enterprise. Employer is used interchangeably with "operator" or "entity" in these guidelines.

Initial Test (also known as a Screening Test) - An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical Review Officer (MRO) - A licensed physician responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have 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 individual medical history and any other relevant biomedical information.

Operator - A transit entity that is a recipient, directly or indirectly, of Federal funds under Sections 3, 9, or 18 of the UMT Act of 1964, as amended, or is a recipient of Federal assistance under Section 103(e)(4) of Title 23 of the United States Code.

Pass a Drug Test - An individual passes a drug test when a medical review officer determines, in accordance with procedures in 49 CFR Part 40, that the results of the test:

- Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite; or
- Showed evidence of a prohibited drug or drug metabolite for which there was a legitimate medical explanation; or
- Were scientifically insufficient to warrant further action; or
- Were suspect because of irregularities in the administration of the test, or

observation, or chain of custody procedures.

Permanent Employee - An employee hired for a period of more than 120 days.

Permanent Record Book - A permanently bound book in which identifying data on each specimen collected at a collection site are permanently recorded in the sequence of collection. May be used in conjunction with a modified urine custody and control form to document collection.

Post-Accident Test - A drug test administered to an employee when an accident (as previously defined) has occurred and the employee performed a sensitive safety function that either contributed to the accident, or cannot be completely discounted as a contributing factor in the accident.

Pre-Employment Test - A drug test given to an applicant or employee who is being considered for a sensitive safety position. The applicant or employee must be informed of the purpose for the urine collection prior to actual collection.

Prohibited Drug - The following substances, as specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801 et seq.: marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

Protocol - A procedure requiring strict adherence to achieve scientifically valid test results from specimen collection and laboratory testing of urine specimens.

Qualified Laboratory - A laboratory certified by the DHHS to conduct urine drug testing and which permits unannounced inspections by the recipient, operator or UMTA Administrator.

Random Test - A drug test given annually to a predetermined percentage of employees (25% in year one; 50% in year two and subsequent years) who perform in sensitive safety functions and who are selected on a scientifically defensible random and unannounced basis.

Reason to Believe - Objective information indicating that a particular individual may alter or substitute a urine specimen.

Reasonable Cause Test - A drug test given to a current employee who performs in a sensitive safety position and who is reasonably suspected by two or more (small operators need only one) trained supervisors of using a prohibited drug.

Recipient - An operator or entity which receives direct Federal financial assistance from UMTA.

Return to Duty Testing - An initial drug test prior to return to duty and additional unannounced drug tests (for a period up to 60 months) given to employees performing in sensitive safety functions who previously tested positive to a drug test and are returning to sensitive safety positions. A return to duty test is also required of an individual who has refused another type of test required by the UMTA rule.

Revenue Service Vehicle - A vehicle used to transport passengers, including: a bus, van, car, railcar, locomotive, trolley car, trolley bus, ferry boat, or a vehicle used on a fixed guideway or inclined plane.

Screening Test - See **Initial Test.**

Secretary - The Secretary of Transportation or the Secretary's designee. The Secretary's designee may be a contractor or other recognized organization which acts on behalf of the Secretary in implementing

the DOT and UMTA drug use control regulations.

Sensitive Safety Function - Any duty related to the safe operation of mass transportation service by an UMTA grant recipient, including

(1) Operating a revenue service vehicle, whether or not such vehicle is in revenue service; or

(2) Controlling dispatch or movement of a revenue service vehicle;

(3) Maintaining revenue service vehicles or equipment used in revenue service; or

(4) Supervising an employee who performs a function listed in (1) through (3).

Sensitive Safety Position - A duty position or job category which requires the performance of a sensitive safety function(s).

Small Operator - A recipient of UMTA Section 18 funds or a recipient operating in an urbanized area of less than 200,000 in population.

Training - The providing of information about the effects and consequences of drug use on personal health, safety, and the work environment, and about the manifestations and behavioral cues that may indicate drug use and abuse.

UMTA - The Urban Mass Transportation Administration.

Volunteer - A permanent, temporary, or part-time worker who is not compensated for his/her service and who is excluded from the requirements of the UMTA anti-drug program.

End Notes

1. Kuest, R.D. Dealing with the Drug and Alcohol Affected Employee. Olympia, WA: MBG Productions, 1988, pp. IV.10-11.

2. Cangianelli, L.A. "The Effects of the Drug Testing Program in the Navy," Presented at the Conference on Drugs in the Workplace, The National Institute on Drug Abuse. Washington, D.C., September 1988.

3. "Drugs in the Workplace." Business Research Publications. New York, NY: August, 1987, p. 3.

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APPENDIX A

49 CFR PART 653, "CONTROL OF DRUG USE IN MASS TRANSPORTATION OPERATIONS."

PART 653—CONTROL OF DRUG USE IN MASS TRANSPORTATION OPERATIONS

Subpart A—General

Subpart B—Drug Testing

Subpart C—Administrative

Authority: Urban Mass Transporation Act of 1964, as amended (49 U.S.C. 1601 et seq.); 23 U.S.C. 103(e)(4); and 49 CFR 1.51.

Subpart A—General

§ 653.1 Purpose.

(a) This part requires a recipient of Federal financial assistance to have an anti-drug program that is designed to detect the use of prohibited drugs by sensitive safety employees and to deter sensitive safety employees from using prohibited drugs.

(b) As part of reasonable cause drug testing program established pursuant to this part, employers may test for drugs in addition to those specified in this part only with approval granted by UMTA under 49 CFR Part 40 and for substances for which the Department of Health and Human Services has established an approved testing protocol and positive threshold.

§ 653.3 Scope.

This part applies to—

(a) a recipient of Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964, as amended; and

(b) a recipient of Federal financial assistance under section 103(e)(4) of title 23 of the United States Code.

§ 653.5 Definitions.

As used in this part—

(a) "Accident" means an occurrence associated with the operation of a revenue service vehicle, whether or not such vehicle is in revenue service, if—

(1) An individual dies or must be taken to a medical treatment facility;

(2) The occurrence results in property damage that is estimated to be more than $5,000; or

(3) The occurrence must be reported to the Federal Highway Administration, the Federal Railroad Administration, or the Coast Guard.

(b) "Administrator" means the Administrator of the Urban Mass Transportation Administration or his or her designee.

(c) "Anti-drug program" means an anti-drug program required by this part.

(d) "Chain-of-custody procedures" means those procedures set out in 49 CFR Part 40 concerning the handling of a urine sample.

(e) "Pass a drug test" means that a medical review officer has determined, in accordance with 49 CFR Part 40, that the results of a drug test administered under this part—

(1) Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite;

(2) Showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result;

(3) Were scientifically insufficient to warrant further action; or

(4) Were suspect because of irregularities in the administration of the test or observation of chain of custody procedures.

(f) "Prohibited drug" means the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801 et. seq. and published at 21 CFR 1308.11 and 21 CFR 1308.12: marijuana; cocaine; opiates; phencyclidine (PCP); and amphetamines.

(g) "Recipient" means a direct recipient of Federal financial assistance from UMTA.

(h) "Revenue service vehicle" means a bus, van, car, rail car, locomotive, trolley car, trolley bus, ferry boat, or vehicle used on a fixed guideway or incline plane used to transport passengers.

(i) "Sensitive safety function" means any duty related to the safe operation of mass transportation service by a recipient, including:

(1) Operation of a revenue service vehicle, whether or not such vehicle is in revenue service;

(2) Controlling dispatch or movement of a revenue service vehicle;

(3) Maintaining revenue service vehicles or equipment used in revenue service; or

(4) Supervising an employee who performs a function listed in paragraph (i)(1)–(3) of this section.

(j) "Small operator" means a recipient of section 18 funds or a recipient of UMTA funds in an urbanized area of less than 200,000 in population.

(k) "UMTA" means the Urban Mass Transportation Administration.

§ 653.7 Requirement to establish an anti-drug program.

A recipient shall certify to UMTA, in accordance with section 653.35 of this part, that it or any operator providing mass transportation services for it with Federal financial assistance has

established and implemented an anti-drug program as prescribed by this part.

§ 653.9 Required elements of an anti-drug program.

(a) An anti-drug program shall contain the following:

(1) A policy statement on drug use in the workplace, adopted by the governing body of the recipient or operator, which states that—

(i) An employee may not perform a sensitive safety function while that employee has a prohibited drug in his or her system;

(ii) If an employee performing a sensitive safety function refuses to take a drug test authorized under this part or is tested for drugs under this part and does not pass the drug test, that employee shall be relieved of his or her sensitive safety duties immediately; and

(iii) An employee who refuses to take a drug test authorized under this part or does not pass a drug test administered under this part may not return to a sensitive safety function until the employee has passed a return to duty drug test required under this part.

(2) An employee education and training program for all employees who perform sensitive safety functions. The education component shall include display and distribution of: informational material; a community service hot-line telephone number for employee assistance if available; and the recipient's policy regarding drug use in the workplace. The training component for sensitive safety employees shall include information on the effects and consequences of drug use on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate drug use and abuse. Supervisory employees shall receive at least 60 minutes of additional training on the physical, behavioral, and performance indicators of probable drug use if they will be determining when an employee is subject to drug testing based on reasonable cause under this part.

(3) A drug testing program as prescribed in Subpart B of this part which includes testing before employment, when there is reasonable cause, after an accident, on a random basis, and before returning to duty after refusing to take a drug test or not passing a drug test.

Subpart B—Drug Testing

§ 653.11 Pre-employment testing.

(a) An individual may not be hired to perform a sensitive safety function unless the individual passes a drug test administered under this section.

(b) An employee who does not perform a sensitive safety function may not be assigned to perform a sensitive safety function until the employee passes a drug test administered under this section.

(c) A pre-employment drug test required by this section may be administered only after the person to be tested is informed that the urine sample being collected will be tested for evidence of—

(1) Marijuana;

(2) Cocaine;

(3) Opiates;

(4) Phencyclidine (PCP); and

(5) Amphetamines.

§ 653.13 Reasonable cause testing.

(a) An employee who performs a sensitive safety function and who is reasonably suspected of using a prohibited drug must be administered a drug test under this section.

(b) (1) Except as provided in paragraph (b)(2), an employee is reasonably suspected of using a prohibited drug when two supervisors who are trained in the detection of drug use under § 653.9(2) articulate and can substantiate specific behavioral, performance or contemporaneous physical indicators of probable drug use.

(2) An employee of a small operator is reasonably suspected of using a prohibited drug when a supervisor who is trained in the detection of drug use under § 653.9(a)(2) articulates and can substantiate specific behavioral, performance or contemporaneous physical indicators of probable drug use.

§ 653.15 Post-accident testing.

(a) An employee who performed a sensitive safety function that either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident, must be administered a drug test under this section.

(b) A decision not to administer a drug test under this section shall be made by an individual, designated by the recipient or operator, who was not involved in the accident. The determination shall be based on the best information available at the time.

(c) The urine sample for a post-accident drug test required by this section shall be collected as soon as possible but not later than 32 hours after the accident.

§ 653.17 Random testing.

(a) An employee who performs a sensitive safety function shall be subject to drug testing on an unannounced and random basis.

(b) Except as provided in paragraph (e), a recipient must administer a number of drug tests under this section equal to 50 percent of all employees who perform sensitive safety functions each calendar year.

(c) Each employee who performs a sensitive safety function shall be in a pool from which random selection is made. Each employee in the pool shall have an equal chance of selection and shall remain in the pool, even after the employee has been tested.

(d) An employee shall be selected for drug testing on a random basis by using a scientifically valid random number generation method.

(e) During the first 12 months following the institution of random drug testing under this section, a recipient or operator shall meet the following conditions.

(1) The random drug testing is spread reasonably through the 12-month period;

(2) The last test collection during the year is conducted at an annualized rate of 50 percent; and

(3) The total number of tests administered during the 12 months is equal to at least 25 percent of all employees who perform sensitive safety functions.

§ 653.19 Return to duty testing.

(a) An employee who refuses to take or does not pass a drug test administered under this part may not return to a sensitive safety function until the employee passes a drug test administered under this section and the medical review officer has determined that the employee may return to duty.

(b) An employee who must be tested under this section may be administered an unannounced drug test for up to 60 months after the employee returns to a sensitive safety function.

§ 653.21 Testing procedures.

An anti-drug program shall ensure that the administration of a drug test under this part is consistent with 49 CFR Part 40.

§ 653.23 Qualified laboratories.

An anti-drug program may use a drug testing laboratory site only if the laboratory site—

(a) is certified by the Department of Health and Human Services to do drug testing for Federal agencies under the 'Scientific and Technical Guidelines for Drug Testing Programs' issued by the Alcohol, Drug Abuse and Mental Health Administration on April 11, 1988; and

(b) will permit unannounced inspections, including the examination of all records, at any time, by the recipient or operator, or the Administrator.

§ 653.25 Laboratory analysis.

(a) A laboratory analyzing urine samples for an anti-drug program shall test for evidence of —

(1) Marijuana;
(2) Cocaine;
(3) Opiates;
(4) Phencyclidine (PCP); and
(5) Amphetamines.

(b) The laboratory shall follow the chain of custody and testing procedures set out in 49 CFR Part 40.

(c) If a urine sample yields a positive result on confirmation, the laboratory shall retain the remainder of the sample in properly secured, long-term, frozen storage for at least 365 days, as required by 49 CFR Part 40. Within this 365-day period, the employee or representative of the employee, the recipient or operator, medical review officer or the Administrator may request that the laboratory retain the sample for an additional period. If, with the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

(d) The laboratory shall report each confirmed positive test and the level found in the sample to the medical review officer for the anti-drug program.

§ 653.27 Medical review officer.

(a) An anti-drug program shall have available the services of a designated medical review officer who is a licensed physician with knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's positive test result together with his or her individual medical history and any other relevant biomedical information.

(b) The medical review officer for an anti-drug program shall—

(1) Receive the results of all drug tests from the laboratory;
(2) Verify that the laboratory report and assessment of all drug test results are reasonable;
(3) Determine whether an individual passes a drug test;
(4) Report each test that does not pass to the individual whom the recipient or operator has designated to receive the results; and
(5) Determine whether an employee who refused to take or did not pass a drug test administered under this part may return to duty.

(c) When reviewing each confirmed positive test result under this section, the medical review officer may review the individual's medical history, including any medical records and biomedical information provided, in determining whether there is a legitimate medical explanation for the result, including the use of a legally prescribed medication.

(d) A medical review officer may request the laboratory to analyze the original urine sample again in order to verify the accuracy of the test result reported to the medical review officer.

§ 653.29 Retests.

(a) An employee who does not pass a drug test administered under this part may request that the original urine sample be analyzed again.

(b) An employee requesting a retest under this section must submit a written request within 60 days of the employee's receipt of the test result. The employee may specify retesting by the original laboratory site or by a second laboratory site that is certified to perform drug tests by the Department of Health and Human Services. The originating laboratory must follow chain-of-custody procedures when transferring the sample.

(c) An employee making a request for a retest under this section may be required to advance the cost of the additional analysis and all costs associated with the transfer of the specimen to another laboratory, including shipping and handling. If the retest results in the employee passing the drug test, the recipient or operator shall reimburse any costs collected in advance.

(d) In a retest under this section some analytes may deteriorate during storage. The detected levels of the drug below the detection limits established in 49 CFR Part 40, but equal to or greater than the established sensitivity of the assay, shall, as technically appropriate, be reported and considered corroborative of the original positive results.

Subpart C—Administrative

§ 653.31 Recordkeeping and reporting.

(a) An anti-drug program shall include the collection, reporting, and retention of information as required by this section.

(b) Each recipient or operator is responsible for maintaining all records related to the administration and results of the drug testing program for its applicants and employees. A recipient or operator shall retain all records related to the collection process and the reports of individuals not passing a drug test for at least five years. The recipient or operator shall retain the reports of individuals passing a drug test for at least one year.

(c) The medical review officer shall maintain individual test results. The medical review officer shall keep the reports of individual test results that do not pass a drug test for at least five years. The medical review officer shall keep the reports of individual test results that pass a drug test for at least one year.

(d) A recipient or operator shall permit the Administrator to examine records related to the administration and results of drug testing under this part.

(e) A recipient must submit a semi-annual report to the Administrator no later than February 15 and August 15 of each year. The semi-annual report due August 15 must summarize the information listed in paragraph (c) of this section for the anti-drug program of the recipient and its operators from January 1 to June 30 of that year. The semi-annual report due February 15 must summarize the information listed in paragraph (c) of this section for the anti-drug program of the recipient and its operators from July 1 to December 31 of the prior year.

(f) A semi-annual report under this section must include the following information for each mode of transportation provided by the recipient:

(1) The total number of drug tests administered;
(2) The number of drug tests administered in each occupational category (e.g., vehicle operator);
(3) The number of drug tests administered in each testing category (i.e., pre-employment, post-accident, reasonable cause, random, and return to duty);
(4) The number of post-accident drug tests administered in each accident category (i.e., fatal, personal injury, or property damage);
(5) For post-accident tests, the number of hours between the accident and the collection of a urine specimen;
(6) The total number of individuals who did not pass a drug test;
(7) The number of individuals who did not pass a drug test by occupational category (e.g., vehicle operator);
(8) The number of individuals who did not pass a drug test by testing category (e.g., reasonable cause);
(9) The number of individuals who did not pass a post-accident drug test by accident category (e.g., fatal);
(10) The disposition of each individual who did not pass a drug test;
(11) The number of drug tests submitted to the laboratory that showed

evidence of one or more prohibited drugs or drug metabolites in the immunoassay screen in a sufficient quantity to warrant a confirmatory test;

(12) The total number of drug tests submitted to the laboratory that showed evidence of one or more prohibited drugs or drug metabolites in the confirmatory test in a sufficient quantity to be reported as positive to the medical review officer; and

(13) The number of drug tests submitted to the laboratory that showed evidence of one or more prohibited drugs or drug metabolites in the confirmatory test in a sufficient quantity to be reported as positive by category (i.e., marijuana, cocaine, opiate, PCP, or amphetamine).

(g) A recipient's first semi-annual report under this section shall cover the period from the first of the month in which the recipient or operator began drug testing under an anti-drug program to June 30 to December 31 of the same year, whichever is appropriate.

§ 653.33 Release of information.

(a) Except as provided in this subpart, no test result or other information from an anti-drug program may be released.

(b) The test result of an individual who was administered a drug test under this part may be released to a third party only if the individual tested signs a specific authorization for the release of the results to an identified person.

(c) Nothing in this section shall prohibit a recipient or operator from allowing an individual who is administered a drug test under this part to receive the results of his or her drug test.

§ 653.35 Certification of compliance.

(a) (1) Except as provided in paragraph (a)(2), a recipient shall submit the first certification required by § 653.7 of this part to UMTA no later than 12 months after the effective date of this part and annually thereafter.

(2) A small operator shall submit the first certification required by § 653.7 of this part to UMTA no later than 24 months after the effective date of this part, and annually thereafter.

(b) (1) Except as provided in paragraphs (b) (2) and (3), the text of the certification required by § 653.7 of this part shall be as follows:

I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance has established and implemented an anti-drug program in accordance with the terms of 49 CFR part 653.

(2) The text of the certification of a recipient that provides commuter rail transportation service regulated by the Federal Railroad Administration shall be as follows:

I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance has an anti-drug program that meets the requirements of the Federal Railroad Administration's regulations for employees regulated by the Federal Railroad Administration, and has established and implemented an anti-drug program in accordance with the terms of 49 CFR Part 653 for all other employees who perform sensitive safety functions.

(3) The text of the certification of a recipient that provides waterborne transportation service regulated by the United States Coast Guard shall be as follows:

I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance has an anti-drug program that meets the requirements of the United States Coast Guard regulations for employees regulated by the United States Coast Guard, and has established and implemented an anti-drug program in accordance with the terms of 49 CFR Part 653 for all other employees who perform sensitive safety functions.

§ 653.37 Temporary waivers.

(a) A recipient that is unable to comply with all or a portion of this part because of a conflicting state or local law in effect on the effective date of this part may request from the Administrator a temporary waiver from compliance with the affected provision.

(b) A request for a temporary waiver under paragraph (a) shall be submitted to UMTA, Office of the Chief Counsel, 400 Seventh Street SW., Washington, DC 20590, and shall include—

(1) An opinion of counsel regarding the conflict between this part and the law or agreement and the legal impediment to full compliance with this part;

(2) A statement by the recipient of any action being taken to remove the legal impediment; and

(3) A statement of when the recipient expects to be able to come into full compliance with this part.

(c) A temporary waiver granted under this section shall include:

(1) A statement of which provision of this part is being waived; and

(2) A date when the waiver expires, which shall be no later than December 31, 1989.

(d) (1) A recipient shall submit its first certification of compliance with the provisions of this part which are not included in a temporary waiver to UMTA within the time period required by § 653.35 of this part.

(2) A recipient shall submit its first certification of compliance with the provision of this part which is included in a temporary waiver to UMTA no later than 12 months after the expiration date of the waiver, or the date required by § 653.35 of this part, whichever is later.

Issued on: November 14, 1988.

Alfred A. DelliBovi,

Administrator.

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APPENDIX B

49 CFR PART 40, "PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG TESTING PROGRAMS."

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG TESTING PROGRAMS

Subpart A—General

Subpart B—Scientific and Technical Requirements

Subpart C—Certification of Laboratories Engaged in Urine Drug Testing

Authority: 49 U.S.C. 102, 301.

Subpart A—General

§ 40.1 Applicability.

This part applies to transportation employers (including self-employed individuals) conducting drug urine testing programs pursuant to regulations issued by agencies of the Department of Transportation and to such transportation employers' officers, employees, agents and contractors, to the extent and in the manner provided in DOT agency regulations.

§ 40.2 Definitions.

For purposes of this part the following definitions apply:

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 point of specimen collection to final disposition of the specimen. These procedures shall require that an approved chain of custody form be used from 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 aliquots 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. Two forms of chain of custody documents are utilized under this part. An external chain of custody form or "urine custody and control form" (described in § 40.23) is used to document chain of custody to the laboratory. An internal chain of custody form is utilized to document handling and transfer of the original sample container and aliquots within the laboratory.

Collection site. A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collection site person. A person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals. A collection site person shall have successfully completed training to carry out this function or shall be a licensed medical professional or technician who is provided instructions for collection under this part and certifies completion as required herein. In any case where: (a) A collection is observed or (b) collection is monitored by non-medical personnel, the collection site person must be a person of the same gender as the donor.

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.)

DHHS. The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

DOT agency. An agency of the United States Department of Transportation administering regulations requiring compliance with this part, including the United States Coast Guard, the Federal Aviation Administration, the Federal Railroad Administration, the Federal Highway Administration, the Urban Mass Transportation Administration, and the Research and Special Programs Administration.

Employee. An individual designated in a DOT agency regulation as subject to drug urine testing and the donor of a specimen under this part. As used in this part "employee" includes a final applicant for employment. "Employee" and "individual" or "individual to be tested" have the same meaning for purposes of this part.

Employer. An entity employing one or more employees that is subject to DOT agency regulations requiring compliance with this part. As used in this part, "employer" is inclusive of a industry consortium or joint enterprise comprised of two or more employing entities, but no single employing entity is relieved of its responsibility for compliance with this part by virtue of participation in such a consortium or joint enterprise.

Initial test (also known as screening test). An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical Review Officer. A licensed physician responsible for receiving laboratory results generated by an employer'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.

Permanent Record Book. A permanently bound book in which identifying data on each specimen collected at a collection site are permanently recorded in the sequence of collection. May be used in conjunction with a modified urine custody and control form to document collection.

Reason to believe. Reason to believe that a particular individual may alter or substitute the urine specimen.

Secretary. The Secretary of Transportation or the Secretary's designee may be a contractor or other recognized organization which acts on behalf of the Secretary in implementing this part.

Subpart B—Scientific and Technical Requirements

§ 40.21 The drugs.

(a) DOT agency drug testing programs require that employers test for marijuana, cocaine, opiates, amphetamines and phencyclidine.

(b) An employer may include in its testing protocols other controlled substances or alcohol only pursuant to a DOT agency approval, if testing for those substances is authorized under agency regulations and if the Department of Health and Human Services has established an approved testing protocol and positive threshold for each such substance.

(c) Urine specimens collected under DOT agency regulations requiring compliance with this part may only be used to test for controlled substances designated or approved for testing as described in this section and shall not be used to conduct any other analysis or test unless otherwise specifically authorized by DOT agency regulations.

(d) This section does not prohibit procedures reasonably incident to analysis of the specimen for controlled substances (e.g., determination of pH or tests for specific gravity, creatinine concentration, or presence of adulterants).

§ 40.23 Preparation for testing

The employer and certified laboratory shall develop and maintain a clear and well-documented procedure for collection, shipment, and accessioning of urine specimens under this part. Such a procedure shall include, at a minimum, the following:

(a) Utilization of a standard urine custody and control form (carbonless manifold). The form shall be a multiple-part, carbonless record form with an original (part 1) that shall accompany the specimen to the laboratory. Copies shall be provided for the Medical Review Officer (part 2, to go directly to the MRO), the employee (part 3), the collection site (part 4) (if distinct from the employer), and the employer representative (part 5). The form should be a permanent record on which identifying data on the employee and on the specimen collection and transfer process is retained. The form shall be constructed to display, at a minimum, the following elements, which shall appear on its respective parts as indicated:

(1) The following information shall appear on all parts of the form:

(i) A preprinted specimen identification number, which shall be unique to the particular collection.

(ii) The employee's Social Security or employee identification number, which shall be entered by the employee.

(iii) Specification of the type of test conducted (pre-employment, random, etc.), which shall be entered by the employer representative or collector (acting for the employer).

(iv) A block providing that "Collector must note temperature of specimen has been read and record here if not within the range of 32.5—37.7C/90.5—99.8F:" with an area for the required notation.

(v) A chain-of-custody block providing areas to enter the following information for each transfer of possession: purpose of change; released by (signature/print name); received by (signature/print name); date. The words "Provide specimen for testing" and "DONOR" shall be preprinted in the initial spaces.

(vi) Information to be completed by the collection site person, identifying that person and providing the date of collection, the collection site and the telephone number (if any) of the collection site; a space for remarks at which unusual circumstances may be described; and a certification statement as set forth below and a signature block with date which shall be completed by the collection site person:

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have verified that it bears the same identification number as that set forth above, and that it has been collected, labelled and sealed as required by the instructions provided.

(vii) A block to be completed by the laboratory after analysis of the specimen, providing a space for entry of the laboratory accession number and a certification to read as follows, together with spaces to enter the printed name and signature of the certifying laboratory official and date:

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

(2) Information to be provided by the employee, which shall appear on parts 2 through 5 of the form only: Employee name (printed); duty location; job title; date of birth; and a certification statement as set forth below, together with a signature block with date which shall be completed by the employee:

I certify that the urine specimen identified on this form is my own; that it is fresh and has not been adulterated in any manner; and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

(3) A block to be completed by the employee, which shall appear only on parts 2 and 3 of the form, containing a statement as follows: "If you wish to have prescription or over-the-counter medications you may have taken or been administered within the past 30 days considered as your test results are reviewed, you may list them here:" followed by an adequate writing area to list such substances.

A form meeting the requirements of this paragraph is displayed at Appendix B to this part. The urine custody and control form may include such additional information as may be required for billing or other legitimate purposes necessary to the collection, provided that personal identifying information (other than the employee identification number) may not be provided to the laboratory and employee medical information may appear only on the copies provided to the employee and to the Medical Review Officer. In lieu of a form meeting the above-described criteria, an employer may choose to use a multiple-sample chain of custody form together with a permanent record book maintained at the site of collection to document collection and transfer of specimens under this part, so long as the data elements set forth above are documented, personal identifying information is not disclosed to the laboratory, and the record system is designed in such a manner as to maintain the confidentiality of medical information.

(b) Use of a tamperproof sealing system designed in a manner such that the specimen bottle top can be sealed against undetected opening, the bottle can be identified with a unique identifying number identical to that appearing on the urine custody and control form, and space has been provided to initial the bottle affirming its identity. For purposes of clarity, this part assumes use of a system made up of one or more pre-printed labels and seals (or a unitary label/seal), but use of other, equally effective technologies is authorized.

(c) Use of a shipping container in which one or more specimens and associated paperwork may be transferred and which can be sealed and initialled to prevent undetected tampering.

(d) Written procedures, instructions and training shall be provided as follows:

(1) Employer collection procedures and training shall clearly emphasize that the collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the employee, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

(2) A non-medical collection site person shall receive training in compliance with this part and shall demonstrate proficiency in the application of this part prior to serving as a collection site person. A medical professional, technologist or technician licensed or otherwise approved to practice in the jurisdiction in which collection occurs may serve as a collection site person if that person is provided instructions described in this part and performs collections in accordance with those instructions.

(3) Collection site persons shall be provided with detailed, clearly illustrated written instructions on the collection of specimens in compliance with this part. Employer representatives and employees subject to testing shall also be provided standard written instructions setting forth their responsibilities.

§ 40.25 Specimen collection procedures.

(a) *Designation of collection site.* (1) Each employer drug testing program shall have one or more designated collection sites which have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory. An independent medical facility may also be utilized as a collection site provided the other applicable requirements of this part are met.

(2) A designated collection site may be any suitable location where a specimen can be collected under conditions set forth in this part, including a properly equipped mobile facility. A designated collection site shall be a location having an enclosure within which private urination can occur, a toilet for completion of urination (unless a single-use collector is used with sufficient capacity to contain the void), and a suitable clean surface for writing. The site must also have a source of water for washing hands, which, if practicable, should be external to the enclosure where urination occurs.

(b) *Security.* The purpose of this paragraph is to prevent unauthorized access which could compromise the integrity of the collection process or the specimen.

(1) Procedures shall provide for the designated collection site to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during drug testing.

(2) A facility normally used for other purposes, such as a public rest room or hospital examining room, may be secured by visual inspection to ensure other persons are not present and undetected access (e.g., through a rear door not in the view of the collection site person) is not possible. Security during collection may be maintained by effective restriction of access to collection materials and specimens. In the case of a public rest room, the facility must be posted against access during the entire collection procedure to avoid embarrassment to the employee or distraction of the collection site person.

(3) If it is impractical to maintain continuous physical security of a collection site from the time the specimen is presented until the sealed mailer is transferred for shipment, the following minimum procedures shall apply: The specimen shall remain under the direct control of the collection site person from delivery to its being sealed in the mailer. The mailer shall be immediately mailed, maintained in secure storage, or remain until mailed under the personal control of the collection site person.

(c) *Chain of custody.* The chain of custody block of the urine custody and control form shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

(d) *Access to authorized personnel only.* No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored. Only the collection site person may handle specimens prior to their securement in the mailing container or monitor or observe specimen collection (under the

conditions specified in this part). In order to promote security of specimens, avoid distraction of the collection site person and ensure against any confusion in the identification of specimens, a collection site person shall conduct only one collection procedure at any given time. For this purpose, a collection procedure is complete when the urine bottle has been sealed and initialled, the urine custody and control form has been executed, and the employee has departed the site.

(e) *Privacy.* (1) Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided, as further described in this paragraph.

(2) For purposes of this part, the following circumstances are the exclusive grounds constituting a reason to believe that the individual may alter or substitute the specimen:

(i) The employee has presented a urine specimen that falls outside the normal temperature range, and the employee declines to provide a measurement of oral body temperature by sterile thermometer, as provided in paragraph (f)(23) of this part, or the oral temperature does not equal or exceed that of the specimen.

(ii) The last urine specimen provided by the employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2 g/L.

(iii) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.).

(iv) The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as a part of a rehabilitation program, on return to service after any required rehabilitation, or under a DOT agency regulation providing for follow-up testing after return to service.

(f) *Integrity and identity of specimen.* Employers shall take precautions to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

(1) To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs. If there is another source of water in the enclosure, it shall be effectively secured or monitored to ensure it is not used (undetected) as a source for diluting the specimen.

(2) When an individual arrives at the collection site, the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

(3) If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(4) The collection site person shall ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The individual may retain his or her wallet.

(5) The individual shall be instructed to wash and dry his or her hands prior to urination.

(6) After washing hands, the individual shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent or any other materials which could be used to adulterate the specimen.

(7) The individual may provide his/her specimen in the privacy of a stall or otherwise partitioned areas that allows for individual privacy.

(8) The collection site person shall note any unusual behavior or appearance on the urine custody and control form.

(9) In the exceptional event that an employer-designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., an accident investigation), a public rest room may be used according to the following procedures: A collection site person of the same gender as the individual shall accompany the individual into the public rest room which shall be made secure during the collection procedure. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the individual not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the individual will be instructed to flush the toilet and to participate with the collection site person in completing the chain of custody procedures.

(10) Upon receiving the specimen from the individual, the collection site person shall determine that it contains at least 60 milliliters of urine. If there is less than 60 milliliters of urine in the container, additional urine shall be collected in a separate container to reach a total of 60 milliliters. (The temperature of the partial specimen in each separate container shall be measured in accordance with paragraph (f)(12) of this section, and the partial specimens shall be combined in one container.) The individual may be given a reasonable amount of liquid to drink for this purpose (e.g., a glass of water). If the individual fails for any reason to provide 60 milliliters of urine, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(11) After the specimen has been provided and submitted to the collection site person, the individual shall be allowed to wash his or her hands.

(12) Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measure is critical and in no case shall exceed 4 minutes.

(13) If the temperature of a specimen is outside the range of 32.5°–37.7° C/90.5°–99.8° F, that is a reason to believe that the individual may have altered or substituted the specimen, and another specimen shall be collected under direct observation of a same gender collection site person and both specimens shall be forwarded to the laboratory for testing. An individual may volunteer to have his or her oral temperature taken to provide evidence to counter the reason to believe the individual may have altered or substituted the specimen caused by the specimen's temperature falling outside the prescribed range.

(14) Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the urine custody and control form.

(15) All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.

(16) Whenever there is reason to believe that a particular individual has altered or substituted the specimen as described in paragraph (e)(2)(i) and (iii) of this section, a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.

(17) Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. As provided below, the specimen shall be sealed (by placement of a tamperproof seal over the bottle cap and down the sides of the bottle) and labeled in the presence of the employee. If the specimen is transferred to a second bottle, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle.

(18) The collection site person and the individual shall be present at the same time during procedures outlined in paragraphs (f)(19)–(f)(22) of this section.

(19) The collection site person shall place securely on the bottle an identification label which contains the date, the individual's specimen number, and any other identifying information provided or required by the employer. If separate form the label, the tamperproof seal shall also be applied.

(20) The individual shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him or her.

(21) The collection site person shall enter on the urine custody and control form all information identifying the specimen. The collection site person shall sign the urine custody and control form certifying that the collection was accomplished according to the instructions provided.

(22) (i) The individual shall be asked to read and sign a statement on the urine custody and control form certifying that the specimen identified as having been collected from him or her is in fact that specimen he or she provided.

(ii) The individual shall be provided an opportunity to set forth on the urine custody and control form information concerning medications taken or administered in the past 30 days.

(iii) When specified by DOT agency regulation or required by the collection site (other than an employer site) or by the laboratory, the employee may be required to sign a consent or release form authorizing the collection of the specimen, analysis of the specimen for designated controlled substances, and release of the results to the employer. The employee may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others.

(23) A higher level supervisor of the collection site person, or a designated employer representative, shall review and concur in advance with any decision by a collection site person to obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described paragraph (e)(2) of this section.

(24) The collection site person shall complete the chain of custody portion of the urine custody and control form to indicate receipt from the employee and shall certify proper completion of the collection.

(25) The urine specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, it shall be appropriately safeguarded during temporary storage.

(26)(i) While any part of the above chain of custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If the involved collection site person leaves his or her work station momentarily, the specimen and urine custody and control form shall be taken with him or her or shall be secured. After the collection site person returns to the work station, the custody process will continue. If the collection site person is leaving for an extended period of time, the specimen shall be packaged for mailing before he or she leaves the site.

(ii) The collection site person shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the sample with an identifying label bearing the employee's specimen identification number (shown on the urine custody and control form) and seal initialled by the employee. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and (at the election of the employer) a new collection begun.

(g) *Collection control.* To the maximum extent possible, collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled. The urine custody and control form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approval chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

(h) *Transportation to laboratory.* Collection site personnel shall arrange to ship the collected specimens to the drug testing laboratory. The specimens shall be placed in containers designed to minimize the possibility of damage during shipment (e.g., specimen boxes and/or padded mailers); and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site person shall sign and enter the date specimens were sealed in the containers for shipment. The collection site person shall ensure that the chain of custody documentation is attached to each container sealed for shipment to the drug testing laboratory.

(i) *Failure to cooperate.* If the employee refuses to cooperate with the collection process (e.g., refusal to provide a complete specimen, complete paperwork, initial specimen) the collection site person shall inform the employer representative and shall document the non-cooperation on the urine custody and control form.

§ 40.27 Laboratory personnel.

(a) *Day-to-day management.* (1) The laboratory shall have a qualified individual to assume professional, organizational, educational, and administrative responsibility for the laboratory's urine drug testing facility.

(2) This individual shall have documented scientific qualifications in analytical forensic toxicology. Minimum qualifications are:

(i) Certification as a laboratory director by the State in forensic or clinical laboratory toxicology; or

(ii) A Ph.D. in one of the natural sciences with an adequate undergraduate and graduate education

in biology, chemistry, and pharmacology or toxicology, or

(iii) Training and experience comparable to a Ph.D. in one of the natural sciences, such as a medical or scientific degree with additional training and laboratory/research experience in biology, chemistry, and pharmacology or toxicology; and

(iv) In addition to the requirements in paragraph (a)(2) (i), (ii), and (iii) of this section, minimum qualifications also require:

(A) Appropriate experience in analytical forensic toxicology including experience with the analysis of biological material for drugs of abuse, and

(B) Appropriate training and/or experience in forensic applications of analytical toxicology, e.g., publications, court testimony, research concerning analytical toxicology of drugs of abuse, or other factors which qualify the individual as an expert witness in forensic toxicology.

(3) This individual shall be engaged in and responsible for the day-to-day management of the drug testing laboratory even where another individual has overall responsibility for an entire multispecialty laboratory.

(4) This individual shall be responsible for ensuring that there are enough personnel with adequate training and experience to supervise and conduct the work of the drug testing laboratory. He or she shall assure the continued competency of laboratory personnel by documenting their inservice training, reviewing their work performance, and verifying their skills.

(5) This individual shall be responsible for the laboratory's having a procedure manual which is complete, up-to-date, available for personnel performing tests, and followed by those personnel. The procedure manual shall be reviewed, signed, and dated by this responsible individual whenever procedures are first placed into use or changed or when a new individual assumes responsibility for management of the drug testing laboratory. Copies of all procedures and dates on which they are in effect shall be maintained. (Specific contents of the procedure manual are described in § 40.29(n)(1).)

(6) This individual shall be responsible for maintaining a quality assurance program to assure the proper performance and reporting of all test results; for maintaining acceptable analytical performance for all controls and standards; for maintaining quality control testing; and for assuring and documenting the validity, reliability, accuracy, precision, and performance characteristics of each test and test system.

(7) This individual shall be responsible for taking all remedial actions necessary to maintain satisfactory operation and performance of the laboratory in response to quality control systems not being within performance specifications, errors in result reporting or in analysis of performance testing results. This individual shall ensure that sample results are not reported until all corrective actions have been taken and he or she can assure that the tests results provided are accurate and reliable.

(b) *Test validation.* The laboratory's urine drug testing facility shall have a qualified individual(s) who reviews all pertinent data and quality control results in order to attest to the validity of the laboratory's test reports. A laboratory may designate more than one person to perform this function. This individual(s) may be any employee who is qualified to be responsible for day-to-day management or operation of the drug testing laboratory.

(c) *Day-to-day operations and supervision of analysts.* The laboratory's urine drug testing facility shall have an individual to be responsible for day-to-day operations and to supervise the technical analysts. This individual(s) shall have at least a bachelor's degree in the chemical or biological sciences or medical technology or equivalent. He or she shall have training and experience in the theory and practice of the procedures used in the laboratory, resulting in his or her thorough understanding of quality control practices and procedures; the review, interpretation, and reporting of test results; maintenance of chain of custody; and proper remedial actions to be taken in response to test systems being out of control limits or detecting aberrant test or quality control results.

(d) *Other personnel.* Other technicians or nontechnical staff shall have the necessary training and skills for the tasks assigned.

(e) *Training.* The laboratory's urine drug testing program shall make available continuing education programs to meet the needs of laboratory personnel.

(f) *Files.* Laboratory personnel files shall include: resume of training and experience; certification or license, if any; references; job descriptions; records of performance evaluation and advancement; incident reports; and results of tests which establish employee competency for the position he or she holds, such as a test for color blindness, if appropriate.

§ 40.29 Laboratory analysis procedures.

(a) *Security and chain of custody.* (1) Drug testing laboratories shall be secure at all times. They shall have in place sufficient security measures to control access to the premises and to ensure that no unauthorized personnel handle specimens or gain access to the laboratory processes or to areas where records are stored. Access to these secured areas shall be limited to specifically authorized individuals whose authorization is documented. With the exception of personnel authorized to conduct inspections on behalf of Federal agencies for which the laboratory is engaged in urine testing or on behalf of DHHS, all authorized visitors and maintenance and service personnel shall be escorted at all times. Documentation of individuals accessing these areas, dates, and time of entry and purpose of entry must be maintained.

(2) Laboratories shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage, and continuing until final disposition of specimens. The date and purpose shall be documented on an appropriate chain of custody form each time a specimen is handled or transferred, and every individual in the chain shall be identified. Accordingly, authorized technicians shall be responsible for each urine specimen or aliquot in their possession and shall sign and complete chain of custody forms for those specimens or aliquots as they are received.

(b) *Receiving.* (1) When a shipment of specimens is received, laboratory personnel shall inspect each package for evidence of possible tampering and compare information on specimen bottles within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering or discrepancies in the information on specimen bottles and the employer's chain of custody forms attached to the shipment shall be immediately reported to the employer and shall be noted on the laboratory's chain of custody form which shall accompany the specimens while they are in the laboratory's possession.

(2) Specimen bottles will normally be retained within the laboratory's accession area until all analyses have been completed. Aliquots and the laboratory's chain of custody forms shall be used by laboratory personnel for conducting initial and confirmatory tests.

(c) *Short-term refrigerated storage.* Specimens that do not receive an initial

test within 7 days of arrival at the laboratory shall be placed in secure refrigeration units. Temperatures shall not exceed 6°C. Emergency power equipment shall be available in case of prolonged power failure.

(d) *Specimen processing.* Laboratory facilities for urine drug testing will normally process specimens by grouping them into batches. The number of specimens in each batch may vary significantly depending on the size of the laboratory and its workload. When conducting either initial or confirmatory tests, every batch shall contain an appropriate number of standards for calibrating the instrumentation and a minimum of 10 percent controls. Both quality control and blind performance test samples shall appear as ordinary samples to laboratory analysts.

(e) *Initial test.* (1) The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

	Initial test Level (ng/ml)
Marijuana metabolites	100
Cocaine metabolites	300
Opiate metabolites	* 300
Phencyclidine	25
Amphetamines	1,000

* 25ng/ml if immunoassay specific for free morphine.

(2) These test levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations. Initial test methods and testing levels for other drugs shall be submitted in writing by the employer for the written approval of the DOT Agency under that agency's regulations.

(f) *Confirmatory test.* (1) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed in this paragraph for each drug. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."

	Confirmatory test level (ng/ml)
Manjuana metabolite [1]	15
Cocaine metabolite [2]	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

[1] Delta-9-tetrahydrocannabinol-9-carboxylic acid.
[2] Benzoylecgonine.

(2) These test levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations. Confirmatory test methods and testing levels for other drugs shall be submitted in writing by the employer for the written approval of the DOT agency as provided in that agency's regulations.

(g) *Reporting results.* (1) The laboratory shall report test results to the employer's Medical Review Officer within an average of 5 working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, and the cutoff for each, the specimen number assigned by the employer, and the drug testing laboratory specimen identification number (accession number). The results (positive and negative) for all specimens submitted at the same time to the laboratory shall be reported back to the Medical Review Officer at the same time.

(2) The laboratory *shall report as negative* all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.

(3) The Medical Review Officer may request from the laboratory and the laboratory shall provide quantitation of test results. The Medical Review Officer may not disclose quantitation of test results to the employer but shall report only whether the test was positive or negative.

(4) The laboratory may transmit results to the Medical Review Officer by various electronic means (for example, teleprinters, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory and employer must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

(5) The laboratory shall send only to the Medical Review Officer the original or a certified true copy of the urine custody and control form (part 1), which shall be signed (after the required certification block) by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.

(6) The laboratory shall provide to the employer official responsible for coordination of the drug-free workplace program a monthly statistical summary of urinalysis testing of the employer's employees and shall not include in the summary any personal identifying information. Initial and confirmation data shall be included from test results reported within that month. Normally this summary shall be forwarded by registered or certified mail not more than 14 calendar days after the end of the month covered by the summary. The summary shall contain the following information:

(i) *Initial testing:*

(A) Number of specimens received;

(B) Number of specimens reported out; and

(C) Number of specimens screened positive for:

Marijuana metabolites
Cocaine metabolites
Opiate metabolites
Phencyclidine
Amphetamines

(ii) *Confirmatory testing:*

(A) Number of specimens received for confirmation;

(B) Number of specimens confirmed positive for:

Marijuana metabolite
Cocaine metabolite
Morphine, codeine
Phencyclidine
Amphetamine
Methamphetamine

(7) The laboratory shall make available copies of all analytical results for employer drug testing programs when requested by DOT or any DOT agency with regulatory authority over the employer.

(8) Unless otherwise instructed by the employer in writing, all records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of 2 years.

(h) *Long-term storage.* Long-term frozen storage (−20° C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. Drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens confirmed positive. Within this 1-year period an employer (or other person designated in a DOT agency regulation) may request the laboratory to retain the specimen for an additional period of time, but if no such request is received the laboratory may discard the specimen after the end of 1 year, except that the laboratory shall be required to maintain any specimens under legal challenge for an indefinite period.

(i) *Retesting specimens.* Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

(j) *Subcontracting.* Drug testing laboratories shall not subcontract and shall perform all work with their own personnel and equipment. The laboratory must be capable of performing testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine, and amphetamines) using the initial immunoassay and confirmatory GC/MS methods specified in this part procedures. This paragraph does not prohibit subcontracting of laboratory analysis if specimens are sent directly from the collection site to the subcontractor, the subcontractor is a laboratory certified by DHHS as required in this part, the subcontractor performs all analysis and provides storage required under this part, the subcontractor is responsible to the employer for compliance with this part and applicable DOT agency regulations as if it were the prime contractor, and other relevant provisions of this part are observed.

(k) *Laboratory facilities.* (1) Laboratory facilities shall comply with applicable provisions of any State licensure requirements.

(2) Laboratories certified in accordance with DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs must have the capability, at the same laboratory premises, of performing initial and confirmatory tests for each drug or metabolite for which service is offered.

(l) *Inspections.* The Secretary, a DOT agency, any employer utilizing the laboratory, DHHS or any organization performing laboratory certification on behalf of DHHS reserve the right to inspect the laboratory at any time. Employer contracts with laboratories for drug testing, as well as contracts for collection site services, shall permit the employer and the DOT agency of jurisdiction (directly or through an agency) to conduct unannounced inspections.

(m) *Documentation.* The drug testing laboratories shall maintain and make available for at least 2 years documentation of all aspects of the testing process. This 2-year period may be extended upon written notification by a DOT agency or by any employer for which laboratory services are being provided. The required documentation shall include personnel files on all individuals authorized to have access to specimens; chain of custody documents; quality assurance/quality control records; procedure manuals; all test data (including calibration curves and any calculations used in determining test results); reports; performance records on performance testing; performance on certification inspections; and hard copies of computer-generated data. The laboratory shall be required to maintain documents for any specimen under legal challenge for an indefinite period.

(n) *Additional requirements for certified laboratories.*—(1) *Procedure manual.* Each laboratory shall have a procedure manual which includes the principles of each test, preparation of reagents, standards and controls, calibration procedures, derivation of results, linearity of methods, sensitivity of the methods, cutoff values, mechanisms for reporting results, controls, criteria for unacceptable specimens and results, remedial actions to be taken when the test systems are outside of acceptable limits, reagents and expiration dates, and references. Copies of all procedures and dates on which they are in effect shall be maintained as part of the manual.

(2) *Standards and controls.* Laboratory standards shall be prepared with pure drug standards which are properly labeled as to content and concentration. The standards shall be labeled with the following dates: when received; when prepared or opened; when placed in service; and expiration date.

(3) *Instruments and equipment.* (i) Volumetric pipettes and measuring devices shall be certified for accuracy or be checked by gravimetric, colorimetric, or other verification procedure. Automatic pipettes and dilutors shall be checked for accuracy and reproducibility before being placed in service and checked periodically thereafter.

(ii) There shall be written procedures for instrument set-up and normal operation, a schedule for checking critical operating characteristics for all instruments, tolerance limits for acceptable function checks and instructions for major trouble shooting and repair. Records shall be available on preventive maintenance.

(4) *Remedial actions.* There shall be written procedures for the actions to be taken when systems are out of acceptable limits or errors are detected. There shall be documentation that these procedures are followed and that all necessary corrective actions are taken. There shall also be in place systems to verify all stages of testing and reporting and documentation that these procedures are followed.

(5) *Personnel available to testify at proceedings.* A laboratory shall have qualified personnel available to testify in an administrative or disciplinary proceeding against an employee when that proceeding is based on positive urinalysis results reported by the laboratory.

§ 40.31 Quality assurance and quality control.

(a) *General.* Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

(b) Laboratory quality control requirements for initial tests. Each analytical run of specimens to be screened shall include:

(1) Urine specimens certified to contain no drug;

(2) Urine specimens fortified with known standards; and

(3) Positive controls with the drug or metabolite at or near the threshold (cutoff).

In addition, with each batch of samples a sufficient number of standards shall be included to ensure and document the linearity of the assay method over time in the concentration area of the cutoff. After acceptable values are obtained for the known standards, those values will be used to calculate sample data. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen shall be documented. A minimum of 10 percent of all test samples shall be quality control specimens. Laboratory

quality control samples, prepared from spiked urine samples of determined concentration shall be included in the run and should appear as normal samples to laboratory analysts. One percent of each run, with a minimum of at least one sample, shall be the laboratory's own quality control samples.

(c) Laboratory quality control requirements for confirmation tests. Each analytical run of specimens to be confirmed shall include:

(1) Urine specimens certified to contain no drug;

(2) Urine specimens fortified with known standards; and

(3) Positive controls with the drug or metabolite at or near the threshold (cutoff).

The linearity and precision of the method shall be periodically documented. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen shall also be documented.

(d) Employer blind performance test procedures. (1) Employers shall purchase drug testing services only from laboratories certified by DHHS or a DHHS-recognized certification program in accordance with the Mandatory Guidelines for Federal Workplace Drug Testing Programs. Laboratory participation is encouraged in other performance testing surveys by which the laboratory's performance is compared with peers and reference laboratories.

(2) (i) During the initial 90-day period of any new drug testing program, each employer shall submit blind performance test specimens to each laboratory it contracts with in the amount of at least 50 percent of the total number of samples submitted (up to a maximum of 500 samples) and thereafter a minimum of 10 percent of all samples (to a maximum of 250) submitted per quarter.

(ii) These blind performance testing requirements shall not apply to an employer that submits fewer than 1,000 employee specimens per year for analysis under one or more DOT agency regulations requiring compliance with this part, if such employer utilizes a laboratory that is currently subject to blind performance testing under this part or the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs by a Federal agency or by another transportation employer required by this section to perform such blind performance testing for the substances for which the specimen is to be tested

(3) Approximately 80 percent of the blind performance test samples shall be blank (i.e., certified to contain no drug) and the remaining samples shall be positive for one or more drugs per sample in a distribution such that all the drugs to be tested are included in approximately equal frequencies of challenge. The positive samples shall be spiked only with those drugs for which the employer is testing. This paragraph shall not be construed to prohibited spiking of other (potentially interfering) compounds, as technically appropriate, in order to verify the specificity of a particular assay.

(4) The DOT agency concerned shall investigate, or shall refer to DHHS for investigation, any unsatisfactory performance testing result and, based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. A record shall be made of the investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individuals responsible for the day-to-day management and operation of the drug testing laboratory. Then the DOT agency shall send the document to the employer as a report of the unsatisfactory performance testing incident. The DOT agency shall ensure notification of the finding to DHHS.

(5) Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mixup, etc.), the employer shall promptly notify the DOT agency concerned. The DOT agency and the employer shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future; and, if there is reason to believe the error could have been systematic, the DOT agency may also require review and reanalysis of previously run specimens.

(6) Should a false positive error occur on a blind performance test specimen and the error is determined to be a technical or methodological error, the employer shall instruct the laboratory to submit all quality control data from the batch of specimens which included the false positive specimen to the DOT agency concerned. In addition, the laboratory shall retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting shall be documented by a statement signed by the individual responsible for day-to-day management of the laboratory's urine drug testing. The DOT agency concerned may require an on-site review of the laboratory which may be conducted unannounced during any hours of operation of the laboratory. Based on information provided by the DOT agency, DHHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.

§ 40.33 Reporting and review of results.

(a) *Medical Review Officer shall review results.* An essential part of the drug testing program is the final review of results. A positive test result does not automatically identify an employee/applicant as having used drugs in violation of a DOT agency regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the Medical Review Officer prior to the transmission of results to employer administrative officials.

(b) *Medical Review Officer—qualifications and responsibilities.* The Medical Review Officer shall be a licensed physician with knowledge of substance abuse disorders and may be an employee of the transportation employer or a private physician retained for this purpose. The role of the Medical Review Officer is to review and interpret positive test results obtained through the employer's testing program. In carrying out this responsibility, the Medical Review Officer shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual, review of the individual's medical history, or review of any other relevant biomedical factors. The Medical Review Officer shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The Medical Review Officer shall not, however, consider the results of urine samples that are not obtained or processed in accordance with this part.

(c) *Positive test result.* Prior to making a final decision to verify a positive test result, the Medical Review Officer shall give the individual an opportunity to discuss the test result with him or her. Following verification of a positive test result, the Medical Review Officer shall, as provided in the employer's policy, refer the case to the employer employee assistance or rehabilitation program, if

applicable, to the management official empowered to recommend or take administrative action (or the official's designated agent), or both.

(d) *Verification for opiates; review for prescription medication.* Before the Medical Review Officer verifies a confirmed positive result for opiates, he or she shall determine that there is clinical evidence—in addition to the urine test—of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). (This requirement does not apply if the employer's GC/MS confirmation testing for opiates confirms the presence of 6-monoacetylmorphine.)

(e) *Reanalysis authorized.* Should any question arise as to the accuracy or validity of a positive test result, only the Medical Review Officer is authorized to order a reanalysis of the original sample and such retests are authorized only at laboratories certified by DHHS. The Medical Review Officer shall authorize a reanalysis of the original sample on timely request of the employee, as provided in applicable DOT agency regulations.

(f) *Result consistent with legal drug use.* If the Medical Review Officer determines there is a legitimate medical explanation for the positive test result, the Medical Review Officer shall report the test result to the employer as negative.

(g) *Result scientifically insufficient.* Additionally, the Medical Review Officer, based on review of inspection reports, quality control data, multiple samples, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation the Medical Review Officer may request reanalysis of the original sample before making this decision. (The Medical Review Officer may request that reanalysis be performed by the same laboratory or, as provided in § 40.33(e), that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the DHHS Guidelines.) The laboratory shall assist in this review process as requested by the Medical Review Officer by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic toxicologist or who has equivalent forensic experience in urine drug testing, to provide specific consultation as required by the employer. The employer shall include in its annual report to the DOT agency a summary of any negative findings based on scientific insufficiency but shall not include any personal identifying information in such reports.

§ 40.35 Protection of employee records.

Employer contracts with laboratories shall require that the laboratory maintain employee test records in confidence, as provided in DOT agency regulations.

§ 40.37 Individual access to test and laboratory certification results.

Any employee who is the subject of a drug test conducted under this part shall, upon written request, have access to any records relating to his or her drug test and any records relatings to the results of any relevant certification, review, or revocation-of-certification proceedings.

Subpart C—Certification of Laboratories Engaged in Urine Drug Testing

§ 40.41 Use of DHHS-certified laboratories.

Employers subject to this part shall use only laboratories certified under the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988, and subsequent amendments thereto. DHHS certification standards are set forth in Appendix A to this part for information and reference. Information concerning the current certification status of laboratories is available from: the Office of Workplace Initiatives, National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, Maryland 20857.

Appendix A to Part 40—DHHS Laboratory Certification Standards

Note: Reproduced below is subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs issued by DHHS. Cross-references are to sections of those DHHS Guidelines. Equivalent provisions in this part may be determined by reference to the following table:

	Part 40
DHHS Guidelines:	
Section 1.1	§ 40.1
Section 1.2	§ 40.2
Section 2.1	§ 40.21
Section 2.2	§ 40.25
Section 2.3	§ 40.27
Section 2.4	§ 40.29
Section 2.5	§ 40.31
Section 2.6	
Section 2.7	§ 40.33
Section 2.8	§ 40.35
Section 2.9	§ 40.37

Subpart C—Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies

Section 3.1 Introduction.

Urine drug testing is a critical component of efforts to combat drug abuse in our society. Many laboratories are familiar with good laboratory practices but may be unfamiliar with the special procedures required when drug test results are used in the employment context. Accordingly, the following are minimum standards to certify laboratories engaged in urine drug testing for Federal agencies. Certification, even at the highest level, does not guarantee accuracy of each result reported by a laboratory conducting urine drug testing for Federal agencies. Therefore, results from laboratories certified under these Guidelines must be interpreted with a complete understanding of the total collection, analysis, and reporting process before a final conclusion is made.

Section 3.2 Goals and Objectives of Certification.

(a) *Uses of Urine Drug Testing.* Urine drug testing is an important tool to identify drug users in a variety of settings. In the proper context, urine drug testing can be used to deter drug abuse in general. To be a useful tool, the testing procedure must be capable of detecting drugs or their metabolites at concentrations indicated is section 2.4 (e) and (f).

(b) *Need to Set Standards; Inspections.* Reliable discrimination between the presence, or absence, of specific drugs or their metabolites is critical, not only to achieve the goals of the testing program but to protect the rights of the Federal employees being tested. Thus, standards have been set which laboratories engaged in Federal employee urine drug testing must meet in order to achieve maximum accuracy of test results. These laboratories will be evaluated by the Secretary or the Secretary's designee as defined in section 1.2 in accordance with these Guidelines. The qualifying evaluation will involve three rounds of performance testing plus on-site inspection. Maintenace of certification requires participation in an every-other-month performance testing program plus periodic, on-site inspections. One inspection following successful completion of a performance testing regimen is required for initial certification. This must be followed by a second inspection within 3 months, after which biannual inspections will be required to maintain certification.

(c) *Urine Drug Testing Applies Analytical Forensic Toxicology.* The possible impact of a positive test result on an individual's livelihood or rights, together with the possibility of a legal challenge of the result, sets this type of test apart from must clinical laboratory testing. In fact, urine drug testing should be considered a special application of analytical forensic toxicology. That is, in addition to the application of appropriate analytical methodology, the specimen most be treated as evidence, and all aspects of the testing procedure must be documented and available for possible court testimony. Laboratories engaged in urine drug testing for Federal agencies will require the services and

advice of a qualified forensic toxicologist, or individual with equivalent qualifications (both training and experience) to address the specific needs of the Federal drug testing program, including the demands of chain of custody of specimens, security, proper documentation of all records, storage of positive specimens for later or independent testing, presentation of evidence in court, and expert witness testimony.

Section 3.3 General Certification Requirements.

A laboratory must meet all the pertinent provisions of these Guidelines in order to qualify for certification under these standards.

Section 3.4 Capability to Test for Five Classes of Drugs.

To be certified, a laboratory must be capable of testing for at least the following five classes of drugs: marijuana, cocaine, opiates, amphetamines, and phencyclidine, using the initial immunoassay and quantitative confirmatory GC/MS methods specified in these Guidelines. The certification program will be limited to the five classes of drugs (section 2.1(a) (1) and (2)) and the methods (section 2.4 (e) and (f)) specified in these Guidelines. The laboratory will be surveyed and performance tested only for these methods and drugs. Certification of a laboratory indicates that any test result reported by the laboratory for the Federal Government meets the standards in these Guidelines for the five classes of using the methods specified. Certified laboratories must clearly inform non-Federal clients when procedures followed for those clients conform to the standards specified in these Guidelines.

Section 3.5 Initial and Confirmatory Capability at Same Site.

Certified laboratories shall have the capability, at the same laboratory site, of performing both initial immunoassays and confirmatory GC/MS tests (section 2.4(e) and (f)) for marijuana, cocaine, opiates, amphetamines, and phencyclidine and for any other drug or metabolite for which agency drug testing is authorized (section 2.1(a)(1) and (2)). All positive initial test results shall be confirmed prior to reporting them.

Section 3.6 Personnel.

Laboratory personnel shall meet the requirements specified in section 2.3 of these Guidelines. These Guidelines establish the exclusive standards for qualifying or certifying those laboratory personnel involved in urinalysis testing whose functions are prescribed by these Guidelines. A certification of a laboratory under these Guidelines shall be a determination that these qualification requirements have been met.

Section 3.7 Quality Assurance and Quality Control.

Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process, including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality control procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs as specified in section 2.5 of these Guidelines.

Section 3.8 Security and Chain of Custody.

Laboratories shall meet the security and chain of custody requirements provided in section 2.4(a).

Section 3.9 One-Year Storage for Confirmed Positives.

All confirmed positive specimens shall be retained in accordance with the provisions of section 2.4(h) of these Guideline.

Section 3.10 Documentation.

The Laboratory shall maintain and make available for at least 2 years documentation in accordance with the specifications in section 2.4(m).

Section 3.11 Reports.

The laboratory shall report test results in accordance with the specifications in section 2.4(g).

Section 3.12 Certification.

(a) *General.* The Secretary may certify any laboratory that meets the standards in these Guidelines to conduct urine drug testing. In addition, the Secretary may consider to be certified any laboratory that is certified by a DHHS-recognized certification program in accordance with these Guidelines.

(b) *Criteria.* In determining whether to certify a laboratory or to accept the certification of a DHHS-recognized certification program in accordance with these Guidelines, the Secretary shall consider the following criteria:

(1) The adequacy of the laboratory facilities;

(2) The expertise and experience of the laboratory personnel;

(3) The excellence of the laboratory's quality assurance/quality control program;

(4) The performance of the laboratory on any performance tests;

(5) The laboratory's compliance with standards as reflected in any laboratory inspections; and

(6) Any other factors affecting the reliability and accuracy of drug tests and reporting done by the laboratory.

Section 3.13 Revocation.

(a) *General.* The Secretary shall revoke certification of any laboratory certified under these provisions or accept revocation by a DHHS-recognized certification program in accordance with these Guidelines if the Secretary determines that revocation is necessary to ensure the full reliability and accuracy of drug tests and the accurate reporting of test results.

(b) *Factors to Consider.* The Secretary shall consider the following factors in determining whether revocation is necessary:

(1) Unsatisfactory performance in analyzing and reporting the results of drug tests; for example, a false positive error in reporting the results of an employee's drug test;

(2) Unsatisfactory participation in performance evaluations or laboratory inspections;

(3) A material violation of a certification standard or a contract term or other condition imposed on the laboratory by a Federal agency using the laboratory's services;

(4) Conviction for any criminal offense committed as an incident to operation of the laboratory; or

(5) Any other cause which materially affects the ability of the laboratory to ensure the full reliability and accuracy of drug tests and the accurate reporting of results.

(c) *Period and Terms.* The period and terms of revocation shall be determined by the Secretary and shall depend upon the facts and circumstances of the revocation and the need to ensure accurate and reliable drug testing of Federal employees.

Section 3.14 Suspension.

(a) *Criteria.* Whenever the Secretary has reason to believe that revocation may be required and that immediate action is necessary in order to protect the interests of the United States and its employees, the Secretary may immediately suspend a laboratory's certification to conduct urine drug testing for Federal agencies. The Secretary may also accept suspension of certification by a DHHS-recognized certification program in accordance with these Guidelines.

(b) *Period and Terms.* The period and terms of suspension shall be determined by the Secretary and shall depend upon the facts and circumstances of the suspension and the need to ensure accurate and reliable drug testing of Federal employees.

Section 3.15 Notice; Opportunity for Review.

(a) *Written Notice.* When a laboratory is suspended or the Secretary seeks to revoke certification, the Secretary shall immediately serve the laboratory with written notice of the suspension or proposed revocation by personal service or registered or certified mail, return receipt requested. This notice shall state the following:

(1) The reasons for the suspension or proposed revocation;

(2) The terms of the suspension or proposed revocation; and

(3) The period of suspension or proposed revocation.

(b) *Opportunity for Informal Review.* The written notice shall state that the laboratory will be afforded an opportunity for an informal review of the suspension or proposed revocation if it so requests in writing within 30 days of the date of mailing or service of the notice. The review shall be by a person or persons designated by the Secretary and shall be based on written submissions by the laboratory and the Department of Health and Human Services and, at the Secretary's discretion, may include an opportunity for an oral presentation. Formal rules of evidence and procedures applicable to proceedings in a court of law shall not apply. The decision of the reviewing official shall be final.

(c) *Effective Dote.* A suspension shall be effective immediately. A proposed revocation shall be effective 30 days after written notice is given or, if review is requested, upon the reviewing official's decision to uphold the proposed revocation. If the reviewing official decides not to uphold the suspension or proposed revocation, the suspension shall terminate immediately and any proposed revocation shall not take effect.

(d) *DHHS-Recognized Certification Program.* The Secretary's responsibility under this section may be carried out by a DHHS-recognized certification program in accordance with these Guidelines.

Section 3.16 Recertificotion.

Following the termination or expiration of any suspension or revocation, a laboratory may apply for recertification. Upon the submission of evidence satisfactory to the Secretary that the laboratory is in compliance with these Guidelines or any DHHS-recognized certification program in accordance with these Guidelines, and any other conditions imposed as part of the suspension or revocation, the Secretary may recertify the laboratory or accept the recertification of the laboratory by a DHHS-recognized certification program.

Section 3.17 Performonce Test Requirement for Certificotion

(a) *An Initiol ond Continuing Requirement.* The performance testing program is a part of the initial evaluation of a laboratory seeking certification (both performance testing and laboratory inspection are required) and of the continuing assessment of laboratory performance necessary to maintain this certification.

(b) *Three Initiol Cycles Required.* Successful participation in three cycles of testing shall be required before a laboratory is eligible to be considered for inspection and certification. These initial three cycles (and any required for recertification) can be compressed into a 3-month period (one per month).

(c) *Six Chollenges Per Yeor.* After certification, laboratories shall be challenged every other month with one set of at least 10 specimens—a total of six cycles per year.

(d) *Loborotory Procedures Identicol for Performonce Test ond Routine Employee Specimens.* All procedures associated with the handling and testing of the performance test specimens by the laboratory shall to the greatest extent possible be carried out in a manner identical to that applied to routine laboratory specimens, unless otherwise specified.

(e) *Blind Performonce Test.* Any certified laboratory shall be subject to blind performance testing (see section 2.5(d)). Performance on blind test specimens shall be at the same level as for the open or non-blind performance testing.

(f) *Reporting—Open Performonce Test.* The laboratory shall report results of open performance tests to the certifying organization in the same manner as specified in section 2.4(g)(2) for routine laboratory specimens.

Section 3.18 Performance Test Specimen Composition.

(a) *Description of the Drugs.* Performanca test specimens shall contain those drugs and metabolites which each certified laboratory must be prepared to assay in concentration ranges that allow detection of tha analyte by commonly used immunoassay screening techniques. Thesa levels are generally in the range of concentrations which might ba expected in the urine of recent drug users. For some drug analytes, the specimen composition will consist of the parent drug as well as major metabolites. In some cases, more than one drug class may be included in one specimen container, but generally no more than two drugs will be present in any one specimen in order to imitate the type of specimen which a laboratory normally encounters. For any particular performance testing cycle, the actual composition of kits going to different laboratories will vary but, within any annual period, all laboratories participating will have analyzed the same total set of specimens.

(b) *Concentrations.* Performance test specimens shall be spiked with the drug classes and their metabolites which are required for certification: marijuana, cocaine, opiates, amphetamines, and phencyclidine, with concentration levels set at least 20 percent above the cutoff limit for either the initial assay or the confirmatory test, depending on which is to be evaluated. Some performance test specimens may be identified for GC/MS assay only. Blanks shall contain less than 2 ng/ml of any of the target drugs. These concentration and drug types may be changed periodically in response to factors such as changes in detection technology and patterns of drug use.

Section 3.19 Evoluotion of Performance Testing.

(a) *Initiol Certification.* (1) An applicant laboratory shall not report any false postive result during performance testing for initial certification. Any false positive will automatically disqualify a laboratory from further consideration.

(2) An applicant laboratory shall maintain an overall grade level of 90 percent for the three cycles of performance testing required for initial certification, i.e., it must correctly identify and confirm 90 percent of the total drug challenges for each shipment. Any laboratory which achieves a score on any one cycle of the initial certification such that it can no longer achieve a total grade of 90 percent over the three cycles will be immediately disqualified from further consideration.

(3) An applicant laboratory shall obtain quantitative values for at least 80 percent of the total challenges which are ±20 percent or ±2 standard deviations of the calculated reference group mean (whichever is larger). Failure to achieve 80 percent will result in disqualification.

(4) An applicant laboratory shall not obtain any quantitative values that differ by more than 50 percent from the calculated reference group mean. Any quantitative values that differ by more than 50 percent will result in disqualification.

(5) For any individual drug, an applicant laboratory shall successfully detect and quantitata in accordanca with paragraphs (a)(2), (a)(3), and (a)(4) of this section at least 50 percent of tha total drug challenges. Failure to successfully quantitate at least 50 percent of tha challenges for any individual drug will result in disqualification.

b. *Ongoing Testing of Certified Loboratories. (1) Folse Positives ond Procedures for Deoling with Them.* No false drug identifications are acceptable for any drugs for which a laboratory offers service. Under some circumstances a false positive test may result in suspension or revocation of certification. The most serious false positives are by drug class, such as reporting THC in a blank specimen or reporting cocaine in a specimen known to contain only opiates. Misidentifications within a classs (e.g., codeine for morphine) are also false positives which are unacceptable in an appropriately controlled laboratory, but they are clearly less serious errors than misidentification of a class. The following procedures shall be followed when dealing with a false positve:

(i) The agency detecting a false positive error shall immediately notify the laboratory and the Secretary of any such error.

(ii) The laboratory shall provide the Secretary with a written explanation of the reasons for the error within 5 working days. If required by paragraph (b)(1)(v) below, this explanation shall include the submission of all quality control data from the batch of specimens that included the false positive specimen.

(iii) The Secretary shall review the laboratory's explanation within 5 working days and decide what further action, if any, to take.

(iv) If the error is determined to be an administrative error (clerical, sample mixup, etc.), the Secretary may direct the laboratory to take corrective action to minimize the occurrence of the particular error, in the future and, if there is reason to believe the error could have been systematic, may require the laboratory to review and reanalyze previously run specimens.

(v) If the error is determined to be a technical or methodological error, the laboratory shall submit to the Secretary all quality control data from the batch of specimens which included the false positive specimen. In addition, the laboratory shall retest all specimens analyzed positive by the laboratory from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting shall be documented by a statement signed by the individual responsible for the day-to-day management of the laboratory's urine drug testing. Depending on the type of error which caused the false positive, this retesting may be limited to one analyte or may include any drugs a laboratory certified under these Guidelines must be prepared to assay. The laboratory shall immediately notify the agency if any result on a retest sample must be corrected because the criteria for a positive are not satisfied. The Secretary may suspend or revoke the laboratory's certification for all drugs or for only the drug or drug class in which the error occurred.

However, if the class is one of a less serious error for which effective corrections have already been made, thus reasonably assuring that the error will not occur again, the Secretary may decide to take no further action.

(vi) During the time required to resolve the error, the laboratory shall remain certified but shall have a designation indicating that a false positive result is pending resolution. If the Secretary determines that the laboratory's certification must be suspended or revoked, the laboratory's official status will become "Suspended" or "Revoked" until the suspension or revocation is lifted or any recertification process is complete.

(2) *Requirement to Identify and Confirm 90 Percent of Total Drug Challenges.* In order to remain certified, laboratories must successfully complete six cycles of performance testing per year. Failure of a certified laboratory to maintain a grade of 90 percent on any required peformance test cycle, i.e., to identify 90 percent of the total drug challenges and to correctly confirm 90 percent of the total drug challenges, may result in suspension or revocation of certification.

(3) *Requirement to Quantitate 80 Percent of Total Drug Challenges at ±20 Percent or ±2 standard deviations.* Quantitative values obtained by a certified laboratory for at least 80 percent of the total drug challenges must be ±20 percent or ±2 standard deviations of the calculated reference group mean (whichever is larger).

(4) *Requirement to Quantitate within 50 Percent of Calculated Reference Group Mean.* No quantitative values obtained by a certified laboratory may differ by more than 50 percent from the calculated reference group mean.

(5) *Requirement to Successfully Detect and Quantitate 50 Percent of the Total Drug Challenges for Any Individual Drug.* For any individual drug, a certified laboratory must successfully detect and quantitate in accordance with paragraphs (b)(2), (b)(3), and (b)(4) of this section at least 50 percent of the total drug challenges.

(6) *Procedures When Requirements in Paragraphs (b)(2)—(b)(5) of this Section Are Not Met.* If a certified laboratory fails to maintain a grade of 90 percent per test cycle after initial certification as required by paragraph (b)(2) of this section or if it fails to successfully quantitate results as required by paragraphs (b)(3), and (b)(4), or (b)(5) of this section, the laboratory shall be immediately informed that its performance fell under the 90 percent level or that it failed to successfully quantitate test results and how it failed to successfully quantitate. The laboratory shall be allowed 5 working days in which to provide any explanation for its unsuccessful performance, including administrative error or methodological error, and evidence that the source of the poor performance has been corrected. The Secretary may revoke or suspend the laboratory's certification or take no further action, depending on the seriousness of the errors and whether there is evidence that the source of the poor performance has been corrected and that current performance meets the requirements for a certified laboratory under these Guidelines. The Secretary may require that additional performance tests be carried out to determine whether the source of the poor performance has been removed. If the Secretary determines to suspend or revoke the laboratory's certification, the laboratory's official status will become "Suspended" or "Revoked" until the suspension or revocation is lifted or until any recertification process is complete.

(c) *80 Percent of Participating Laboratories Must Detect Drug.* A laboratory's performance shall be evaluated for all samples for which drugs were spiked at concentrations above the specified performance test level unless the overall response from participating laboratories indicates that less than 80 percent of them were able to detect a drug.

(d) *Participation Required.* Failure to participate in a performance test or to participate satisfactorily may result in suspension or revocation of certification.

Section 3.20 Inspections.

Prior to laboratory certification under these Guidelines and at least twice a year after certification, a team of three qualified inspectors, at least two of whom have been trained as laboratory inspectors, shall conduct an on-site inspection of laboratory premises. Inspections shall document the overall quality of the laboratory setting for the purposes of certification to conduct urine drug testing. Inspection reports may also contain recommendations to the laboratory to correct deficiencies noted during the inspection.

Section 3.21 Results of Inadequate Performance.

Failure of a laboratory to comply with any aspect of these Guidelines may lead to revocation or suspension of certification as provided in sections 3.13 and 3.14 of these guidelines.

Appendix B to Part 40—Urine Custody and Control Form

The urine custody and control form shall meet the requirements of § 40.23. The following is a sample form that meets those requirements:

BILLING CODE 4910-62-M

URINE CUSTODY AND CONTROL FORM

STEP 1 -- TO BE COMPLETED BY EMPLOYEE/APPLICANT

Employee I.D. #_____ [PRE-PRINTED SPECIMEN I.D. #] Employer Name: _____
Social Security No.
or Employee No.

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR Reason for Test (Check One)

☐ Pre-employment ☐ Post Accident ☐ Random ☐ Periodic Medical

☐ Other(Specify)_____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7C/ 90.5 - 99.8 F:_____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER:

Purpose of Change	Released By Signature/Print Name	Received By Signature/Print Name	Date
Provide Specimen for Testing	DONOR		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW. To be completed by person collecting specimen:

Collector's Name_____ Date of Collection_____
Print (First, M.I., Last)

Collection Site_____ (___)_____
Facility Name and Location Telephone

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

_____
Signature of collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

Copy No. 1: Original

URINE CUSTODY AND CONTROL FORM

STEP 1 -- TO BE COMPLETED BY EMPLOYEE/APPLICANT

Employee I.D. #_____ [PRE-PRINTED SPECIMEN I.D. #] Employer Name: _____
Social Security No.
or Employee No.

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR Reason for Test (Check One)

☐ Pre-employment ☐ Post Accident ☐ Random ☐ Periodic Medical

☐ Other(Specify)_____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7C/ 90.5 - 99.8 F:_____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER:

Purpose of Change	Released By Signature/Print Name	Received By Signature/Print Name	Date
Provide Specimen for Testing	DONOR		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW. To be completed by person collecting specimen:

Collector's Name_____ Date of Collection_____
Print (First, M.I., Last)

Collection Site_____ ( )_____
Facility Name and Location Telephone

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

_____
Signature of collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 5 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN:

Name _____ Duty Location _____
Last/First/M.I.

Job Title: _____ Date of Birth _____

If you wish to have prescription or over-the-counter medications that you may have taken or been administered within the past 30 days considered as your test results are reviewed, you may list them here or provide that information separately to your employers Medical Review Officer:

_____

_____

I certify that the urine specimen identified on this form is my own; that it is fresh and has not been adulterated in any manner; and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

Copy No. 2: Medical Review Officer

URINE CUSTODY AND CONTROL FORM

STEP 1 -- TO BE COMPLETED BY EMPLOYEE/APPLICANT

Employee I.D. #_____ [PRE-PRINTED SPECIMEN I.D. #] Employer Name: _____
Social Security No.
or Employee No.

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR Reason for Test (Check One)

☐ Pre-employment ☐ Post Accident ☐ Random ☐ Periodic Medical

☐ Other(Specify)_____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7C/ 90.5 - 99.8 F:_____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER:

Purpose of Change	Released By Signature/Print Name	Received By Signature/Print Name	Date
Provide Specimen for Testing	DONOR		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW. To be completed by person collecting specimen:

Collector's Name_____ Date of Collection_____
Print (First, M.I., Last)

Collection Site_____ ( )_____
Facility Name and Location Telephone

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

_____
Signature of collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 8 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN:

Name _____ Duty Location _____
Last/First/M.I.

Job Title: _____ Date of Birth _____

If you wish to have prescription or over-the-counter medications that you may have taken or been administered within the past 30 days considered as your test results are reviewed, you may list them here or provide that information separately to your employers' Medical Review Officer:

_____

_____

I certify that the urine specimen identified on this form is my own; that it is fresh and has not been adulterated in any manner; and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

Copy No. 3: Employee

URINE CUSTODY AND CONTROL FORM

STEP 1 -- TO BE COMPLETED BY EMPLOYEE/APPLICANT

Employee I.D. #_____ (PRE-PRINTED SPECIMEN I.D. #) Employer Name: _____
Social Security No.
or Employee No.

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR Reason for Test (Check One)

☐ Pre-employment ☐ Post Accident ☐ Random ☐ Periodic Medical

☐ Other(Specify)_____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7C/ 90.5 - 99.8 Ft_____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER:

Purpose of Change	Released By Signature/Print Name	Received By Signature/Print Name	Date
Provide Specimen for Testing	CCNOR		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW. To be completed by person collecting specimen:

Collector's Name_____ Date of Collection_____
Print (First, M.I., Last)

Collection Site_____ ( )_____
Facility Name and Location Telephone

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

_____
Signature of collector

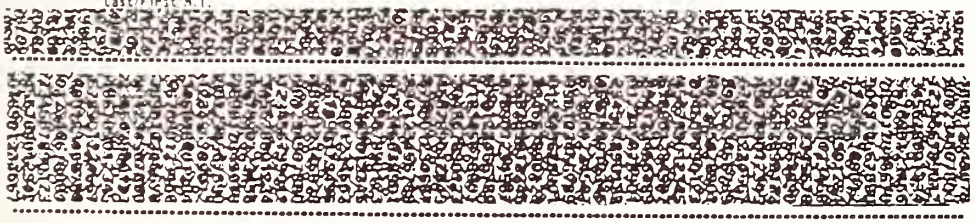
STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 8 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN:

Name _____ Duty Location _____
Last/First/M.I.



I certify that the urine specimen identified on this form is my own; that it is fresh and has not been adulterated in any manner; and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

Copy No. 4: Collector

URINE CUSTODY AND CONTROL FORM

STEP I -- TO BE COMPLETED BY EMPLOYEE/APPLICANT

Employee I.D. #_____ [PRE-PRINTED SPECIMEN I.D. #] Employer Name: _____
Social Security No.
or Employee No.

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR Reason for Test (Check One)

☐ Pre-employment ☐ Post Accident ☐ Random ☐ Periodic Medical

☐ Other(Specify)_____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7C/ 90.5 - 99.8 F:_____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER:

Purpose of Change	Released By Signature/Print Name	Received By Signature/Print Name	Date
Provide Specimen for Testing	DONOR		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW. To be completed by person collecting specimen:

Collector's Name_____ Date of Collection_____
Print (First, M.I., Last)

Collection Site_____ ( )_____
Facility Name and Location Telephone

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

_____
Signature of collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

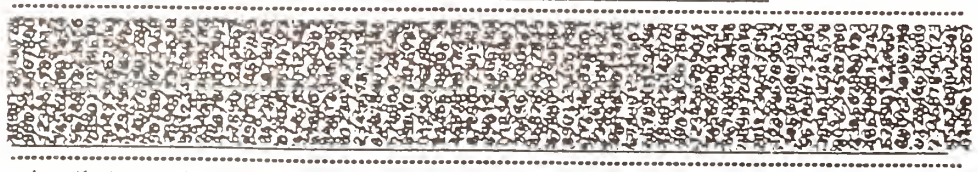
I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 8 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN:

Name _____ Duty Location _____
Last/First/M.I.

Job Title: _____ Date of Birth _____



I certify that the urine specimen identified on this form is my own; that it is fresh and has not been adulterated in any manner; and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

Copy No. 5: Employer

[FR Doc. 88-26611 Filed 11-15-88; 3:48 pm]
BILLING CODE 4910-62-C

APPENDIX C

49 CFR PART 29,
"GOVERNMENTWIDE DEPARTMENT AND SUSPENSION
(NON-PROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR
DRUG-FREE WORKPLACE (GRANTS)."

OFFICE OF MANAGEMENT AND BUDGET

Governmentwide Implementation of the Drug-Free Workplace Act of 1988

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: This Notice provides information, in the form of nonbinding questions and answers, to assist the public in meeting the requirements of the Drug-Free Workplace Act of 1988. The Office of Management and Budget (OMB) has coordinated regulatory development with over 30 Federal agencies to ensure uniform, governmentwide implementation of this Act. As a consequence, OMB is offering this non-regulatory guidance.

Part of the omnibus drug legislation enacted November 18, 1988 is the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D). This statute requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces. Making the required certification is a precondition of receiving a contract or grant from a Federal agency beginning on March 18, 1989.

Regulatory requirements pertaining to contractors are detailed in an interim final rule appearing in today's Federal Register. This rule amends the Federal Acquisition Regulation (FAR) at 48 CFR Subparts 9.4, 23.5 and 52.2. Regulatory requirements pertaining to grantees are detailed in an interim final common rule also appearing in today's Federal Register. The grantee common rule, unlike the contractor FAR rule, includes an extensive common preamble which addresses in detail the application and requirements for grantees. The common rule amends the governmentwide nonprocurement debarment and suspension common rule. Under the Drug-Free Workplace Act, the ultimate consequence of noncompliance with the Act's requirements is debarment or suspension.

FOR FURTHER INFORMATION CONTACT: For grants, contact Barbara F. Kahlow, Financial Management Division, 10225 New Executive Office Building, OMB, Washington, DC 20503 (telephone 202-395-3053). For contracts, contact Donna Fossum, Office of Federal Procurement Policy, 9025 New Executive Office Building, OMB, Washington, DC 20503 (telephone 202-395-3300).

SUPPLEMENTARY INFORMATION: See the common preamble and the common rule for detailed information on requirements for grantees.

1. *Question*—What contracts are covered under the Drug-Free Workplace Act?

Answer—Under the Act, only procurement contracts, including purchase orders, awarded pursuant to the provisions of the Federal Acquisition Regulation (FAR) that are to be performed, in whole or in part, in the United States are subject to the Act. In addition, under the Act, there is a $25,000 threshold for contracts subject to the Act, except for contracts awarded to individuals for whom all contracts are covered.

2. *Question*—Are contracts performed partly inside the U.S. and partly outside the U.S. covered by the Drug-Free Workplace Act?

Answer—Yes. OMB reads the statute to require a contractor to have a Drug-Free Workplace program for those portions of the contract performed inside the United States.

3. *Question*—Are Medicare third-party reimbursements to hospitals covered by the Drug-Free Workplace Act?

Answer—No, because such third party reimbursements are not made via a procurement contract or a grant. However, hospitals that receive procurement contracts or grants must meet the requirements of the Act.

4. *Question*—Are banks and other financial institutions selling U.S. Treasury bonds covered by the Drug-Free Workplace Act?

Answer—No, because such sales are not made via a procurement contract or a grant. However, such institutions that receive procurement contracts or grants must meet the requirements of the Act.

5. *Question*—Under what circumstances will an existing contract become subject to the requirements of the Drug-Free Workplace Act?

Answer—OMB reads the statute to require that if a contract is modified on or after March 18, 1989, in such a manner that it would be considered a new commitment, the requirements of the Drug-Free Workplace Act apply.

6. *Question*—Are contracts awarded with non-appropriated funds subject to the provisions of the Drug-Free Workplace Act?

Answer—No. Only those funds explicitly identified as non-appropriated are excluded from the FAR and, therefore, are not subject to the Drug-Free Workplace Act.

7. *Question*—Are contractors or grantees performing work in Federal facilities required to have Drug-Free Workplace programs?

Answer—Yes.

8. *Question*—Will additional regulations governing suspension and debarment actions be issued as a result of section 5152(b)(2)(B) of the Drug-Free Workplace Act?

Answer—OMB is unaware of any plans to do so.

9. *Question*—How do the provisions of the Drug-Free Workplace Act relate to the provisions contained in section 628 of the Treasury/Postal Service Appropriations Act (Pub. L. 100-440)?

Answer—Section 5159 of the Drug-Free Workplace Act repealed section 628(b) of the Treasury/Postal Service Appropriations Act which, like the Drug-Free Workplace Act, also contained drug-free workplace requirements pertaining to Federal contractors and grantees. Section 628(a) of the Treasury/Postal Service Appropriations Act, which contains drug-free workplace requirements for Federal departments, agencies, and instrumentalities, went into effect January 16, 1989. Several authorization acts contain sections similar to section 628(b). OMB reads the legislative history of these collective acts such that the requirements of those sections may be met by complying with the Drug-Free Workplace Act.

10. *Question*—Do either the Drug-Free Workplace Act or its implementing regulations published today require contractors or grantees to conduct drug tests of employees?

Answer—No.

11. *Question*—What is the status of the September 28, 1988, Department of Defense interim rule detailing drug-free workforce requirements on a select group of contractors?

Answer—The interim rule became effective October 31, 1988, and only pertains to selected Defense contractors and their employees in sensitive positions. Both rules, published in today's Federal Register, implementing the Drug-Free Workplace Act apply governmentwide to Defense *and* other Federal agencies, and cover contractors *and* grantees and their employees in nonsensitive *and* sensitive positions. Only the Defense interim rule requires drug testing.

12. *Question*—Are there any other agency-specific (versus governmentwide) rules with drug-free workplace requirements?

Answer—Not at this time.

Date: January 19, 1989.

Joseph R. Wright, Jr.,

Director.

[FR Doc. 89-2064 Filed 1-30-89; 8:45 am]

BILLING CODE 3110-01-M

Department of Agriculture

7 CFR PART 3017

Department of Energy

10 CFR PART 1036

Federal Home Loan Bank Board

12 CFR PART 516

Small Business Administration

13 CFR PART 145

National Aeronautics and Space Administration

14 CFR PART 1265

Department of Commerce

15 CFR PART 26

Department of State

22 CFR PART 137

International Development Cooperation Agency

Agency for International Development

22 CFR PART 208

Peace Corps

22 CFR PART 310

United States Information Agency

22 CFR PART 513

Inter-American Foundation

22 CFR PART 1006

African Development Foundation

22 CFR PART 1508

Department of Housing and Urban Development

24 CFR PART 24

Department of the Treasury

Internal Revenue Service

26 CFR PART 601

Office of the Secretary

31 CFR PART 19

Department of Justice

28 CFR PART 67

Department of Labor

29 CFR PART 98

Federal Mediation and Conciliation Service

29 CFR PART 1471

Department of Defense

32 CFR PART 280

Department of Education

34 CFR PART 85

National Archives and Records Administration

36 CFR PART 1209

Veterans Administration

38 CFR PART 44

Environmental Protection Agency

40 CFR PART 32

General Services Administration

41 CFR PARTS 101-50 AND 105-68

Department of the Interior

43 CFR PART 12

Federal Emergency Management Agency

44 CFR PART 17

Department of Health and Human Services

45 CFR PART 76

National Science Foundation

45 CFR PART 620

National Foundation on the Arts and the Humanities

National Endowment for the Arts

45 CFR PART 1154

National Endowment for the Humanities

45 CFR PART 1169

Institute of Museum Services

45 CFR PART 1185

ACTION

45 CFR PART 1229

Commission on the Bicentennial of the United States Constitution

45 CFR PART 2016

Department of Transportation

49 CFR PART 29

Governmentwide Requirements for Drug-Free Workplace (Grants)

AGENCIES: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, ACTION, African Development Foundation, Agency for International Development, Commission on the Bicentennial of the United States Constitution, Environmental Protection Agency, Federal Emergency Management Agency, Federal Home Loan Bank Board, Federal Mediation and Conciliation Service, General Services Administration, Institute of Museum Services, Inter-American Foundation, National Aeronautics and Space Administration, National Archives and Records Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Peace Corps, Small Business Administration, United States Information Agency, Veterans Administration.

ACTION: Interim final rule; request for comments.

SUMMARY: Congress recently enacted the Drug-Free Workplace Act of 1988. This statute requires that all grantees receiving grants from any Federal agency certify to that agency that they will maintain a drug-free workplace, or, in the case of a grantee who is an individual, certify to the agency that his or her conduct of grant activity will be drug-free. This governmentwide rule is for the purpose of implementing the statutory requirements. It directs that grantees take steps to provide a drug-free workplace in accordance with the Act.

DATES: This rule is effective March 18, 1989. Comments should be received by April 3, 1989. Late-filed comments will be considered to the extent practicable.

ADDRESS: Comments should be sent to Docket Clerk, Docket No. 46084, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590. Commenters are requested to provide an original and four copies of their comments. Commenters wishing to have their comments acknowledged should enclose a stamped, self-addressed postcard with their comment. The docket clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: See agency-specific preambles for the contact person for each agency.

SUPPLEMENTARY INFORMATION: As part of the omnibus drug legislation enacted

November 18, 1988, Congress passed the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D). This statute requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces. Making the required certification is a precondition for receiving a contract or grant from a Federal agency.

Requirements pertaining to contractors will be found in a separate interim final rule amending the Federal Acquisition Regulation (FAR; 48 CFR Subparts 9.4, 23.5, and 52.2). This governmentwide common rulemaking concerns only grants (including cooperative agreements). This common rule will be the sole authority for implementing the Act, i.e., there will be no separate agency guidance issued. Because the statute makes use of existing suspension and debarment remedies for noncompliance with drug-free workplace requirements, the agencies have determined to implement the statute through an amendment to the existing governmentwide nonprocurement suspension and debarment common rule. Using this vehicle will allow the agencies to take advantage of existing administrative procedures and definitions, minimizing regulatory duplication.

In a matter unrelated to the Drug-Free Workplace Act, the May 26, 1988, common rule on nonprocurement suspension and debarment (53 FR 19161) contained interim final language concerning coverage of international transactions. The comment period on this language ended July 25, 1988. There were no comments. As a result, the international transactions language will remain unchanged.

Section-by-Section Analysis

The core of the drug-free workplace rule is a new Subpart F, which will be added to the current nonprocurement suspension and debarment common rule. Conforming changes are being made to other affected portions of the nonprocurement suspension and debarment common rule. The title of the part, as well as the authority citations, are being modified to refer to the drug-free workplace requirements being added to the regulation. Section ____.305, which concerns grounds for debarment, is being amended to add violation of drug-free workplace requirements as a ground for debarment.

Section ____.320, concerning the period of debarment, is being amended to conform with the longer period for debarment authorized by the statute for a violation of drug-free workplace requirements. Generally, debarments for other than a violation of the drug-free workplace requirements do not exceed three years. In view of the seriousness with which Congress takes drug abuse, Congress authorized debarments of up to five years for a violation of drug-free workplace requirements.

Subpart F is intended to carry out the Drug-Free Workplace Act of 1988, as it applies to Federal grant programs. Section ____.600, "Purpose," states this intent, indicating the requirement for both individuals and other grantees to make the certification required by the statute.

Section ____.605 includes several definitions. Since Subpart F is part of the suspension and debarment regulation, the definitions of the overall regulation (from § ____.105) apply to Subpart F, except where amended in this section.

The definitions of "controlled substance," "conviction," "criminal drug statute" and "employee" are taken verbatim from the statute. The definition of "drug-free workplace" is also taken directly from the statute, with the word "grantee" used in place of the undefined statutory "entity" in order to ensure terminological consistency throughout the regulation. The term "site for the performance of work" within this definition is not further defined. It is intended that the grantee will determine what the "site for the performance of work" is and specify such in the grantee's certification.

The definition of "grant" is adapted from the definition of this term in the grants management governmentwide common rule ("Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"). Four points should be highlighted. First, for the purpose of the Drug-Free Workplace Act, grants include block grants and entitlement grant programs, whether or not exempted from coverage under the grants management common rule. Second, nonprocurement transactions entered into under Pub. L. 93–638, the "Indian Self-Determination and Education Assistance Act," are included under the subpart's requirements. Third, the term grant includes *only* assistance from an agency *directly* to a grantee. That is, if a Federal agency provides financial assistance to a State agency, which in turn passes through the assistance to several local agencies, only the State agency that receives the assistance directly from the Federal agency, and not the local agency, gets a "grant."

Consequently, it is only the State agency that is required to make a drug-free workplace certification under the regulation.

Fourth, section 5301 of Subtitle G, Title V of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690) specifies that "Federal benefits" may (or shall) be withheld, in certain circumstances, from convicted drug offenders. The term "Federal benefit," however, is defined by section 5301(d) to exclude "any * * * veterans benefits," a term which is defined, in turn, to include "all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States." Consequently, it is clear that, under Public Law 100–690, Federal agencies may not deny veterans' benefits to individuals on the basis of actual drug convictions.

Consistent with the intent of section 5301, the agencies have determined that veterans' benefits may not be denied to individuals on the basis of drug abuse which does not result in a conviction for violating a criminal drug statute or on the basis of the individual's failure to certify that he or she will refrain from drug abuse. Consequently, the definition of the term grant specifically excludes "any veterans' benefits to individuals—i.e., any benefit provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States."

"Grantee" is defined as a person who applies for or receives a grant directly from a Federal agency. This definition clarifies the statutory definition of this term, which refers to "the department, division, or other unit of a person responsible for section. "Individual" is defined in this section, however, to mean "a natural person." This wording emphasizes that an individual differs both from an organization made up of more than one individual and from corporations, which can be regarded as a single "person" for some legal purposes. An individual who receives a grant directly from a Federal agency (e.g., the individual gets a Federal agency award and grant check made out in his or her name) is covered by this rule, and must make the certification provided for grantees who are individuals, even if another party (e.g., a university) has a purely administrative role in distributing the funds. The agencies intend that a "principal investigator" in a research or similar grant be viewed as an individual only if the grant is awarded directly to the investigator (as distinct from being awarded to a university or other organization).

The § ____.105 definition of "person," it should be pointed out, includes

individuals. Since a "grantee" is a "person" who applies for or receives a grant, a grantee may be either an individual or an organization. When context requires, as in distinguishing between the certifications that individuals and organizations must submit, phrases like "grantees, other than individuals" and "grantees who are individuals" are used.

The definition of "Federal agency" or "agency" is taken from 5 U.S.C. 552(f) and is intended to cover a broad range of government entities. In various places in the regulation, "the agency" is used in the context of a particular grantor agency (e.g., § ____.630(a); "each grantee shall make the appropriate performance under the grant." The agencies view the regulatory definition as avoiding confusion among the terms "grantee," "person" and "individual" that might otherwise occur.

At the same time, the use of "grantee" in this regulation is intended to be consistent with the statutory sense of the term. For example, in determining the level of organization at which a sanction should be imposed in case of a violation of the requirements of this subpart, the agencies intend, where appropriate, to focus on the "department, division, or other unit" of the grantee responsible for performance under the grant. For example, if several different organizational units of a State agency receive grants from a Federal agency, and one of the State organizational units violates a requirement of the regulation, sanctions could be imposed on that organizational unit, not on the entire State agency. On the other hand, where it is appropriate, in the context of a particular Federal grant program, to view the entire grantee organization as responsible for the implementation of drug-free workplace requirements under this rule, the entire grantee organization could be subject to sanctions.

As in the definition of "grant," the use of the word "directly" emphasizes that it is only a "prime grantee," and not "subgrantees," who are covered by requirements under this subpart. This is true even when the prime grantee is only an office that passes Federal funds through to subgrantees who actually do the work of the program.

Words like "State" and "person" are already defined in § ____.105, so definitions of these terms are not repeated in this certification to the agency"). In such contexts, the term is not intended to mean Federal agencies in general.

Section § ____.610 applies the provisions of the subpart to any grantee of an agency. The remainder of the suspension and debarment rule applies to suspensions and debarments under subpart F. In the event of any conflict or inconsistency, subpart F provisions are deemed to control with respect to drug-free workplace matters.

Section ____.615 lists the grounds for which sanctions can be imposed. The imposition of sanctions requires a written determination of violation from the "agency head" or designee.

The first ground for which a grantee can be sanctioned is for making a false certification. The second ground is to violate the certification by failing to comply with the requirements of the certification (e.g., an organization that never publishes a drug-free workplace statement).

The third ground for sanctions is that "such a number of employees of the grantee" have been convicted of criminal drug violations occurring in the workplace "as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace." This is a standard that must be applied by agencies on a case-by-case basis. The facts and circumstances of grantees and employee drug problems vary so much that it would be virtually impossible to prescribe an across-the-board standard for how many convictions it would take before an agency would find a grantee in violation. It is clear, however, that criminal drug violations by employees not occurring in the workplace would not trigger this determination. Likewise, evidence of drug abuse by employees in the workplace that does not result in criminal convictions would not trigger this determination.

Section ____.620 provides three kinds of sanctions for grantees who are found in violation under § ____.615. The first is suspension (i.e., withholding) of payments under the grant. The second is suspension or termination of the grant itself. The third is suspension or debarment of the grantee. The decision of which sanction or sanctions to apply in a particular case is left to the discretion of the Federal grantor agency. As with other debarments, the debarred grantee is ineligible for any grant award from any Federal agency during the term of the debarment, which may be up to five years in the case of a debarment for a violation of this subpart.

Section ____.625 allows the agency head—but no other official in the agency—to waive a sanction imposed under § ____.620 if the agency head finds the sanction to be not in the public interest. The determination of the "public interest" ground for the waiver is within the discretion of the agency head. The waiver must be in writing.

Section ____.630 establishes what grantees must do in order to receive grants, in light of drug-free workplace requirements. Each grantee shall make the appropriate certification (as set forth in Appendix C) as a "prior condition" of being awarded a grant. This means that the agencies may not award the grant unless the certification has been made. Normally, the agencies would make the certification part of the grant application or proposal process, so that each grantee would make the certification in the process of seeking to obtain the funds.

The agencies are aware that, in some grant programs, there are no formal applications or proposals for funding in which a certification could be included (e.g., formula grant programs in which grantees are entitled to receive Federal funds). Also, as this regulation goes into effect, applications will already have been submitted for some grant programs, and only the actual award has to take place before the grant becomes effective. In both cases, grantees are required to make their certifications before the actual award of a grant can take place.

A grantee is required to make the required certification for each grant. The one exception to this rule is for a grantee which is a State (as defined in § ____.105), including a State agency. A State may elect to make a single annual certification to each agency from which it obtains grants, rather than making a separate certification for each grant or each workplace. Only one such annual certification need be made to each Federal grantor agency, which would cover all of that State agency's workplaces. Consequently, if a State agency receives grants under a number of different programs from the same Federal agency, only one certification, rather than multiple, annual certifications, has to be made to that Federal agency.

Grantees are not required to make certifications in order to continue receiving payments under existing grants. That is, if a grant has been approved and awarded before the effective date of this regulation, the grantee does not have to take any action under this regulation in order to continue receiving payments under the grant. On the same rationale, grantees would not be required to make a certification before a no-cost time extension of an existing grant. The requirements of this rule operate only prospectively.

The text of the certification required to be submitted by § ____.630 is found in Appendix C. There are two different

versions of the Appendix C certification. One of them is for grantees other than individuals; the other is for individuals. Grantees must choose the appropriate certification and make it as provided in § ___.630.

The Appendix C certification for grantees other than individuals (Alternate I) incorporates the statutory requirements for a drug-free workplace program. These requirements are largely self-explanatory. Grantee's costs incurred specifically to comply with the requirements of subpart F are regarded as allowable costs under the grant. The agencies point out that, under subparagraph (f)(2), employers are not required by the common rule to provide or pay for rehabilitation programs.

The applicable Appendix C certification for grantees who are individuals (Alternate II) provides that the individual will not engage in prohibited practices with respect to drugs in conducting any activity with the grant. Again, this certification simply incorporates the statutory requirement for individual grantees.

Regulatory Process Matters

This rule is a non-major rule under Executive Order 12291. The agencies have evaluated the rule under Executive Order 12612, pertaining to Federalism. The statute requires drug-free workplace certifications to be made by all grantees, including State agencies. The rule does reduce burdens on State grantees by allowing State agencies to elect an annual certification to each Federal grantor agency in lieu of a certification for every grant. For these reasons, the agencies have determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

As a statutory matter, this rule must apply to all grantees, regardless of size. (The statute does provide a shorter, less burdensome certification to be made by grantees who are individuals, however.) Costs incurred by grantees for drug-free workplace programs are directly mandated by statute; the agencies have minimal regulatory discretion in designing this regulation.

This rule contains information collection requirements subject to the Paperwork Reduction Act. The information collection requirements concern employees reporting drug offense convictions to grantees, grantees reporting these convictions to the agencies, and grantees listing the location(s) of their workplace(s) as part of the certification. These requirements have been reviewed and approved by the Office of Management and Budget, with OMB Control Number 0991–0002.

The agencies find that publishing a notice of proposed rulemaking on this matter would be impracticable, unnecessary, and contrary to the public interest, since it would prevent compliance with the statutory deadline (90 days from the statute's date of enactment) for issuance of final rules. This finding is also based on the agencies' view that, given the urgency of implementing appropriate means to combat the nation's serious drug problem, the additional time involved with the publication of a notice of proposed rulemaking would adversely affect the achievement of the national objective established by Congress.

In addition, this rulemaking pertains only to agency grants. For this reason, under 5 U.S.C. 553(a)(2), the rulemaking is exempt from the requirement for prior notice and comment (except for those agencies that do not assert this exemption).

Consequently, this rule is published as an interim final rule. As an interim final rule, this regulation is fully in effect and binding after its effective date. No further regulatory action by the agencies is essential to the legal effectiveness of the rule. In order to benefit from comments that interested parties and the public may make, however, the agencies will keep the rulemaking docket open for 60 days. Comments are invited, on all portions of the rulemaking, through April 3, 1989. Following the close of the comment period, the agencies will publish a notice responding to the comments and, if appropriate, amending provisions of this rule.

Text of the Common Rule

The text of the common rule, as adopted by the agencies in this document, appears below.

PART ___—GOVERNMENTWIDE DEPARTMENT AND SUSPENSION (NON-PROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

§ ___.305 Causes for debarment.

* * * * *

(c) * * *

(5) Violation of any requirement of Subpart F of this part, relating to providing a drug-free workplace, as set forth in § ___.615 of this part.

* * * * *

§ ___.320 Period of debarment.

(a) Debarment shall be for a period commensurate with the seriousness of the cause(s). If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(1) Debarment for causes other than those related to a violation of the requirements of Subpart F of this part generally should not exceed three years. Where circumstances warrant, a longer period of debarment may be imposed.

(2) In the case of a debarment for a violation of the requirements of Subpart F of this part (*see* ___.305(c)(5)), the period of debarment shall not exceed five years.

* * * * *

Subpart F—Drug-Free Workplace Requirements (Grants)

Subpart F—Drug-Free Workplace Requirements (Grants)

§ ___.600 Purpose.

(a) The purpose of this subpart is to carry out the Drug-Free Workplace Act of 1988 by requiring that—

(1) A grantee, other than an individual, shall certify to the agency that it will provide a drug-free workplace;

(2) A grantee who is an individual shall certify to the agency that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

(b) Requirements implementing the Drug-Free Workplace Act of 1988 for contractors with the agency are found at 48 CFR Subparts 9.4, 23.5, and 52.2.

§ ___.605 Definitions.

(a) Except as amended in this section, the definitions of § ___.105 apply to this subpart.

(b) For purposes of this subpart—

(1) "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1300.11 through 1300.15.

(2) "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine

violations of the Federal or State criminal drug statutes;

(3) "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance;

(4) "Drug-free workplace" means a site for the performance of work done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance;

(5) "Employee" means the employee of a grantee directly engaged in the performance of work pursuant to the provisions of the grant;

(6) "Federal agency" or "agency" means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency;

(7) "Grant" means an award of financial assistance, including a cooperative agreement, in the form of money, or property in lieu of money, by a Federal agency directly to a grantee. The term grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management governmentwide regulation ("Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"). The term does not include technical assistance which provides services instead of money, or other assistance in the form of loans, loan guarantees, interest subsidies, insurance, or direct appropriations; or any veterans' benefits to individuals, i.e., any benefit to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States;

(8) "Grantee" means a person who applies for or receives a grant directly from a Federal agency;

(9) "Individual" means a natural person.

§ ____.610 Coverage.

(a) This subpart applies to any grantee of the agency.

(b) This subpart applies to any grant, except where application of this subpart would be inconsistent with the international obligations of the United States or the laws or regulations of a foreign government.

(c) The provisions of Subparts A, B, C, D and E of this part apply to matters covered by this subpart, except where specifically modified by this subpart. In the event of any conflict between provisions of this subpart and other provisions of this part, the provisions of this subpart are deemed to control with respect to the implementation of drug-free workplace requirements concerning grants.

§ ____.615 Grounds for suspension of payments, suspension or termination of grants, or suspension or debarment.

A grantee shall be deemed in violation of the requirements of this subpart if the agency head or his or her official designee determines, in writing, that—

(a) The grantee has made a false certificaiton under § ____.630;

(b) The grantee has violated the certification by failing to carry out the requirements of subparagraphs (A.)(a)-(g) of the certification for grantees other than individuals (Alternate I to Appendix C) or by failing to carry out the requirements of the certification for grantees who are individuals (Alternate II to Appendix C); or

(c) Such a number of employees of the grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace.

§ ____.620 Effect of violation.

(a) In the event of a violation of this subpart as provided in § ____.615, and in accordance with applicable law, the grantee shall be subject to one or more of the following actions:

(1) Suspension of payments under the grant;

(2) Suspension or termination of the grant; and

(3) Suspension or debarment of the grantee under the provisions of this part.

(b) Upon issuance of any final decision under this part requiring debarment of a grantee, the debarred grantee shall be ineligible for award of any grant from any Federal agency for a period specified in the decision, not to exceed five years (*see* § ____.320(a)(2) of this part).

§ ____.625 Exception provision.

The agency head may waive with respect to a particular grant, in writing, a suspension of payments under a grant, suspension or termination of a grant, or suspension or debarment of a grantee if the agency head determines that such a waiver would be in the public interest. This exception authority cannot be delegated to any other official.

§ ____.630 Grantees' responsibilities.

(a) As a prior condition of being awarded a grant, each grantee shall make the appropriate certification to the agency, as provided in Appendix C to this part.

(b) Except as provided in this paragraph, a grantee shall make the required certification for each grant. A grantee that is a State may elect to submit an annual certification to each Federal agency from which it obtains grants in lieu of certifications for each grant during the year covered by the certification.

(c) Grantees are not required to provide a certification in order to continue receiving funds under a grant awarded before the effective date of this subpart or under a no-cost time extension of any grant.

Appendix C to Part ____—Certification Regarding Drug-Free Workplace Requirements

Instructions for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

Certification Regarding Drug-Free Workplace Requirements

Alternate I

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance

of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Alternate II

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

Adoption of Common Rule

The text of the common rule, as adopted by the agencies in this document, appears below.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3017

FOR FURTHER INFORMATION CONTACT: Julius Jimeno, Chief, Resources Management and Analysis Division, Office of Finance and Management, (202) 382–8989.

ADDITIONAL SUPPLEMENTARY INFORMATION: Any State agency electing to submit an annual drug-free workplace certification to the U.S. Department of Agriculture (USDA), as specified in § 3017.630(b), should forward its certification to: U.S. Department of Agriculture, Office of Finance and Management, Federal Assistance Team, Room 1361, South Building, Washington, DC 20250–9020.

List of Subjects in 7 CFR Part 3017

Grant programs (Agriculture), Debarment and suspension (nonprocurement), Drug abuse.

Title 7 of the Code of Federal Regulations is amended as set forth below.

January 19, 1989.

Peter C. Myers,

Deputy Secretary.

PART 3017—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The title of Part 3017 is revised to read as set forth above.

2. The authority citation for Part 3017 is revised to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 5 U.S.C. 301.

§ 3017.305 [Amended]

3. Section 3017.305 is amended by removing "or" at the end of paragraph (c)(3); by removing the period at the end of paragraph (c)(4) and adding "; or"; and by adding paragraph (c)(5) to read as set forth at the end of the common preamble.

§ 3017.320 [Amended]

4. Section 3017.320(a) is revised to read as set forth at the end of the common preamble.

5. Subpart F and Appendix C are added to Part 3017 to read as set forth at the end of the common preamble.

Subpart F—Drug-Free Workplace Requirements (Grants)

Sec.

DEPARTMENT OF ENERGY

10 CFR Part 1036

FOR FURTHER INFORMATION CONTACT: Edward F. Sharp, (202) 586–8192.

ADDITIONAL SUPPLEMENTARY INFORMATION: In the Department of Energy's (DOE) implementation of the Nonprocurement Debarment and Suspension common rule, a Subpart F was included providing for additional DOE procedures not included in the common rule. Because the common rule for the Drug-Free Workplace Act makes changes to the nonprocurement debarment and suspension common rule by adding a Subpart F, DOE is amending its version of the common rule to designate old Subpart F as Subpart G and to incorporate the new Subpart F.

DOE joins in the determination by the agencies in the preamble to the common rule that publication of a notice of proposed rulemaking would be impracticable and contrary to the public interest. In addition, pursuant to 42 U.S.C. 7191(c), DOE hereby concludes that an opportunity for oral presentation of comments is not necessary because there are neither substantial issues of law or fact nor likely substantial impacts on the nation's economy or on large numbers of individuals or businesses of which DOE independently could take account consistent with the Drug-Free Workplace Act of 1988.

List of Subjects in 10 CFR Part 1036

Debarment and suspension (nonprocurement), Drug abuse, Grant programs, Copyrights.

Title 10 of the Code of Federal Regulations is amended as set forth below.

Berton J. Roth,

Deputy Assistant Secretary for Procurement and Assistance Management.

PART 1036—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The title of Part 1036 is revised as set forth above.

2. The authority citation for Part 1036 is revised to read as follow:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); Secs. 644 and 648, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7258); Pub. L. 97–258, 98 Stat. 1003–1005 (31 U.S.C.) 6301–6308.

§ 1036.305 [Amended]

3. Section 1036.305 is amended by removing "or" at the end of paragraph (c)(3); by removing the period at the end of paragraph (c)(4) and adding "; or"; and by adding paragraph (c)(5) to read

and by adding paragraph (c)(5) to read as set forth at the end of the common preamble.

§ 2016.320 [Amended]

4. Section 2016.320 (a) is revised to read as set forth at the end of the common preamble.

5. Subpart F and Appendix C are added to Part 2016 to read as set forth at the end of the common preamble.

Subpart F—Drug-Free Workplace Requirements (Grants)

Sec.

DEPARTMENT OF TRANSPORTATION

49 CFR Part 29

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, (202) 366–9306.

List of Subjects in 49 CFR Part 29

Debarment and suspension (nonprocurement), Drug abuse, Grant programs.

Title 49 of the Code of Federal Regulations is amended as set forth below.

Jim Burnley,
Secretary.

Part 29—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The title of Part 29 is revised to read as set forth above.

2. The authority citation for Part 29 is revised to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq); 49 CFR Part 322.

§ 29.305 [Amended]

3. Section 29.305 is amended by removing "or" at the end of paragraph (c)(3); by removing the period at the end of paragraph (c)(4) and adding "; or"; and by adding paragraph (c)(5) to read as set forth at the end of the common preamble.

§ 29.320 [Amended]

4. Section 29.320 (a) is revised to read as set forth at the end of the common preamble.

5. Subpart F and Appendix C are added to Part 29 to read as set forth at the end of the common preamble.

Subpart F—Drug-Free Workplace Requirements (Grants)

Sec.

[FR Doc. 89–2065 Filed 1–30–89; 8:45 am]

BILLING CODES 3410–90–M; 6450–01–M; 6720–01–M; 6025–01–M; 7510–01–M; 3510–FE–M; 4710–24–M; 6116–01–M; 6051–01–M; 8230–01–M; 7025–01–M; 3117–01–M; 4210–32–M; 4810–25–M; 4410–13–M; 4510–23–M; 6372–01–M; 3801–01–M; 4000–01–M; 7515–01–M; 6320–01–M; 6560–50–M; 6820–61–M; 4310–RF–M; 6718–01–M; 4150–04–M; 7555–01–M; 7537–01–M; 7536–01–M; 7536–01–M; 4050–28–M; 6040–01–M; 4910–62–M.

Corrections

Federal Register
Vol. 54, No. 26
Thursday, February 9, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

Governmentwide Requirements for Drug-Free Workplace (Grants)

Correction

In rule document 89-2065 beginning on page 4947 in the issue of Tuesday, January 31, 1989, make the following corrections:

1. On page 4948, in the third column, beginning with the third complete paragraph, and on page 4949, in the first column, through the fourth complete paragraph, text was printed out of order. The text should have read as follows:

"Grantee" is defined as a person who applies for or receives a grant directly from a Federal agency. This definition clarifies the statutory definition of this term, which refers to "the department, division, or other unit of a person responsible for the performance under the grant." The agencies view the regulatory definition as avoiding confusion among the terms "grantee," "person" and "individual" that might otherwise occur.

At the same time, the use of "grantee" in this regulation is intended to be consistent with the statutory sense of the term. For example, in determining the level of organization at which a sanction should be imposed in case of a violation of the requirements of this subpart, the agencies intend, where appropriate, to focus on the "department, division, or other unit" of the grantee responsible for performance under the grant. For example, if several different organizational units of a State agency receive grants from a Federal agency, and one of the State organizational units violates a

requirement of the regulation, sanctions could be imposed on that organizational unit, not on the entire State agency. On the other hand, where it is appropriate, in the context of a particular Federal grant program, to view the entire grantee organization as responsible for the implementation of drug-free workplace requirements under this rule, the entire grantee organization could be subject to sanctions.

As in the definition of "grant," the use of the word "directly" emphasizes that it is only a "prime grantee," and not "subgrantees," who are covered by requirements under this subpart. This is true even when the prime grantee is only an office that passes Federal funds through to subgrantees who actually do the work of the program.

Words like "State" and "person" are already defined in § ____.105, so definitions of these terms are not repeated in this section. "Individual" is defined in this section, however, to mean "a natural person." This wording emphasizes that an individual differs both from an organization made up of more than one individual and from corporations, which can be regarded as a single "person" for some legal purposes. An individual who receives a grant directly from a Federal agency (e.g., the individual gets a Federal agency award and grant check made out in his or her name) is covered by this rule, and must make the certification provided for grantees who are individuals, even if another party (e.g., a university) has a purely administrative role in distributing the funds. The agencies intend that a "principal investigator" in a research or similar grant be viewed as an individual only if the grant is awarded directly to the investigator (as distinct from being awarded to a university or other organization).

The § ____.105 definition of "person," it should be pointed out, includes individuals. Since a "grantee" is a "person" who applies for or receives a grant, a grantee may be either an individual or an organization. When context requires, as in distinguishing between the certifications that individuals and organizations must submit, phrases like "grantees, other than individuals" and "grantees who are individuals" are used.

The definition of "Federal agency" or "agency" is taken from 5 U.S.C. 552(f) and is intended to cover a broad range of government entities. In various places in the regulation, "the agency" is used in the context of a particular grantor agency (e.g., § ____.630(a): "each grantee shall make the appropriate certification to the agency"). In such contexts, the term is not intended to mean Federal agencies in general.

2. On page 4957, in the second column, in the heading for Part 24, remove "(NONPROCUREMENT)".

BILLING CODE 1505-01-D

APPENDIX D

POLICY IMPLEMENTATION CHECKLIST

(Note: Those items identified by an asterisk [*] are required by regulation.)

1.* Do you have a clear written policy, adopted by your governing body, that describes the key features of your program and states that all employees in sensitive safety positions are subject to drug testing and are prohibited from performing sensitive safety duties with prohibited drugs in their systems?

2.* Does your policy state that any employee who performs sensitive safety duties and who refuses a drug test or does not pass a drug test may not resume those duties until he or she passes a return to duty drug test?

3.* Have you provided employee education and training that includes (1) display and distribution of informational material, a community service hot-line for employee assistance, and your anti-drug policy; (2) information on the effects and consequences of drug use on personal health, safety, and the work environment; and (3) training on the behavioral cues and manifestations of drug use and abuse?

4. Has your policy been disseminated in writing to all affected employees and to appropriate union and contract service representatives?

5.* Have you conducted at least 60 minutes of additional training for supervisory employees on the physical, behavioral, and performance indicators of probable drug use for purposes of making reasonable cause testing decisions?

6. Have supervisors received adequate training to recognize, document, and act on objective indicators of drug abuse? Do they understand their roles and responsibilities within the program with respect to privacy, confidentiality, and referral for testing? Do they know how to use available EAP resources?

7.* Have you established a secure specimen collection site that is staffed by trained personnel?

8. Is there a clear and concise written protocol for specimen collection available at the collection site?

9.* Do you have a program which includes testing for the following five prohibited substances: (1) marijuana, (2) cocaine, (3) opiates, (4) phencyclidine, and (5) amphetamines?

10.* Does your program include testing in the following five categories: (1) pre-employment, (2) reasonable cause, (3) post-accident, (4) random, and (5) return to duty?

11.* Have you established a contract to perform drug testing with a DHHS certified laboratory which meets the requirements of 49 CFR Part 40 for conducting required drug tests?

12.* Have you selected a qualified MRO who is knowledgeable of his/her role in reviewing and reporting drug testing results in accordance with DOT and UMTA regulations?

13.* Have you made provisions for the collection, retention, and reporting of drug testing program information?

14.* Do your procedures, and those of your MRO, require retention of records for one or five years for reports of individuals who passed or did not pass a drug test, respectively?

15.* Do you have procedures in place to prevent the unauthorized release of information related to your drug testing program?

16.* Have you provided UMTA with written certification of compliance with the anti-drug program requirements of 49 CFR Part 653?

17.* If required, have you requested from UMTA a temporary waiver of any requirement of 49 CFR Part 653 as a result of conflict with your State or local laws?

18.* Have you notified any contract service provider that has employees who perform sensitive safety functions for your transit operation of the requirement to establish an anti-drug program in accordance with 49 CFR Part 653?

19.* Have you made provisions to collect and report to UMTA the 13 items of information required to be submitted in semi-annual reports?

20. Have you established an internal or contract EAP which can assist employees (and their family members) in dealing with substance abuse?

21. Are appropriate resources available for treatment of drug affected employees and are financial arrangements in place (for the employer and/or employee) to pay for these services?

22. Have you established a procedure for negotiating return to work agreements for those employees who have been identified as having substance abuse problems?

23. Is there an established mechanism for evaluating the effectiveness of your anti-drug program and implementing corrective actions or enhancements as necessary?

APPENDIX E

DRUGS AND THEIR EFFECTS

An important part of making your anti-drug program a success is assuring that your employees and supervisors understand and can recognize the effects of drugs, both on the individual and the workplace. This appendix provides specific summaries which describe drugs of abuse, the signs and symptoms of use, and the health and workplace issues that they pose. Individual fact sheets are provided for

Marijuana	Amphetamines	Depressants
Cocaine	Opiates (Narcotics)	Alcohol
	Phencyclidine (PCP)	

This introductory section summarizes the data from the individual fact sheets for use as a quick reference on the signs and symptoms of drug and alcohol abuse and the effects of abuse on the workplace.

Substance Abuse Issues

- Drug and alcohol abuse
- Use and misuse of prescription and over-the-counter medication
- Drug trafficking and dealing
- Emotional distress and illness
- Physical illness and chronic health conditions
- Lifestyle issues (lack of sleep, poor diet, lack of exercise, etc.)

Recognition of drug or alcohol abuse requires being alert for any performance that is unsafe or unproductive. The ability to recognize the obvious signs and symptoms of use (e.g., obvious intoxication or impairment) is not sufficient to deal with the more subtle manifestations of substance abuse. Unfortunately, the problem is usually out of control by the time overt signs and symptoms appear.

Most drug and alcohol related employee problems should not be surprises. A deterioration in work performance and attitude will usually precede a drug or alcohol related crisis.

Signs and Symptoms of Abuse

The first indicators of drug use within the workforce may not point directly to specific employees or to substance abuse. Drug use generally results in performance indicators which are similar to those attributable to job stress, overwork, fatigue, or emotional problems. To make recognition even more difficult, drug and alcohol-abusing employees develop survival skills for avoiding detection. Therefore, you should be aware of the following general indicators of substance abuse:

Absenteeism. Tardiness or excessive use of sick time may be seen. Drug and alcohol affected employees are absent an average of two to three times more than the normal employee.

Staff turnover. Chemically dependent people have disorganized lives. Many quit rather than face detection. Others transfer or are fired for poor and unsafe performance.

Lower productivity. Studies have shown drug and alcohol affected employees perform at about two-thirds of their actual work potential.

Equipment breakdown. Substance-abusing employees lose interest in maintenance of equipment and may use broken equipment as a means to avoid work.

Poor work quality. Examples of shoddy work, rework, and material wastage may be evident. Mental and physical agility and concentration deteriorate with substance abuse.

Poor morale. Chronic drug abuse creates wide mood swings, anxiety, depression, and anger. Normal employees often see drug abusers as poor team workers and safety hazards.

Increased accidents and near misses. Impaired employees are 3.6 times more likely to cause an accident. Even small quantities of drugs in the system, as well as the hangover effect, can cause a deterioration of alertness, clear mindedness, and reaction speed.

Theft of equipment and material. Drugs are expensive. Cocaine costs up to $135 a gram. One ounce of high potency marijuana costs $85 to $125. At the same time that drug abusers need money, their loyalty and dedication to their employers is weakened as their value systems and judgement are affected by the drug.

These performance indicators are best addressed through the normal performance monitoring and correction processes. Most successful interventions start with a performance confrontation. This confrontation is based on objective documented information related to performance deterioration, not the specific signs of substance abuse.

Drug Effects

Drug and alcohol abuse affect a person physically and mentally. These effects occur not only during intoxication (from one to 24 hours after intake), but also show up in residual hangovers, fatigue rebounds, and mental impairment. Other physical and mental effects may include:

- Slow reactions
- Poor coordination
- Fatigue
- Delayed decision making
- Erratic judgement quality
- Confusion
- Learning difficulty
- Poor memory

- Loss of concentration
- Depression or anxiety
- Difficulty in sorting out priority tasks from non-essential activity
- Neurotic or psychotic behavior
- Refusal to accept authority.

Behavioral Signs

When general performance or behavior problems are noted in an employee, the following may indicate the involvement of drug or alcohol use:

- A sudden change, usually for the worse (change in attitude, work performance or behavior)
- A "lackadaisical" or "I don't care" attitude (often an indication of marijuana use)
- Deteriorating or erratic performance
- Hangover symptoms
- Drug culture jargon
- Secretive behavior
- Wanting to be alone, avoiding "straight" workers
- Forgetfulness, indecision, and erratic judgment
- Impulsive and temperamental behavior
- Changes in personal appearance and hygiene
- Jitters, hand tremors, hyperexcitability
- Carelessness
- Sleeping on the job.

Note that each symptom, by itself, may point to problems other than drug abuse. But, when a pattern begins to develop, the supervisor or manager needs to be alert and act quickly. When fueled by drug or alcohol abuse, these behaviors can lead to greater absenteeism, higher operating costs, serious production problems, and a definite increase in accidents and health care costs.

Specific Evidence of Use

Signs and symptoms pointing directly to serious substance abuse include the following:

- Paraphernalia. Needles, balloons, aluminum foil wrappers, cocaine sniffing tools, marijuana smoking pipes and holders, drug containers obviously not used for legitimate purposes.
- Presence of drugs. Plastic sandwich bags of marijuana, small containers of tablets or capsules, or vials or envelopes of powder. Empty beer, wine and liquor bottles.

Physical Symptoms

Observable physical signs and symptoms usually are not apparent until the employee's abuse of drugs or alcohol has reached a level that is compulsive. The employee then is less able to disguise the physical indicators of use. With greater use, there is often carelessness caused by a clouded mental state. Specific signs include:

- Blood spots on shirt-sleeves (indicating intravenous needle use)
- Bloodshot or watery eyes (usually caused by marijuana use)
- Changes in speech
- Hand tremors
- Intoxicated behavior
- Odor of alcohol on breath
- Odor of marijuana smoke
- On-the-job, out-in-the-open drug use
- Poor coordination
- Racing heart, irregular rhythms (Cocaine and amphetamines often cause the heart to react unpredictably.)
- Runny nose or sores around nostrils (caused by chronic snorting of cocaine)
- Sleeping on the job
- Slow reactions
- Slurred speech
- Unsteady gait
- Very large or small pupils (Narcotics and depressants will cause the pupils to constrict. Cocaine and amphetamines will cause the pupils to dilate.)
- Wearing sunglasses indoors.

Common Sites for Use

- Lunchroom and lounge areas
- Parking lots and cars
- Remote areas of the worksite
- Equipment or storage rooms
- Restrooms.

Marijuana Fact Sheet

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood and perception altering effects it produces. Marijuana does not depress central nervous system reactions. Its action is almost exclusively on the brain, altering the proper interpretation of incoming messages.

Description

- Usually sold in plastic sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed sometimes tarlike substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil.
- Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense.
- Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls.

Signs and Symptoms of Use

- Reddened eyes (often masked by eyedrops)
- Slowed speech
- Distinctive odor on clothing
- Lackadaisical "I don't care" attitude
- Chronic fatigue and lack of motivation
- Irritating cough, chronic sore throat.

Health Effects

General

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One cigarette (joint) of marijuana contains cancer causing substance equivalent to one-half to one pack of cigarettes.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus Aspergillis, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response making users more susceptible to infection. The U.S. government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

- Chronic smoking causes changes in brain cells and brain waves. In essence, the brain is less healthy and does not work as efficiently or effectively. Does long-term brain damage occur? More research is required, but the probable answer is yes.

Pregnancy Problems and Birth Defects

- The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes.
- Chronic smoking of marijuana in males causes a decrease in the sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users.
- Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone.
- Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life.
- In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, liver, and water on the brain and spine.
- Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant's feet and hands.
- One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies.
- Fetal exposure may decrease visual functioning and causes other ophthalmic problems.

Mental Function

Regular use can cause the following effects:

- Delayed decision making
- Diminished concentration
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery
- Impaired tracking (the ability to follow moving objects with the eyes) and visual distance measurements
- Erratic cognitive function
- Distortions in time estimation
- Long term negative effects on mental function known as "acute brain syndrome" which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition.

Acute/Overdose Effects

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency
- Panic
- Paranoid reaction
- Unpleasant distortions in body image.

Workplace Issues

- The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance.
- A 500 to 800 percent increase in THC potency in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 1978.
- Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effects of both the depressant and marijuana.

COCAINE FACT SHEET

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description

- The source of cocaine is the coca bush, grown almost exclusively in the mountainous regions of northern South America.
- Cocaine Hydrochloride - "snorting coke" is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within minutes and lasts 40 to 50 minutes per "line" (about 60 to 90 milligrams). Common paraphernalia includes a single edged razor blade and a small mirror or piece of smooth metal, a half straw or metal tube, and a small screw cap vial or folded paper packet containing the cocaine.
- Cocaine Base - "rock, crack, or free base" is a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven seconds. Common paraphernalia includes a "crack pipe" (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp, or small butane torch for heating.

Signs and Symptoms of Use

- Financial problems
- Frequent and extended absences from meetings or work assignment
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent non-business visitors, delivered packages, phone calls
- Unusual defensiveness, anxiety, agitation
- Wide mood swings
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High blood pressure, heart palpitations, and irregular rhythm
- Hallucinations
- Hyperexcitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness.

Health Effects

- Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson's disease could also occur.
- Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes and heart attacks.
- Strong psychological dependency can occur with one "hit" of crack. Usually, mental dependency occurs within days (crack) or within several months (snorting coke). Cocaine causes the strongest mental dependency of any known drug.
- Treatment success rates are lower than for other chemical dependencies.
- Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled in the last four years.
- Cocaine overdose was the second most common drug emergency in 1986--up from 11th place in 1980.

Workplace Issues

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.

AMPHETAMINE FACT SHEET

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

Description

- Amphetamine ("speed") is sold in counterfeit capsules or as white, flat, double scored "mini bennies." It is usually taken by mouth.
- Methamphetamine ("meth," "crank," or "crystal") is nearly identical in action to amphetamine. It is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.

Signs and Symptoms of Use

- Hyperexcitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate.

Health Effects

- Regular use produces strong psychological dependence and increasing tolerance to drug.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk taking behaviors, including bizarre and violent acts.
- Withdrawal from the drug may result in severe physical and mental depression.

Workplace Issues

- Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.

- Low dose amphetamine use will cause a short term improvement in mental and physical functioning. With greater use or increasing fatigue the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which make operation of equipment or vehicles dangerous.

OPIATES (NARCOTICS) FACT SHEET

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

Description

- Natural and natural derivatives - opium, morphine, codeine, and heroin
- Synthetics - meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan)
- May be taken in pill form, smoked, or injected depending upon the type of narcotic used.

Signs and Symptoms of Use

- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy
- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation.

Health Effects

- IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles.
- Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity.
- Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

Social Issues

- There are over 500,000 heroin addicts in the U.S., most of whom are IV needle users.
- An even greater number of medicinal narcotic dependent persons obtain their narcotics through prescriptions.
- Because of tolerance, there is an ever increasing need for more narcotic to produce the same effect.
- Strong mental and physical dependency occurs.
- The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

Workplace Issues

- Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident.

- Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.

PHENCYCLIDINE (PCP) FACT SHEET

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

Description

- PCP is sold as a creamy, granular powder and often packaged in one inch square aluminum foil or folded paper "packets."
- It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine.

Signs and Symptoms of Use

- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat
- Dizziness.

Health Effects

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction.
- Misdiagnosing the hallucinations as LSD induced, and then treating with Thorazine, can cause a fatal reaction.
- Use can cause irreversible memory loss, personality changes, and thought disorders.

Workplace Issues

- PCP abuse is less common today that in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs.

- There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia and agitation. The third phase is a drug induced schizophrenia that may last a month or longer. The fourth phase is PCP induced depression. Suicidal tendencies and mental dysfunction can last for months.

DEPRESSANT DRUGS FACT SHEET

There are many drugs that slow down the mind and body and can seriously impair an individual's ability to do safe work. Most depressant drugs have a legitimate medical use, but, when taken in large doses, can produce a drunken-like stupor.

Description

- Sedatives - barbiturates such as Amytal, Tuinal, Seconal, Nembutal, Phenobarbital; non-barbiturate sedatives such as Dalmane, Doriden, Noludar, Placidyl, Methaqualone ("quaaludes" or "ludes")
- Minor Tranquilizers - Librium, Valium, Equanil, Serax, Sinequan

Signs and Symptoms of Use

- Sedation, drowsiness, sleep
- Mental confusion
- Inattention
- Slurred speech
- Staggering, loss of balance
- Lowered blood pressure
- Depressed respiration.

Health Effects

- Strong mental and physical dependency develops.
- Tolerance and potentiation is seen with all other depressant drugs (including alcohol), greatly increasing the dose/intoxication response and causing accidental overdose deaths.
- Withdrawal may cause extreme excitation and panic and usually requires medical supervision.

Workplace Issues

Minor Tranquilizers

- Decreased vision and hearing acuity
- Decreased vigilance, concentration, and sustained attention
- In low doses, reaction time is unaffected
- Impaired short-term memory and learning difficulty

Sedatives

- Impaired visual tracking ability
- Decreased vigilance
- Slowed reaction time
- Impaired hand-eye coordination and manual dexterity

- Impaired cognitive abilities including long term memory and arithmetic calculations
- Impaired communication ability.

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are the general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol [average of 3 servings per day of beer (12 ounces), whiskey (1 ounce) or wine (6 ounce glass)] over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (Up to ten percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic.")
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (Up to 54 percent of all birth defects are alcohol related.).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol related vehicle accident during their lifetimes.

- The rate of separation and divorce in families with alcohol dependency problems is seven times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are fifteen times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver [0.10 blood alcohol content (BAC) or more].
- 12,000 more will die on the highway due to the alcohol affected driver (0.099 BAC or less).
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol caused liver disease.
- 10,000 will die due to alcohol induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body (0.030 BAC).
- A person who is legally intoxicated (BAC level of 0.10) is six times more likely to have an accident than a sober person.

APPENDIX F

SAMPLE TOPICS/OUTLINE FOR EMPLOYEE TRAINING

Section 1

Objectives for Employee Awareness Training

The purpose of employee training is to provide your employees with the skills and knowledge to accomplish the following objectives:

1. Understand your transit policy for a drug-free workplace and how it applies to them, including

    (a) Understanding the performance impacts of drug and alcohol abuse

    (b) Understanding expected standards of employee conduct and the penalties for violation of the policy

    (c) Knowing what employee assistance program (EAP) services are available.

2. Appreciate how substance abuse can affect the workplace in terms of economic loss, vehicle safety and accidents, workplace attitudes and morale, productivity, and equipment reliability.

3. Understand the general procedures for specimen collection for drug testing.

4. Know that impaired job performance may lead to a request for a urine specimen for reasonable cause testing.

5. Know where to go for assessment and referral for drug or alcohol abuse for themselves, co-workers, or family members.

6. Understand how the physiological and psychological effects of drugs endanger health and the work environment, with particular emphasis on alcohol, marijuana, and cocaine.

7. Understand the principle of confidentiality and how it applies to the drug and alcohol policy.

8. Have an appreciation of their role in creating a workforce value system which actively supports the concept of a drug-free workplace.

Section 2

Sample Outline for Employee Awareness Training Sessions

A. Impact of drug abuse on society and industry

1. National and regional statistics on drug and alcohol abuse
2. Signs and symptoms of drug and alcohol abuse

B. Your anti-drug policy

1. Purpose and scope
2. Opportunities for help (Employee Assistance)
3. Prohibited substances
4. Prohibited behaviors/standards of conduct
5. Consequences of policy violation
6. Circumstances requiring drug testing (Pre-employment, Reasonable Cause, etc.)
7. Overview of the specimen collection process
8. Overview of laboratory testing techniques and validity

C. The drugs of abuse (brief overview of signs and symptoms of use and effects on the individual and the workplace)

1. Depressants (alcohol, barbiturates, sedatives, tranquilizers, antihistamines)
2. Stimulants (cocaine, amphetamines, and pseudoamphetamines)
3. Narcotics (heroin, codeine, morphine, Demerol, Percodan, Dilaudid)
4. Hallucinogens (LSD, mescaline)
5. PCP (phencyclidine, angel dust)
6. Marijuana

D. Return to duty and re-entry contracts

   1. After voluntary admission of use

   2. After a positive drug test result

   3. After a performance-based intervention

E. Sources and resources for help (EAP, assessment, referral, treatment, followup)

APPENDIX G

SAMPLE TOPICS/OUTLINE FOR SUPERVISOR AND MANAGER TRAINING

Section 1

Objectives for Supervisor and Manager Training

At the completion of training, supervisors and managers should have the skills and knowledge to accomplish the following objectives:

1. Have a working knowledge of your anti-drug policy and procedures.

2. Be able to discuss with employees why the anti-drug policy is necessary, how it will be administered, and what it will accomplish.

3. Have a working knowledge of the impact of substance abuse on the workplace, including characteristic profiles of the typical substance abuser on the job.

4. Recognize signs and symptoms (physical and behavioral) of a substance abuse problem that may impact safe and productive work.

5. Be sufficiently knowledgeable of the characteristics of major substances of abuse to discuss these substances with staff.

6 Be able to conduct a performance-oriented confrontation leading to drug testing and appropriate corrective action where substance abuse is a factor in poor or unsafe performance.

7. Know the available resources for assistance in a substance abuse situation, and how to use them.

8. Know how to effectively participate in negotiating a re-entry contract with a substance abusing employee.

9. Know what behaviors, evidence, and circumstances constitute reasonable cause for drug testing, and how to document them.

10. Understand the relationship between continued behavioral observation skills and performance-oriented supervision in focusing on the drug or alcohol affected employee.

11. Gain confidence and reinforce skills in effectively dealing with general performance/behavior work issues.

12. Have an appreciation of confidentiality and know how it applies to the anti-drug program.

Section 2

Sample Outline for Supervisor and Manager Training

A. Impact of drug abuse on society and industry

1. National and regional statistics
2. Signs and symptoms of abuse
3. Impacts to profitability, liability, and security
4. Perception of impacts of drugs/alcohol on your workforce

B. Profiles of the at-risk employee (work characteristics, age groups, and substances of abuse)

C. The drugs of abuse (for each, discuss form and method of use, general effects, and hazards on the job)

1. Depressants (alcohol, barbiturates, sedatives, tranquilizers, antihistamines)
2. Stimulants (cocaine and amphetamines)
3. Narcotics (heroin, codeine, morphine, Demerol, Percodan, Dilaudid)
4. Hallucinogens (LSD, mescaline)
5. PCP (phencyclidine, angel dust)
6. Marijuana

D. Identifying the at-risk employee

1. Performance indicators
2. Behavioral signs and symptoms
3. Physical signs and symptoms
4. Urine testing as a detection tool
5. Dealing with the drug/alcohol affected employee.

E. Policy and procedure review

1. Point by point explanation of the policy

2. Review of implementing procedures and schedule for implementation

3. Drug testing procedures

    - Drug testing categories (pre-employment, reasonable cause, etc.)
    - Chain of custody procedures
    - Laboratory analysis procedures
    - Procedures following a positive result
    - Privacy and confidentiality

4. Treatment resources (in-patient, out-patient, follow-up, insurance coverage, etc.)

5. Return to work (conditions and re-entry contracts)

    - After voluntary admission of use
    - After a positive drug test
    - After a performance-based intervention

F. Confrontation and intervention

1. Role of documentation

2. Performance-oriented issues

3. Who should be involved

4. Moving to commitment

5. Avoiding manipulation and traps

6. Role playing

APPENDIX H

SAMPLE FORMS, LETTERS, AND CHECKLISTS

This appendix provides examples of various forms, letters, and checklists that are needed to implement regulatory requirements of your anti-drug program. These examples are for your use and may be modified as needed. Forms are not available from UMTA. You will need to make arrangements with a local printing firm to supply the forms necessary to comply with the UMTA regulations.

- A sample "Urine Custody and Control Form" as shown in Appendix B to 49 CFR Part 40 is provided as Attachment H-1.

- A sample form for recording observations to support a reasonable cause testing decision is provided as Attachment H-2.

- Attachment H-3 provides a sample form for recording test data received from the MRO for submittal to UMTA semiannually.

- Attachment H-4 is a sample letter of certification to UMTA required by 49 CFR Part 653.

- Attachment H-5 provides an example letter for requesting a temporary waiver from the provisions of 49 CFR Part 653.

- Attachment H-6 provides an example letter request for UMTA approval to test for additional drugs.

- Attachment H-7 provides an example letter of certification with the requirements of 49 CFR Part 29.

- Attachment H-8 provides an example letter of notification to UMTA of employee conviction under a criminal drug statute as required by 49 CFR Part 29.

ATTACHMENT H-1

Urine Custody and Control Form

This form is a multiple-part, carbonless form used to document the complete cycle of collection, shipment, laboratory testing, and medical review of urine specimens. Specific administrative data are indicated on the sample form. Each form must have a unique, pre-printed identification number in the upper right-hand corner to follow the chain of custody of a specific urine sample. This same number is used to label the urine specimen bottle.

Although the "Urine Custody and Control Form" is self-explanatory, the following are additional suggestions for effective use of the form:

- Parts 1 through 3 and 5 (the original and three copies) of the form are transmitted to the testing laboratory, MRO, employee, and employer respectively. Part 4 must be retained by the collection site. It is suggested that the form be ordered from a print shop with a standard three-hole punch so that Part 4 can be retained in a binder. Alternatively, all of the complete forms can be bound in a ledger with all parts except the collection copy perforated for removal.

- Since the collection site copy (Part 4) of the form is not the original, it is recommended that the person who collected the sample initial the upper right- hand corner of the record copy to signify that it is a true copy and that all required information is correct and legible.

- You may also alter the order in which the various parts of the form are printed. For example, if separate copies for the employer and collection site are not needed, you may wish to print only a four-part form. Also, if you decide to have the forms bound into a permanent logbook, you should consider making Part 5 the record copy (rather than Part 4 as indicated in the sample) to expedite logbook manufacture and removal of copies for transmittal.

URINE CUSTODY AND CONTROL FORM - PART 1 (ORIGINAL TO ACCOMPANY SPECIMEN)

STEP 1 -- TO BE COMPLETED BY EMPLOYEE APPLICANT [PRE-PRINTED I.D. #]

Employee I.D.# _____ Employer Name: _____
Social Security # or Employee #

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR
Reason for Test (Check One)

☐ Pre-Employment ☐ Post-Accident ☐ Random ☐ Periodic Medical ☐ Other (Specify) _____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7 C/90.5 - 99.8 F: _____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER

Purpose of Change	Released by Signature/Print Name	Received by Signature/Print Name	Date
Provide Specimen for Testing	Donor		

STEP 5 -- (TO BE COMPLETED BY EMPLOYEE ON PART 2 NEAR BOTTOM OF FORM)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 ON PART 2
To be completed by person collecting specimen

Collector's Name _____ Date of Collection _____
Print (First, M.I., Last)

Collection Site _____ ( ) _____
Facility Name and Location

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled, and sealed as required by the instructions provided.

_____
Signature of Collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled, and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

URINE CUSTODY AND CONTROL FORM - PART 2 (TO MEDICAL REVIEW OFFICER)

STEP 1 -- TO BE COMPLETED BY EMPLOYEE APPLICANT [PRE-PRINTED I.D. #]

Employee I.D.# _____ Employer Name: _____
Social Security # or Employee #

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR

Reason for Test (Check One)

☐ Pre-Employment ☐ Post-Accident ☐ Random ☐ Periodic Medical ☐ Other (Specify) _____.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7 C/90.5 - 99.8 F: _____ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER

Purpose of Change	Released by Signature/Print Name	Received by Signature/Print Name	Date
Provide Specimen for Testing	Donor		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW
To be completed by person collecting specimen:

Collector's Name _____ Date of Collection _____
Print (First, M.I., Last)

Collection Site _____ (___) _____
Facility Name and Location

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled, and sealed as required by the instructions provided.

_____
Signature of Collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled, and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 5 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN

Name _____ Duty Location _____
Last/First/M.I.

Job Title _____ Date of Birth _____

If you wish to have prescription or over-the-counter medications that you may have been administered within the past 30 days considered as your test results are reviewed, you may list them here or provide that information separately to your employers' Medical Review Officer:

_____

_____

I certify that the urine specimen identified on this form is my own, that it is fresh and has not been adulterated in any manner, and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

URINE CUSTODY AND CONTROL FORM - PART 3 (TO EMPLOYEE)

STEP 1 – TO BE COMPLETED BY EMPLOYEE APPLICANT [PRE-PRINTED I.D. #]

Employee I.D.# _____ Employer Name: _____
Social Security # or Employee #

STEP 2 – TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR
Reason for Test (Check One)

☐ Pre-Employment ☐ Post-Accident ☐ Random ☐ Periodic Medical ☐ Other (Specify) _____.

STEP 3 – COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7 C/90.5 - 99.8 F: _____ ☐ WITHIN RANGE

STEP 4 – TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER

Purpose of Change	Released by Signature/Print Name	Received by Signature/Print Name	Date
Provide Specimen for Testing	Donor		

STEP 5 – (TO BE COMPLETED BY EMPLOYEE ON PART 2 NEAR BOTTOM OF FORM)

STEP 6 – BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 ON PART 2
To be completed by person collecting specimen

Collector's Name _____ Date of Collection _____
Print (First, M.I., Last)

Collection Site _____ (___) _____
Facility Name and Location

Remarks concerning collection: _____

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled, and sealed as required by the instructions provided.

_____ _____
Signature Date

STEP 7 – TO BE COMPLETED BY THE LABORATORY: Accession No. _____

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled. and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

_____ _____ _____
Printed Name Signature Date

STEP 5 – TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN

Name _____ Duty Location _____
Last/First/M.I.

Job Title _____ Date of Birth _____

If you wish to have prescription or over-the-counter medications that you may have been administered within the past 30 days considered as your test results are reviewed, you may list them here or provide that information separately to your employers' Medical Review Officer:

_____

_____

I certify that the urine specimen identified on this form is my own, that it is fresh and has not been adulterated in any manner, and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

_____ _____
Signature Date

URINE CUSTODY AND CONTROL FORM - PART 4 (TO REMAIN AT COLLECTION SITE)

STEP 1 -- TO BE COMPLETED BY EMPLOYEE APPLICANT [PRE-PRINTED I.D. #]

Employee I.D # ______________________ Employer Name: ______________________
Social Security # or Employee #

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR
Reason for Test (Check One)

☐ Pre-Employment ☐ Post-Accident ☐ Random ☐ Periodic Medical ☐ Other Specify ______________.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7 C/90.5 - 99.8 F: ________ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER

Purpose of Change	Released by Signature/Print Name	Received by Signature/Print Name	Date
Provide Specimen for Testing	Donor		

STEP 5 -- (TO BE COMPLETED BY EMPLOYEE ON PART 2 NEAR BOTTOM OF FORM)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 ON PART 2
To be completed by person collecting specimen

Collector's Name ______________________ Date of Collection ______________
Print (First, M.I., Last)

Collection Site ______________________ ( ) ______________
Facility Name and Location

Remarks concerning collection: ______________________

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled, and sealed as required by the instructions provided.

____
Signature of Collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. ____________

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled, and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

______________________ ______________________ ____________
Printed Name Signature Date

STEP 5 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN

Name ______________________ Duty Location ______________________
Last/First/M.I.

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I certify that the urine specimen identified on this form is my own, that it is fresh and has not been adulterated in any manner, and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

______________________ ____________
Signature Date

URINE CUSTODY AND CONTROL FORM - PART 5 (TO EMPLOYER)

STEP 1 -- TO BE COMPLETED BY EMPLOYEE APPLICANT [PRE-PRINTED I.D. #]

Employee I.D.# ______________________ Employer Name: ______________________

Social Security # or Employee #

STEP 2 -- TO BE COMPLETED BY EMPLOYER REPRESENTATIVE/OR COLLECTOR

Reason for Test (Check One)

☐ Pre-Employment ☐ Post-Accident ☐ Random ☐ Periodic Medical ☐ Other (Specify) ______________.

STEP 3 -- COLLECTOR MUST NOTE THAT TEMPERATURE OF SPECIMEN HAS BEEN READ. RECORD IF NOT WITHIN THE RANGE OF 32.5 - 37.7 C/90.5 - 99.8 F: ________ ☐ WITHIN RANGE

STEP 4 -- TO BE INITIATED BY THE PERSON COLLECTING SPECIMEN AND COMPLETED AS NECESSARY THEREAFTER

Purpose of Change	Released by Signature/Print Name	Received by Signature/Print Name	Date
Provide Specimen for Testing	Donor		

STEP 5 -- (SEE BELOW -- TO BE COMPLETED BY EMPLOYEE)

STEP 6 -- BEFORE COMPLETING THIS STEP HAVE EMPLOYEE COMPLETE STEP 5 BELOW

To be completed by person collecting specimen

Collector's Name ______________________ Date of Collection ______________

Print (First, M.I., Last)

Collection Site ______________________ (   ) ______________

Facility Name and Location

Remarks concerning collection: ______________________

I certify that the specimen identified on this form is the specimen presented to me by the employee providing the certification below, that I have certified that it bears the same identification number as that set forth above, and that it has been collected, labeled and sealed as required by the instructions provided.

____

Signature of Collector

STEP 7 -- TO BE COMPLETED BY THE LABORATORY: Accession No. __________

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed in accordance with applicable Federal requirements, and that the results attached are for that specimen.

______________ ______________ __________

Printed Name Signature Date

STEP 5 -- TO BE COMPLETED BY EMPLOYEE OR APPLICANT PROVIDING SPECIMEN

Name ______________________ Duty Location ______________________

Last/First/M.I.

Job Title ______________________ Date of Birth ______________________

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
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I certify that the urine specimen identified on this form is my own, that it is fresh and has not been adulterated in any manner, and that the identification information provided on this form and on the collection bottle is correct. I consent to the submission of this specimen to the certified laboratory designated by my employer, to the analysis of the specimen for controlled substances as provided by Federal requirements, and to the release of test results from that analysis to the Medical Review Officer designated by my employer.

______________________ ______________

Signature Date

ATTACHMENT H-2

REASONABLE CAUSE OBSERVATION CHECKLIST

REASONABLE CAUSE OBSERVATION CHECKLIST
(STRICTLY CONFIDENTIAL)

EMPLOYEE: PERIOD OF EVALUATION:

SUPERVISOR #1, NAME AND TELEPHONE:

SUPERVISOR #2, NAME AND TELEPHONE:

This checklist is intended to assist a supervisor in referring a person for drug testing. Has the employee manifested any of the following behaviors? Indicate (D) if documentation exists.

A. QUALITY AND QUANTITY OF WORK

YES	NO		
____	____	1.	Clear refusal to do assigned tasks
____	____	2.	Significant increase in errors
____	____	3.	Repeated errors in spite of increased guidance
____	____	4.	Reduced quantity of work
____	____	5.	Inconsistent, "up and down" quantity or quality of work
____	____	6.	Behavior that disrupts work flow
____	____	7.	Procrastination on significant decisions or tasks
____	____	8.	More than usual supervision necessary
____	____	9.	Frequent, unsupported explanations for poor work performance
____	____	10.	Noticeable change in written or verbal communication
____	____	11.	Other (please specify) _____

B: INTERPERSONAL WORK RELATIONSHIPS

YES	NO		
____	____	1.	Significant change in relations with co-workers, supervisors, others
____	____	2.	Frequent or intense arguments
____	____	3.	Verbal abusiveness
____	____	4.	Physical abusiveness
____	____	5.	Persistently withdrawn or less involved with people
____	____	6.	Intentional avoidance of supervisor
____	____	7.	Expressions of frustration or discontent
____	____	8.	Change in frequency or nature of complaints
____	____	9.	Complaints by co-workers or subordinates
____	____	10.	Cynical, "distrustful of human nature" comments
____	____	11.	Unusual sensitivity to advice or critique of work
____	____	12.	Unpredictable response to supervision
____	____	13.	Passive-aggressive attitude or behavior, doing things "behind your back"

C. GENERAL JOB PERFORMANCE

YES	NO		
___	___	1.	Excessive unauthorized absences--number in last 12 months ___
___	___	2.	Excessive authorized absences--number in last 12 months ___
___	___	3.	Excessive use of sick leave in last 12 months ___
___	___	4.	Frequent Monday/Friday absence or other pattern
___	___	5.	Frequent unexplained disappearances
___	___	6.	Excessive "extension" of breaks or lunch
___	___	7.	Frequently leaves work early--number of days per week or month ___
___	___	8.	Increased concern about, or actual incidents of, safety offenses involving the employee _____
___	___	9.	Experiences or causes job accidents
___	___	10.	Major change in duties or responsibilities
___	___	11.	Interferes with or ignores established procedures
___	___	12.	Inability to follow through on job performance recommendation

D. PERSONAL MATTERS

YES	NO		
___	___	1.	Changes in or unusual personal appearance (dress, hygiene)
___	___	2.	Changes in or unusual speech (incoherent, stuttering, loud)
___	___	3.	Changes in or unusual physical mannerisms (gesture, posture)
___	___	4.	Changes in or unusual facial expressions
___	___	5.	Changes in or unusual level of activity--much reduced ____ or increased ____
___	___	6.	Changes in or unusual topics of conversation
___	___	7.	Engages in detailed discussions about death, suicide, or harming someone
___	___	8.	Increasingly irritable or tearful
___	___	9.	Persistently boisterous or rambunctious
___	___	10.	Unpredictable or out-of-context displays of emotion
___	___	11.	Unusual fears
___	___	12.	Lacks appropriate caution
___	___	13.	Engages in detailed discussion about obtaining or using drugs and/or alcohol
___	___	14.	Has personal relationship problems (spouse, girl/boyfriend, children, in-laws)
___	___	15.	Has received professional assistance for emotional or physical problems
___	___	16.	Makes unfounded accusations toward others, i.e., has feelings of persecution
___	___	17.	Secretive or furtive
___	___	18.	Memory problems (difficulty recalling instructions, data, past behaviors)
___	___	19.	Frequent colds, flu, or other illnesses
___	___	20.	Comes to work with alcohol on breath
___	___	21.	Excessive fatigue
___	___	22.	Makes unreliable or false statements
___	___	23.	Unrealistic self-appraisal or grandiose statements
___	___	24.	Temper tantrums or angry outbursts
___	___	25.	Demanding, rigid, inflexible
___	___	26.	Major change in physical health
___	___	27.	Concerns about sexual behavior or sexual harassment

Other information/observations (Please be specific and attach additional sheet as needed).

_____

_____ _____ _____ _____

SIGNATURE OF SUPERVISOR #1 DATE SIGNATURE OF SUPERVISOR #2 DATE

ATTACHMENT H-3

UMTA SEMIANNUAL DRUG TESTING REPORT

UMTA SEMIANNUAL DRUG TESTING REPORT

NAME OF ORGANIZATION: _____ REPORTING PERIOD: From _____ To _____

ADDRESS: _____ REPORT OF: Organization's Employees ☐

_____ Organization's Subcontractors ☐

CONTACT PERSON: _____ (Check one box only)

TELEPHONE NUMBER: _____

SECTION A: ADMINISTRATION OF DRUG TESTS

Tests by occupational categories		**Testing categories**		
Vehicle operators	_____	Pre-employment		_____
Mechanics	_____	Random		_____
Dispatchers/controllers	_____	Reasonable cause		_____
Supervisors	_____	[1]Post-accident:		
_____	_____	Fatality involved	_____	
_____	_____	Personal injury	_____	
_____	_____	Property damage	_____	
_____	_____	Total post-accident		_____
_____	_____	Return to duty		_____
TOTAL*	_____	TOTAL*		_____

*Must be the same number.

[1]See Section E

SECTION B: TESTING RESULTS

Failures by occupational categories		**Failures by test categories**		
Vehicle operators	_____	Pre-employment		_____
Mechanics	_____	Random		_____
Dispatchers/controllers	_____	Reasonable cause		_____
Supervisors	_____	Post-accident:		
_____	_____	Fatality involved	_____	
_____	_____	Personal injury	_____	
_____	_____	Property damage	_____	
_____	_____	Total post-accident		_____
_____	_____	Return to duty		_____
TOTAL FAILURES**	_____	TOTAL FAILURES**		_____

Total number of negative test results based upon MRO determination of scientific insufficiency of laboratory data. _____

**Must be the same number.

SECTION C: CONFIRMATORY TESTING

Number of lab tests warranting a confirmatory test _____*

Number of positive confirmatory tests _____*

Number of positive confirmatory tests by categories:

Marijuana	_____
Cocaine	_____
Opiate	_____
PCP	_____
Amphetamine	_____

*If these two values are not the same, a false positive result is indicated.

SECTION D: DISPOSITION OF PERSONNEL FAILING DRUG TEST

Provide brief summary of disposition of each person (unnamed) failing test, i.e., terminated, legal action pending, Employee Assistance Program, resigned, etc.

1.	11.
2.	12.
3.	13.
4.	14.
5.	15.
6.	16.
7.	17.
8.	18.
9.	19.
10.	20.

Attach additional sheet if required.

SECTION E: TIMELINESS OF POST-ACCIDENT SPECIMEN

For each post-accident test, provide the number of hours between the accident and the collection of the specimen.

1.	4.	7.	10.
2.	5.	8.	11.
3.	6.	9.	12.

Attach additional sheet if required.

SECTION F: CERTIFICATION OF REPORT DATA

I hereby certify that all information contained in this report reflects the total activities of the drug testing administered by this organization. All data is accurate to the best of my knowledge.

_____ _____

Name (printed or typed) Title

_____ _____ _____

Signature Telephone Number Date

ATTACHMENT H-4

Example Letter of Certification of Compliance with the Requirements of 49 CFR Part 653

Company Letterhead

Date _____

Address of Your
Regional Office

Dear Sir:

I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance have established and implemented an anti-drug program(s) in accordance with the terms of 49 CFR Part 653.

Sincerely,

John Doe
General Manager

ATTACHMENT H-5

Example Letter Requesting a Temporary Waiver
From Compliance with Portions of
49 CFR Part 653

Company Letterhead

Date _____

Office of the Chief Counsel (UCC-10)
Urban Mass Transportation Administration
400 Seventh Street, S.W., Room 9316
Washington, D.C. 20590

Dear Sir:

I, (name), (title), request for (name of recipient/operator) a temporary waiver from full compliance with 49 CFR Part 653. In the opinion of legal counsel, a conflict exists between (list Section(s) of 49 CFR Part 653) of the regulation and applicable (State, local) law. Such conflict is an impediment to full compliance with the UMTA regulation. [Continue with specific elements of the regulation and State/local law which are in conflict.]

We are taking the following actions to remove this legal impediment: [List actions being taken to remove legal roadblocks].

We expect to be in full compliance with the UMTA Final Rule by [state the appropriate date].

Thank you for your timely consideration of this waiver request. We look forward to your favorable reply.

Sincerely,

John Doe
General Manager

ATTACHMENT H-6

Example Letter Requesting Approval to Test
For Drugs in Addition to the Five Drugs
Listed in the UMTA Final Rule

Company Letterhead

Date _____

Office of the Chief Counsel (UCC-10)
Urban Mass Transportation Administration
400 Seventh Street, S.W., Room 9316
Washington, D.C. 20590

Dear Sir:

I, (name), (title), representing (name of recipient/operator), request approval to conduct laboratory urine testing for (state number of drugs) in addition to the five drugs listed in 49 CFR Part 653. The drugs are (name drugs). It is understood that testing for these additional drugs will occur only as part of reasonable cause testing. In accordance with 49 CFR 40.21, testing for these additional substances will be done only if there is an approved DHHS testing protocol and a positive threshold level established for these substances.

Your prompt approval of this request is appreciated.

Sincerely,

John Doe
General Manager

ATTACHMENT H-7

Example Letter of Certification
with the Requirements of
49 CFR Part 29

Company Letterhead

Date _____

Address of Your
UMTA Regional Office

Dear Sir:

The (recipient of a grant) certifies that it will provide a drug-free workplace in accordance with 49 CFR Part 29 by

(a) Publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing, or using a controlled substance in the recipient's workplace is prohibited and specifying the actions that will be taken against employees for violation of such prohibition.

(b) Establishing a drug-free awareness program to inform employees about

(1) The dangers of drug abuse in the workplace

(2) The recipient's policy of maintaining a drug-free workplace

(3) Any drug counseling, rehabilitation, and employee assistance programs that are available

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (a).

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant or cooperative agreement, the employee will

(1) Abide by the terms of the statement

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such a conviction.

(e) Notifying the Federal sponsoring agency within 10 days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2) with respect to any employee so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination

(2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

The recipient's headquarters is located at the following address. The addresses of all other workplaces maintained by the recipient are provided on an accompanying list.

Name of Recipient:
Street Address:
City:
County:
State:
Zip Code:

_____
Authorized Official

_____ _____
Title of Authorized Official Date

ATTACHMENT H-8

Example Letter Notifying UMTA of a
Conviction Under a Criminal Drug Statute
as required by 49 CFR Part 29

Company Letterhead

Date _____

Address of Your
UMTA Regional Office

Dear Sir:

I, (name), (title), representing (name of recipient/operator), hereby notify the Urban Mass Transportation Administration (UMTA) that within the period of (day/month) to (day/month) that (number of employees) employees of this organization were convicted of criminal drug statute violations. This letter meets the requirements of Appendix C to 49 CFR Part 29 for providing notification of such convictions to UMTA within 10 days.

Sincerely,

John Doe
General Manager

APPENDIX I

RANDOM SAMPLING TECHNIQUE

The following procedure may be used for randomly selecting employees for testing in transit agencies of up to 10,000 sensitive safety employees. However, it is recommended that agencies that have 1,000 or more sensitive safety employees use a software program for random number generation.

Make a copy of Table 1 and Worksheets 1 and 2, which follow these instructions.

Worksheet 1

1. Enter the current date on Line A.

2. On Line B, enter the total number of employees who are subject to random selection for testing.

3. Below Line B, list the badge numbers, identification (ID) numbers, or Social Security numbers of all employees who must be randomly tested in numerical order from the smallest to the largest. Assign numbers in sequence to these badge, ID, or Social Security numbers. (For example, assign the number "1" to the employee with the smallest ID number, the number "2" to the employee with the next higher number, etc.) Use continuous pages of Worksheet 1 if necessary. Alternatively, you can write the numbers in sequence next to the employee badge, ID, or Social Security number on a computer printout.

Worksheet 2

1. Complete Lines A through D. (The total number of employees on Line C should be the same as the number on Line B of Worksheet 1.)

2. Select any number on any one of the four pages of Table 1. This can be done by placing your finger, with your eyes closed, on one of the four pages. Write the number selected in this way on Line E.

3. Write the first two digits of the number you selected on Line F. This is your "row number" key.

4. Write the next two digits on Line G. This is your "column number" key.

5. Pick the range of column headings on Table 1 that contains the number on Line G and enter it on Line H.

6. Find the page of Table 1 on which your row and column numbers (from Lines F and G) appear and enter the page number (1, 2, 3, or 4) on Line I.

7. On the page recorded on Line I, find the 5-digit number across from the row number (recorded on Line F) and the column number (recorded on Line H) and enter it on Line J. This is your "starting location." Place an asterisk beside it.

8. On Line K, enter the fifth digit of the number on Line E. This number gives you the direction in which to move from your starting location (marked with an asterisk) on Table 1. If the number is 1, 2, or 3, you move up; if the number is 4 or 5, you move to the right; if the number is 6, 7, or 8, you move down; and if the number is 9 or 0, you move to the left. Circle the direction on Worksheet 2.

9. Count the number of digits in the number of employees from which you are selecting a group to be tested (on Line C). Enter a "1" on Line L if the total number of employees is between 1 and 9; enter a "2" if the total number is between 10 and 99; enter a "3" if the number is between 100 and 999, etc. This is your "scanning size."

10. Move from your starting location (marked with an asterisk) in the direction indicated by the number on Line K. In each 5-digit entry that you come to, scan the number of digits that correspond to the number entered on Line L until you come to a number that is less than your total number of affected employees. Record those digits at the bottom of Worksheet 2 until you have selected as many numbers as employees to be tested (that is, as many numbers as are listed on Line D).

    Do not select the same number twice. Continue until you have chosen enough different random numbers. You may have to skip many numbers because they are too large.

    If the scanning direction is to the **right**, continue on the next row **down**. If the scanning direction is to the **left**, continue on the next row **up**. If the scanning direction is **down**, continue on the next column to the **right**. If the scanning direction is **up**, continue on the next column to the **left**. If you run out of numbers on the page, continue to the **following page** if you are scanning to the **right or down**. Continue on the **preceding page** if you are scanning to the **left or up**.

11. The list of numbers you select in this random manner corresponds to the numbers you earlier assigned in sequence to your employees. The employees whose sequence numbers were selected by this method are the employees to be tested on the proposed date.

    Add the ID number of new employees to Worksheet 1. If an employee leaves the random number pool, remove the ID number.

EXAMPLE: Worksheet 2

1. The sample Worksheet 2a, which follows, shows a total of 250 affected employees on Line C and number of tests to be conducted on one test date on Line D.

2. The check mark next to the number 07425 on Table 1a (following Worksheet 2) indicates that this number was randomly selected as the key to the starting location. This number is written on Line E of the sample worksheet.

3. The number on Line E is 07425. The first two digits of this number are 07, which are written on Line F of the sample worksheet.

4. The next two digits are 42, which are written on Line G.

5. Entry G, the column number key, is 42. This number falls into the range 40-44, which is found on the column headings at the top of Table 1a. Therefore the range 40-44 is written on Line H.

6. Row number 07 and column number heading 40-44 are found on Table 1b (the fourth page of Table 1). Therefore the number 1 is entered on Line I.

7. In Table 1b, across from row number 07, and under column heading 40-44, is the number 49177. This appears with an asterisk and is written on Line J on Worksheet 2a. This is your starting location.

8. The fifth digit in the number entered on Line E is 5, which is entered on Line K. The number 5 indicates movement to the **right** from the starting location.

9. The total number of employees on Line C is 250 (a 3-digit number), so Line L contains a 3. This indicates that you will have to scan the first 3 digits of each 5-digit random number in the next step.

10. Suppose you want to randomly select 10 employees out of the total 250 for testing. In Table 1b, the starting location number is 49177, and the direction to move from this starting location is to the **right**. The scanning size is the first 3 digits of each number.

    As you move to the right from this starting number (continuing with the next row as needed), the first 3 digits of the following entries are 757, 409, 848, 298, 859, etc. These are all too large because they are all greater than 250 (the number of sensitive safety employees) and, therefore, cannot be used. Skip these numbers. The first number in the proper range is 10089. Its first 3 digits are 100. This is in the range of 1-250; thus it qualifies as your first selection number. Underline it and write the circled number 1 next to it.

11. The 10 numbers selected by this method are listed on the bottom half of Worksheet 2a. These numbers correspond to the sequence numbers on Worksheet 1. The employee ID numbers that appear beside the sequence numbers selected are those of the employees randomly chosen for drug testing.

WORKSHEET #1

(A) Current Date: _____

(B) Total No. of Sensitive Safety Employees ____

SEQUENCE NUMBER	EMPLOYEE ID NUMBER
1.	
2.	
3.	
4.	
5.	
6.	
7.	
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40.	

(Attach continuation pages with larger sequence numbers as needed.)

WORKSHEET #2

(A) Current Date: _____

(B) Proposed Testing Date: _____

(C) Total No. of Sensitive Safety Employees: ____

(D) No. of Tests Needed on Proposed Test Date: ____

(E) Key to Starting Location: _ _ _ _ _

(F) Row Number of Starting Location: _ _
(Digits 1-2 of entry E)

(G) Column Number Key
(Digits 3-4 of entry E): _ _

(H) Column Heading of Starting Location
using entry (G): (_ _ - _ _)

(I) Page of Table A which contains row from entry (F) and column heading from Entry (H): (Page 1,2,3 or 4) __

(J) Starting Location Number found on page (I), row number (F), and column heading (H) _ _ _ _ _

(K) Code for Direction from Starting Location (Digit 5 from entry E): __
(1,2,3 = up, 4,5 = right, 6,7,8 = down, 9,0 = 1eft)

(L) Scanning size: Total no. of digits used to write entry (C) = 1,2,3, or 4 __

ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS
1.	_____	21.	_____	41.	_____
2.	_____	22.	_____	42.	_____
3.	_____	23.	_____	43.	_____
4.	_____	24.	_____	44.	_____
5.	_____	25.	_____	45.	_____
6.	_____	26.	_____	46.	_____
7.	_____	27.	_____	47.	_____
8.	_____	28.	_____	48.	_____
9.	_____	29.	_____	49.	_____
10.	_____	30.	_____	50.	_____
11.	_____	31.	_____	51.	_____
12.	_____	32.	_____	52.	_____
13.	_____	33.	_____	53.	_____
14.	_____	34.	_____	54.	_____
15.	_____	35.	_____	55.	_____
16.	_____	36.	_____	56.	_____
17.	_____	37.	_____	57.	_____
18.	_____	38.	_____	58.	_____
19.	_____	39.	_____	59.	_____
20.	_____	40.	_____	60.	_____

TABLE 1
TEN THOUSAND RANDOMLY ASSORTED DIGITS

Column Heading		00–04	05–09	10–14	15–19	20–24	25–29	30–34	35–39	40–44	45–49
Row Number	00	54463	22662	65905	70639	79365	67382	29085	69831	47058	08186
	01	15389	85205	18850	39226	42249	90669	96325	23248	60933	26927
	02	85941	40756	82414	02015	13858	78030	16269	65978	01385	15345
	03	61149	69440	11286	88218	58925	03638	52862	62733	33451	77455
	04	05219	81619	10651	67079	92511	59888	84502	72095	83463	75577
	05	41417	98326	87719	92294	46614	50948	64886	20002	97365	30976
	06	28357	94070	20652	35774	16249	75019	21145	05217	47286	76305
	07	17783	00015	10806	83091	91530	36466	39981	62481	49177	75779
	08	40950	84820	29881	85966	62800	70326	84740	62660	77379	90279
	09	82995	64157	66164	41180	10089	41757	78258	96488	88629	37231
	10	96754	17676	55659	44105	47361	34833	86679	23930	53249	27083
	11	34357	88040	53364	71726	45690	66334	60332	22554	90600	71113
	12	06318	37403	49927	57715	50423	67372	63116	48888	21505	80182
	13	62111	52820	07243	79931	89292	84767	85693	73947	22278	11551
	14	47534	09243	67879	00544	23410	12740	02540	54440	32949	13491
	15	98614	75993	84460	62846	59844	14922	48730	73443	48167	34770
	16	24856	03648	44898	09351	98795	18644	39765	71058	90368	44104
	17	96887	12479	80621	66223	86085	78285	02432	53342	42846	94771
	18	90801	21472	42815	77408	37390	76766	52615	32141	30268	18106
	19	55165	77312	83666	36028	28420	70219	81369	41943	47366	41067
	20	75884	12952	84318	95108	72305	64620	91318	89872	45375	85436
	21	16777	37116	58550	42958	21460	43910	01175	87894	81378	10620
	22	46230	43877	80207	88877	89380	32992	91380	03164	98656	59337
	23	42902	66892	46134	01432	94710	23474	20423	60137	60609	13119
	24	81007	00333	39693	28039	10154	95425	39220	19774	31782	49037
	25	68089	01122	51111	72373	06902	74373	96199	97017	41273	21546
	26	20411	67081	89950	16944	93054	87687	96693	87236	77054	33848
	27	58212	13160	06468	15718	82627	76999	05999	58680	96739	63700
	28	70577	42866	24969	61210	76046	67699	42054	12696	93758	03283
	29	94522	74358	71659	62038	79643	79169	44741	05437	39038	13167
	30	42626	86819	85651	88678	17401	03252	99547	32404	17918	62880
	31	16051	33763	57194	16752	54450	19031	58580	47629	54132	60631
	32	08244	27647	33851	44705	94211	46716	11738	55784	95374	72655
	33	59497	04392	09419	89964	51211	04894	72882	17805	21896	83864
	34	97155	13428	40293	09985	58434	01412	69124	82171	59058	82859
	35	98409	66162	95763	47420	20792	61527	20441	39435	11859	41567
	36	45476	84882	65109	96597	25930	66790	65706	61203	53634	22557
	37	89300	69700	50741	30329	11658	23166	05400	66669	48708	03887
	38	50051	95137	91631	66315	91428	12275	24816	68091	71710	33258
	39	31753	85178	31310	89642	98364	02306	24617	09609	83942	22716
	40	79152	53829	77250	20190	56535	18760	69942	77448	33278	48805
	41	44560	38750	83635	56540	64900	42912	13953	79149	18710	68618
	42	68328	83378	63369	71381	39564	05615	42451	64559	97501	65747
	43	46939	38689	58625	08342	30459	85863	20781	09284	26333	91777
	44	83544	86141	15707	96256	23068	13782	08467	89469	93842	55349
	45	91621	00881	04900	54224	46177	55309	17852	27491	89415	23466
	46	91896	67126	04151	03795	59077	11848	12630	98375	52068	60142
	47	55751	62515	21108	80830	02263	29303	37204	96926	30506	09808
	48	85156	87689	95493	88842	00664	55017	55539	17771	69448	87530
	49	07521	56898	12236	60277	39102	62315	12239	07105	11844	01117

TABLE 1

Column Heading		50–54	55–59	60–64	65–69	70–74	75–79	80–84	85–89	90–94	95–99
Row Number	00	59391	58030	52098	82718	87024	82848	04190	96574	90464	29065
	01	99567	76364	77204	04615	27062	96621	43918	01896	83991	51141
	02	10363	97518	51400	25670	98342	61891	27101	37855	06235	33316
	03	86859	19558	64432	16706	99612	59798	32803	67708	15297	28612
	04	11258	24591	36863	55368	31721	94335	34936	02566	80972	08188
	05	95068	88628	35911	14530	33020	80428	39936	31855	34334	64865
	06	54463	47237	73800	91017	36239	71824	83671	39892	60518	37092
	07	16874	62677	57412	13215	31389	62233	80827	73917	82802	84420
	08	92494	63157	76593	91316	03505	72389	96363	52887	01087	66091
	09	15669	56689	35682	40844	53256	81872	35213	09840	34471	74441
	10	99116	75486	84989	23476	52967	67104	39495	39100	17217	74073
	11	15696	10703	65178	90637	63110	17622	53988	71087	84148	11670
	12	97720	15369	51269	69620	03388	13699	33423	67453	43269	56720
	13	11666	13841	71681	98000	35979	39719	81899	07449	47985	46967
	14	71628	73130	78783	75691	41632	09847	61547	18707	85489	69944
	15	40501	51089	99943	91843	41995	88931	73631	69361	05375	15417
	16	22518	55576	98215	82068	10798	86211	36584	67466	69373	40054
	17	75112	30485	62173	02132	14878	92879	22281	16783	86352	00077
	18	80327	02671	98191	84342	90813	49268	95441	15496	20168	09271
	19	60251	45548	02146	05597	48228	81366	34598	72856	66762	17002
	20	57430	82270	10421	00540	43648	75888	66049	21511	47676	33444
	21	73528	39559	34434	88596	54086	71693	43132	14414	79949	85193
	22	25991	65959	70769	64721	86413	33475	42740	06175	82758	66248
	23	78388	16638	09134	59980	63806	48472	39318	35434	24057	74739
	24	12477	09965	96657	57994	59439	76330	24596	77515	09577	91871
	25	83266	32883	42451	15579	38155	29793	40914	65990	16255	17777
	26	76970	80876	10237	39515	79152	74798	39357	09054	73579	92359
	27	37074	65198	44785	68624	98336	84481	97610	78735	46703	98265
	28	83712	06514	30101	78295	54656	85417	43189	60048	72781	72606
	29	20287	56862	69727	94443	64936	08366	27227	05158	50326	59566
	30	74261	32592	86538	27041	65172	85532	07571	80609	39285	65340
	31	64081	49863	08478	96001	18888	14810	70545	89755	59064	07210
	32	05617	75818	47750	67814	29575	10526	66192	44464	27058	40467
	33	26793	74951	95466	74307	13330	42664	85515	20632	05497	33625
	34	65988	72850	48737	54719	52056	01596	03845	35067	03134	70322
	35	27366	42271	44300	73399	21105	03280	73457	43093	05192	48657
	36	56760	10909	98147	34736	33863	95256	12731	66598	50771	83665
	37	72880	43338	93643	58904	59543	23943	11231	83268	65938	81581
	38	77888	38100	03062	58103	47961	83841	25878	23746	55903	44115
	39	28440	07819	21580	51459	47971	29882	13990	29226	23608	15873
	40	63525	94441	77033	12147	51054	49955	58312	76923	96071	05813
	41	47606	93410	16359	89033	89696	47231	64498	31776	05383	39902
	42	52669	45030	96279	14709	52372	87832	02735	50803	72744	88208
	43	16738	60159	07425	62369	07515	82721	37875	71153	21315	00132
	44	59348	11695	45751	15865	74739	05572	32688	20271	65128	14551
	45	12900	71775	29845	60774	94924	21810	38636	33717	67598	82521
	46	75086	23537	49939	33595	13484	97588	28617	17979	70749	35234
	47	99495	51434	29181	09993	38190	42553	68922	52125	91077	40197
	48	26075	31671	45386	36583	93459	48599	52022	41330	60651	91321
	49	13636	93596	23377	51133	95126	61496	42474	45141	46660	42338

TABLE 1

Column Heading		00–04	05–09	10–14	15–19	20–24	25–29	30–34	35–39	40–44	45–49
Row Number	50	64249	63664	39652	40646	97306	31741	07294	84149	46797	82487
	51	26538	44249	04050	48174	65570	44072	40192	51153	11397	58212
	52	05845	00512	78630	55328	18116	69296	91705	86224	29503	57071
	53	74897	68373	67359	51014	33510	83048	17056	72506	82949	54600
	54	20872	54570	35017	88132	25730	22626	86723	91691	13191	77212
	55	31432	96156	89177	75541	81355	24480	77243	76690	42507	84362
	56	66890	61505	01240	00660	05873	13568	76082	79172	57913	93448
	57	41894	57790	79970	33106	86904	48119	52503	24130	72824	21627
	58	11303	87118	81471	52936	08555	28420	49416	44448	04269	27029
	59	54374	57325	16947	45356	78371	10563	97191	53798	12693	27928
	60	64852	34421	61046	90849	13966	39810	42699	21753	76192	10508
	61	16309	20384	09491	91588	97720	89846	30376	76970	23063	35894
	62	42587	37065	24526	72602	57589	98131	37292	05967	26002	51945
	63	40177	98590	97161	41682	84533	67588	62036	49967	01990	72308
	64	82309	76128	93965	26743	24141	04838	40254	26065	07938	76236
	65	79788	68243	59732	04257	27084	14743	17520	95401	55811	76099
	66	40538	79000	89559	25026	42274	23489	34502	75508	06059	86682
	67	64016	73598	18609	73150	62463	33102	45205	87440	96767	67042
	68	49767	12691	17903	93871	99721	79109	09425	26904	07419	76013
	69	76974	55108	29795	08404	82684	00497	51126	79935	57450	55671
	70	23854	08480	85983	96025	50117	64610	99425	62291	86943	21541
	71	68973	70551	25098	78033	98573	79848	31778	29555	61446	23037
	72	36444	93600	65350	14971	25325	00427	52073	64280	18847	24768
	73	03003	87800	07391	11594	21196	00781	32550	57158	58887	73041
	74	17540	26188	36647	78386	04558	61463	57842	90382	77019	24210
	75	38916	55809	47982	41968	69760	79422	80154	91486	19180	15100
	76	64288	19843	69122	42502	48508	28820	59933	72998	99942	10515
	77	86809	51564	38040	39418	49915	19000	58050	16899	79952	57849
	78	99800	99566	14742	05028	30033	94889	53381	23656	75787	59223
	79	92345	31890	95712	08279	91794	94068	49337	88674	35355	12267
	80	90363	65162	32245	82279	79256	80834	06088	99462	56705	06118
	81	64437	32242	48431	04835	39070	59702	31508	60935	22390	52246
	82	91714	53662	28373	34333	55791	74758	51144	18827	10704	76803
	83	20902	17646	31391	31459	33315	03444	55743	74701	58851	27427
	84	12217	86007	70371	52281	14510	76094	96579	54853	78339	20839
	85	45177	02863	42307	53571	22532	74921	17735	42201	80540	54721
	86	28325	90814	08804	52746	47913	54577	47525	77705	95330	21866
	87	29019	28776	56116	54791	64604	08815	46049	71186	34650	14994
	88	84979	81353	56219	67062	26146	82567	33122	14124	46240	92973
	89	50371	26347	48513	63915	11158	25563	91915	18431	92978	11591
	90	53422	06825	69711	67950	64716	18003	49581	45378	99878	61130
	91	67453	35651	89316	41620	32048	70225	47597	33137	31443	51445
	92	07294	85353	74819	23445	68237	07202	99515	62282	53809	26685
	93	79544	00302	45338	16015	66613	88968	14595	63836	77716	79596
	94	64144	85442	82060	46471	24162	39500	87351	36637	42833	71875
	95	90919	11883	58318	00042	52402	28210	34075	33272	00840	73268
	96	06670	57353	86275	92276	77591	46924	60839	55437	03183	13191
	97	36634	93976	52062	83678	41256	60948	18685	48992	19462	96062
	98	75101	72891	85745	67106	26010	62107	60885	37503	55461	71213
	99	05112	71222	72654	51583	05228	62056	57390	42746	39272	96659

TABLE 1

Column Heading		50–54	55–59	60–64	65–69	70–74	75–79	80–84	85–89	90–94	95–99
Row Number	50	32847	31282	03345	89593	69214	70381	78285	20054	91018	16742
	51	16916	00041	30236	55023	14253	76582	12092	86533	92426	37655
	52	66176	34037	21005	27137	03193	48970	64625	22394	39622	79085
	53	46299	13335	12180	16861	38043	59292	62675	63631	37020	78195
	54	22847	47839	45385	23289	47526	54098	45683	55849	51575	64689
	55	41851	54160	92320	69936	34803	92479	33399	71160	64777	83378
	56	28444	59497	91586	95917	68553	28639	06455	34174	11130	91994
	57	47520	62378	98855	83174	13088	16561	68559	26679	06238	51254
	58	34978	63271	13142	82681	05271	08822	06490	44984	49307	61717
	59	37404	80416	69035	92980	49486	74378	75610	74976	70056	15478
	60	32400	65482	52099	53676	74648	94148	65095	69597	52771	71551
	61	89262	86332	51718	70663	11623	29834	79820	73002	84886	03591
	62	86866	09127	98021	03871	27789	58444	44832	36505	40672	30180
	63	90814	14833	08759	74645	05046	94056	99094	65091	32663	73040
	64	19192	82756	20553	58446	55376	88914	75096	26119	83898	43816
	65	77585	52593	56612	95766	10019	29531	73064	20953	53523	58136
	66	23757	16364	05096	03192	62386	45389	85332	18877	55710	96459
	67	45989	96257	23850	26216	23309	21526	07425	50254	19455	29315
	68	92970	94243	07316	41467	64837	52406	25225	51553	31220	14032
	69	74346	59596	40088	98176	17896	86900	20249	77753	19099	48885
	70	87646	41309	27636	45153	29988	94770	07255	70908	05340	99751
	71	50099	71038	45146	06146	55211	99429	43169	66259	97786	59180
	72	10127	46900	64984	75348	04115	33624	68774	60013	35515	62556
	73	67995	81977	18984	64091	02785	27762	42529	97144	80407	64524
	74	26304	80217	84934	82657	69291	35397	98714	35104	08187	48109
	75	81994	41070	56642	64091	31229	02595	13513	45148	78722	30144
	76	59537	34662	79631	89403	65212	09975	06118	86197	58208	16162
	77	51228	10937	62396	81460	47331	91403	95007	06047	16846	64809
	78	31089	37995	29577	07828	42272	54016	21950	86192	99046	84864
	79	38207	97938	93459	75174	79460	55436	57206	87644	21296	43393
	80	88666	31142	09474	89712	63153	62333	42212	06140	42594	43671
	81	53365	56134	67582	92557	89520	33452	05134	70628	27612	33738
	82	89807	74530	38004	90102	11693	90257	05500	79920	62700	43325
	83	18682	81038	85662	90915	91631	22223	91588	80774	07716	12548
	84	63571	32579	63942	25371	09234	94592	98475	76884	37635	33608
	85	68927	56492	67799	95398	77642	54913	91583	08421	81450	76229
	86	56401	63186	39389	88798	31356	89235	97036	32341	33292	73757
	87	24333	95603	02359	72942	46287	95382	08452	62862	97869	71775
	88	17025	84202	95199	62272	06366	16175	97577	99304	41587	03686
	89	02804	08253	52133	20224	68034	50865	57868	22343	55111	03607
	90	08298	03879	20995	19850	73090	13191	18963	82244	78479	99121
	91	59883	01785	82403	96062	03785	03488	12970	64896	38336	30030
	92	46982	06682	62864	91837	74021	89094	39952	64158	79614	78235
	93	31121	47266	07661	02051	67599	24471	69843	83696	71402	76287
	94	97867	56641	63416	17577	30161	87320	37752	73276	48969	41915
	95	57364	86746	08415	14621	49430	22311	15836	72492	49372	44103
	96	09559	26263	69511	28064	75999	44540	13337	10918	79846	54809
	97	53873	55571	00608	42661	91332	63956	74087	59008	47493	99581
	98	35531	19162	86406	05299	77511	24311	57257	22826	77555	05941
	99	28229	88629	25695	94932	30721	16197	78742	34974	97528	45447

EXAMPLE

WORKSHEET 2a

(A) Current Date: _____

(B) Proposed Testing Date: _____

(C) Total No. of Sensitive Safety Employees: 250

(D) No. of Tests Needed on Proposed Test Date: 10

(E) Key to Starting Location: 0 7 4 2 5

(F) Row Number of Starting Location: 0 7
(Digits 1-2 of entry E)

(G) Column Number Key
(Digits 3-4 of entry E): 4 2

(H) Column Heading of Starting Location
using entry (G): (40 - 44)

(I) Page of Table A which contains row from entry (F) and column heading from Entry (H): (Page 1,2,3 or 4) 1

(J) Starting Location Number found on page (1), row number (F), and column heading (H) 4 9 1 7 7

(K) Code for Direction from Starting Location (Digit 5 from entry E): 5
(1,2,3 = up, 4,5 = right, 6.7,8 = down, 9,0 = left)

(L) Scanning size: Total no. of digits used to write entry (C) = 1,2,3, or 4 3

ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS
1.	100	21.		41.	
2.	176	22.		42.	
3.	239	23.		43.	
4.	225	24.		44.	
5.	063	25.		45.	
6.	215	26.		46.	
7.	072	27.		47.	
8.	222	28.		48.	
9.	115	29.		49.	
10.	092	30.		50.	
11.		31.		51.	
12.		32.		52.	
13.		33.		53.	
14.		34.		54.	
15.		35.		55.	
16.		36.		56.	
17.		37.		57.	
18.		38.		58.	
19.		39.		59.	
20.		40.		60.	

EXAMPLE TABLE 1a

Column Heading		50–54	55–59	60–64	65–69	70–74	75–79	80–84	85–89	90–94	95–99
Row Number	00	59391	58030	52098	82718	87024	82848	04190	96574	90464	29065
	01	99567	76364	77204	04615	27062	96621	43918	01896	83991	51141
	02	10363	97518	51400	25670	98342	61891	27101	37855	06235	33316
	03	86859	19558	64432	16706	99612	59798	32803	67708	15297	28612
	04	11258	24591	36863	55368	31721	94335	34936	02566	80972	08188
	05	95068	88628	35911	14530	33020	80428	39936	31855	34334	64865
	06	54463	47237	73800	91017	36239	71824	83671	39892	60518	37092
	07	16874	62677	57412	13215	31389	62233	80827	73917	82802	84420
	08	92494	63157	76593	91316	03505	72389	96363	52887	01087	66091
	09	15669	56689	35682	40844	53256	81872	35213	09840	34471	74441
	10	99116	75486	84989	23476	52967	67104	39495	39100	17217	74073
	11	15696	10703	65178	90637	63110	17622	53988	71087	84148	11670
	12	97720	15369	51269	69620	03388	13699	33423	67453	43269	56720
	13	11666	13841	71681	98000	35979	39719	81899	07449	47985	46967
	14	71628	73130	78783	75691	41632	09847	61547	18707	85489	69944
	15	40501	51089	99943	91843	41995	88931	73631	69361	05375	15417
	16	22518	55576	98215	82068	10798	86211	36584	67466	69373	40054
	17	75112	30485	62173	02132	14878	92879	22281	16783	86352	00077
	18	80327	02671	98191	84342	90813	49268	95441	15496	20168	09271
	19	60251	45548	02146	05597	48228	81366	34598	72856	66762	17002
	20	57430	82270	10421	00540	43648	75888	66049	21511	47676	33444
	21	73528	39559	34434	88596	54086	71693	43132	14414	79949	85193
	22	25991	65959	70769	64721	86413	33475	42740	06175	82758	66248
	23	78388	16638	09134	59980	63806	48472	39318	35434	24057	74739
	24	12477	09965	96657	57994	59439	76330	24596	77515	09577	91871
	25	83266	32883	42451	15579	38155	29793	40914	65990	16255	17777
	26	76970	80876	10237	39515	79152	74798	39357	09054	73579	92359
	27	37074	65198	44785	68624	98336	84481	97610	78735	46703	98265
	28	83712	06514	30101	78295	54656	85417	43189	60048	72781	72606
	29	20287	56862	69727	94443	64936	08366	27227	05158	50326	59566
	30	74261	32592	86538	27041	65172	85532	07571	80609	39285	65340
	31	64081	49863	08478	96001	18888	14810	70545	89755	59064	07210
	32	05617	75818	47750	67814	29575	10526	66192	44464	27058	40467
	33	26793	74951	95466	74307	13330	42664	85515	20632	05497	33625
	34	65988	72850	48737	54719	52056	01596	03845	35067	03134	70322
	35	27366	42271	44300	73399	21105	03280	73457	43093	05192	48657
	36	56760	10909	98147	34736	33863	95256	12731	66598	50771	83665
	37	72880	43338	93643	58904	59543	23943	11231	83268	65938	81581
	38	77888	38100	03062	58103	47961	83841	25878	23746	55903	44115
	39	28440	07819	21580	51459	47971	29882	13990	29226	23608	15873
	40	63525	94441	77033	12147	51054	49955	58312	76923	96071	05813
	41	47606	93410	16359	89033	89696	47231	64498	31776	05383	39902
	42	52669	45030	96279	14709	52372	87832	02735	50803	72744	88208
	43	16738	60159	✓07425	62369	07515	82721	37875	71153	21315	00132
	44	59348	11695	45751	15865	74739	05572	32688	20271	65128	14551
	45	12900	71775	29845	60774	94924	21810	38636	33717	67598	82521
	46	75086	23537	49939	33595	13484	97588	28617	17979	70749	35234
	47	99495	51434	29181	09993	38190	42553	68922	52125	91077	40197
	48	26075	31671	45386	36583	93459	48599	52022	41330	60651	91321
	49	13636	93596	23377	51133	95126	61496	42474	45141	46660	42338

✓ Key to starting location

EXAMPLE TABLE 1b
TEN THOUSAND RANDOMLY ASSORTED DIGITS

Column Key = 42

Column Heading	00–04	05–09	10–14	15–19	20–24	25–29	30–34	35–39	40–44	45–49
Row Number 00	54463	22662	65905	70639	79365	67382	29085	69831	47058	08186
01	15389	85205	18850	39226	42249	90669	96325	23248	60933	26927
02	85941	40756	82414	02015	13858	78030	16269	65978	01385	15345
03	61149	69440	11286	88218	58925	03638	52862	62733	33451	77455
04	05219	81619	10651	67079	92511	59888	84502	72095	83463	75577
05	41417	98326	87719	92294	46614	50948	64886	20002	97365	30976
06	28357	94070	20652	35774	16249	75019	21145	05217	47286	76305
Row→07	17783	00015	10806	83091	91530	36466	39981	62481	49177	75779
08	40950	84820	29881	85966	62800	70326	84740	62660	77379	90279
09	82995	64157	66164	41180	10089	41757	78258	96488	88629	37231
10	96754	17676	55659	44105	47361	34833	86679	23930	53249	27083
11	34357	88040	53364	71726	45690	66334	60332	22554	90600	71113
12	06318	37403	49927	57715	50423	67372	63116	48888	21505	80182
13	62111	52820	07243	79931	89292	84767	85693	73947	22278	11551
14	47534	09243	67879	00544	23410	12740	02540	54440	32949	13491
15	98614	75993	84460	62846	59844	14922	48730	73443	48167	34770
16	24856	03648	44898	09351	98795	18644	39765	71058	90368	44104
17	96887	12479	80621	66223	86085	78285	02432	53342	42846	94771
18	90801	21472	42815	77408	37390	76766	52615	32141	30268	18106
19	55165	77312	83666	36028	28420	70219	81369	41943	47366	41067
20	75884	12952	84318	95108	72305	64620	91318	89872	45375	85436
21	16777	37116	58550	42958	21460	43910	01175	87894	81378	10620
22	46230	43877	80207	88877	89380	32992	91380	03164	98656	59337
23	42902	66892	46134	01432	94710	23474	20423	60137	60609	13119
24	81007	00333	39693	28039	10154	95425	39220	19774	31782	49037
25	68089	01122	51111	72373	06902	74373	96199	97017	41273	21546
26	20411	67081	89950	16944	93054	87687	96693	87236	77054	33848
27	58212	13160	06468	15718	82627	76999	05999	58680	96739	63700
28	70577	42866	24969	61210	76046	67699	42054	12696	93758	03283
29	94522	74358	71659	62038	79643	79169	44741	05437	39038	13163
30	42626	86819	85651	88678	17401	03252	99547	32404	17918	62880
31	16051	33763	57194	16752	54450	19031	58580	47629	54132	60631
32	08244	27647	33851	44705	94211	46716	11738	55784	95374	72655
33	59497	04392	09419	89964	51211	04894	72882	17805	21896	83864
34	97155	13428	40293	09985	58434	01412	69124	82171	59058	82859
35	98409	66162	95763	47420	20792	61527	20441	39435	11859	41567
36	45476	84882	65109	96597	25930	66790	65706	61203	53634	22557
37	89300	69700	50741	30329	11658	23166	05400	66669	48708	03887
38	50051	95137	91631	66315	91428	12275	24816	68091	71710	33258
39	31753	85178	31310	89642	98364	02306	24617	09609	83942	22716
40	79152	53829	77250	20190	56535	18760	69942	77448	33278	48805
41	44560	38750	83635	56540	64900	42912	13953	79149	18710	68618
42	68328	83378	63369	71381	39564	05615	42451	64559	97501	65747
43	46939	38689	58625	08342	30459	85863	20781	09284	26333	91777
44	83544	86141	15707	96256	23068	13782	08467	89469	93842	55349
45	91621	00881	04900	54224	46177	55309	17852	27491	89415	23466
46	91896	67126	04151	03795	59077	11848	12630	98375	52068	60142
47	55751	62515	21108	80830	02263	29303	37204	96926	30506	09808
48	85156	87689	95493	88842	00664	55017	55539	17771	69448	87530
49	07521	56898	12236	60277	39102	62315	12239	07105	11844	01117

APPENDIX J

CONSORTIA ARRANGEMENTS FOR COST SHARING

What Is A Consortium?

A consortium is a partnership of two or more organizations joining together to accomplish a common purpose. Utilizing a consortium approach for implementing the UMTA regulation can provide benefits to the transit organization by pooling resources, sharing expertise, and obtaining a better price for services through volume contracting. The consortium members jointly share in the responsibility to assure that any contracted services (EAP, laboratory testing, etc.) are of good quality and meet regulatory requirements. However, each member transit operator is individually responsible for meeting UMTA certification and reporting requirements.

What Services Could a Consortium Arrangement Provide?

Specimen Collection. Each transit organization will use one or more of the following sites for specimen collection: an on-site restroom; a mobile collection facility; or an off-premises collection site (MRO office, medical laboratory, local hospital). All specimen collection facilities must meet the requirements of 49 CFR Part 40. A consortium could contract for specimen collection services, administer specimen collection services, or administer the random selection phase of drug testing.

Medical Review Officer (MRO) Services. Each transit organization must recruit and select an MRO to evaluate drug testing results and the return to work status of sensitive safety employees who have tested positive. Instead, a consortium could contract with a single MRO to provide services to all consortium members.

Laboratory Services. All drug testing under the UMTA regulation must be done in a DHHS certified laboratory. A consortium could contract with a single laboratory. All collection materials, forms, and collection protocols would be identical for all consortium members.

Employee Assistance/Rehabilitation Services. If a transit organization chooses to provide employee assistance services, a consortium of transit organizations could provide an umbrella of EAP services.

Employee Awareness/Supervisory Training. Each transit organization must provide employee awareness and supervisory training. Pooled training services would enable an organization to receive transit specific training by specialists in the field. Followup training for new supervisors could also be coordinated through a consortium arrangement.

UMTA Reporting. Although each transit organization must individually report semiannually to UMTA, a consortium could design a efficient and accurate system for collecting the required data.

How Does A Consortium Work?

A number of models are possible. Four examples of consortia are presented: cooperative purchasing model, separate entity model, managing partner model, and external management model. The first two models, the cooperative purchasing model and the separate entity model, for all practical purposes, require forming a legal entity. The consortium would operate as or, in fact, be a chartered non-profit corporation. The consortium would have power to conduct business for its members, enter into contracts, and be their legal representative according to a charter and by-laws. A governing board of the members would be responsible for the management of the consortium. The last two models are easier to organize, but gains in simplicity are offset by lesser control.

Cooperative Purchasing Model. In a cooperative purchasing model, the consortium would contract for services at a volume price to gain buying power and management efficiencies. Suppliers would deal directly with each transit organization. If the consortium is large enough, central billing could be cost effective. An analogous example is a group of small retailers forming a cooperative group to purchase merchandise at volume discounts.

Separate Entity Model. If the number of covered employees represented by all consortium members is large enough, it could be cost effective to form a separate entity. The consortium entity hires a manager whose responsibility is to provide services to the members, at cost, plus the operating costs of the consortium. An analogous example is a food cooperative. Consumers, wanting the best quality and lowest prices for food, form cooperatives.

A consortium of small to medium size organizations hiring a consortium manager would enable each member to have specialized expertise and yet not hire their own full-time position. The administrative overhead needed to comply with the UMTA rule is a cost item, whether it is a purchased service or is performed by an employee. At some point, it is cost-effective to have a specialist administer a complex program such as this.

Managing Partner Model. Smaller transit organizations could contract for services with a large transit organization. The large transit organization has staff and resources to provide internal support. The large transit organization could sell surplus internal staff time to smaller transit organizations, providing an economy to both. An analogous example is a limited partnership where investors pool resources. Usually the partner with the greatest investment becomes the managing partner with the responsibility to manage and make decisions for the partnership.

External Management Model. The transit organization could contract directly with a company specifically providing the services desired. The management company should have demonstrated expertise in the workplace drug abuse field. An analogous example is a pension fund management service or an insurance health benefits manager.

What Are the Advantages and Disadvantages of Consortia?

Advantages

- Economy of Scale. How much a transit organization could save depends on the number of consortium members, total number of covered employees, and extent of services provided.

- Higher Level of Expertise. Providing a drug-free workplace under the UMTA regulation involves many different areas of expertise not commonly found in the transit industry. Pooling resources allows for specialization and hiring experts.

- Impartiality and Confidentiality. There would be less direct involvement of transit personnel in the collection process. Removing the collection process from transit property, and the responsibility from transit personnel, creates an image of impartial, professional, and confidential service.

- Liability Protection. The use of independent contract service providers may reduce the individual liability of consortium members in lawsuits resulting from quality errors, which become the responsibility principally of the contractor.

- Reduced Administrative Burden. The amount of administrative time and effort required by transit managers would be minimized.

- Efficiency. In the case of larger operators who assume a consortium management role, there would be a more efficient utilization of professional staff through an increased workload and cost sharing with consortium members.

- Enhanced Internal Resources. Larger operators may be able to add desired internal service capabilities not otherwise affordable by offsetting overhead costs through reimbursements by consortium members.

Disadvantages

- Less Control. Forming a consortium or contracting with a consortium means a certain loss of autonomy. Not all potential consortium members may share the same program goals and needs, resulting in compromise.

- Added Requirements. If the number of covered employees in the consortium results in testing a total of 1,000 specimens a year, the consortium must conduct blind performance testing.

- External Dependence. A testing program controlled by outside personnel makes the transit operator more dependent on outside personnel.

- **Limited Flexibility.** A consortium agreement could limit the individual member's ability to make changes due to changes in the workforce makeup, technologies for testing, or availability of other local service providers. Consortia agreements will require long term commitments, which some transit authorities may be reluctant to make.

- **Increased Financial Risk.** Failure of consortium members to pay for their share of the cost could place increased financial burdens on other members.

APPENDIX K

SOURCES OF ADDITIONAL INFORMATION

This appendix provides additional sources of information to help you implement your anti-drug program. Section 1 is a bibliography of pertinent documents and articles. Section 2 provides a listing of organizations which provide useful drug awareness information. Section 3 lists State offices responsible for drug abuse prevention.

Section 1

Listed below are suggested sources of published material for further information about drugs in the workplace and drug program development. assistance programs, and rehabilitation can be obtained.

- American Public Transit Association. From Here to There...Safe and Sober, A Manual on Drug and Alcohol Abuse in Transit. Washington, DC, March 2, 1987.
- Battelle Human Affairs Research Centers. Fitness for Duty in the Nuclear Power Industry: A Review of Technical Issues. Seattle, WA, September, 1988.
- Cornish, C.M. Drugs and Alcohol in the Workplace: Testing and Privacy. Callaghan & Co., 1988.
- Dogoloff, Lee I. and Robert T. Angarola. Urine Testing in the Workplace. The American Council for Drug Education, Rockville, MD, 1985.
- Edison Electric Institute Human Resources Management Division. EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development. Washington, DC, August, 1985.
- Federal Railroad Administration. Operation: Redblock Case Study, U.S. Department of Transportation, Washington, DC, October, 1988.
- Kuest, Ronald D. "Drugs and Work: Confronting the Problem." AMA Trainer's Workshop, September - October, 1988: 8-64.
- National Institute on Drug Abuse. Employee Drug Screening & Detection of Drug Use by Urinalysis, U. S. Department of Health and Human Services, Rockville, MD, DHHS Publication No. (ADM)88-1442, Revised 1988.
- National Institute on Drug Abuse. Medical Review Officer Manual - A Guide to Evaluating Urine Drug Analysis, U. S. Department of Health and Human Services, Rockville, MD, DHHS Publication No. (ADM)88-1526, Printed 1988.
- National Institute on Drug Abuse. White House Conference for Drug Free America - Final Report, U.S. Department of Health and Human Services, Rockville, MD, DHHS Publication No. (ADM)86-60053, Printed 1988. June, 1988.

- National Institute of Justice. "Drugs and Crime." NIJ Reports, Washington, DC, March - April, 1987.

- President's Commission on Organized Crime. America's Habit: Drug Abuse, Drug Trafficking, and Organized Crime. U.S. Government Printing Office, Washington, DC, 1986.

Section 2

Additional materials (pamphlets, referrals, training materials) on drug abuse, drug treatment, and drug abuse training can be obtained by contacting the specialized organizations listed below:

1. National Clearinghouse for Drug
   Abuse Information
   Box 1635
   Rockville, MD 20850

2. Alcohol and Drug Abuse Section
   Division of Mental Health and
   Retardation
   Department of Human Resources
   618 Ponce de Leon Avenue, N.E.
   Atlanta, GA 30308

3. Pyramid Project
   Suite 1006
   7101 Wisconsin Avenue
   Bethesda, MD 20814
   (for technical assistance in drug abuse
   prevention resources and program development)

4. Alcohol, Drug Abuse, and Mental
   Health Administration
   Office of Communications and
   Public Affairs
   5600 Fishers Lane, Room 6C-15
   Rockville, MD 20857

5. Veterans' Administration Alcohol
   and Drug Dependent Service
   810 Vermont Avenue, N.W.
   Washington, D.C. 20420

6. National Drug Abuse Center for
   Training and Resource Development
   5530 Wisconsin Avenue
   Washington, D.C. 20015
   (for drug abuse professional training materials)

7. National Audiovisual Center
   National Archives and Records
   Service
   (GSA)
   Washington, D.C. 20409
   (for federally produced drug abuse films)

8. Prevention Branch
   Division of Resource
   Development
   National Institute on Drug Abuse
   5600 Fishers Lane, Room 10A-30
   Rockville, MD 20857
   (for guidance on the development of prevention programs)

9. Center for Multicultural Awareness
   2924 Columbia Pike
   Arlington, VA 22204
   (for drug abuse multicultural materials and assistance
   to minorities)

10. American Council for Drug Education
    5820 Hubbard Drive
    Rockville, MD 20852

The National Institute on Drug Abuse (NIDA) has established a Drug-free Workplace Helpline (800) 843-4971. The following listing provides additional sources for assistance in combatting drug abuse at the State level.

ALABAMA

Department of Mental Health
200 Interstate Park Drive
P. O. Box 3710
Montgomery, AL 36193
(205) 271-4520

ALASKA

Department of Health & Social Services
Office of Alcoholism and Drug Abuse
Pouch H-05-F
Juneau, AK 99811
(907) 586-6201

ARIZONA

Drug Abuse Section
Department of Health Services
Division of Behavioral Health Services
2500 East Van Buren
Phoenix, AZ 85008
(602) 255-12405008

ARKANSAS

Arkansas Office on Alcohol and
Drug Abuse Prevention
1515 West 7th Avenue, Suite 300
Rock, AR 72202
(501) 371-2603

CALIFORNIA

Department of Alcohol and Drug Abuse
111 Capitol Mall
Sacramento, CA 95814
(915) 445-1940 or 322-8484

COLORADO

Alcohol and Drug Abuse
Department of Health
4210 East 11th Avenue
Denver, CO 80220
(303) 320-6137

CONNECTICUT

Connecticut Alcohol and Drug
Abuse Commission
999 Asylum Avenue, 3rd Floor
Hartford, CT 06105
(203) 566-4145

DELAWARE

Bureau of Alcoholism and
Drug Abuse
1901 North DuPont Highway
Newcastle, DE 19720
(302) 421-6101

DISTRICT OF COLUMBIA

Alcohol and Drug Abuse
Planning Division
601 Indiana Avenue, N.W., Suite 500Little
Washington, D.C. 20004
(202) 724-5641

FLORIDA

Drug Abuse Program
1309 Winewood Boulevard
Building 6, Room 163A
Tallahassee, FL 32301
(904) 488-0900

GEORGIA

Alcohol and Drug Section
Division of Mental Health and
Mental Retardation
GA Department of Human Resources
618 Ponce de Leon Avenue, N.E.
Atlanta, GA 30308
(404) 894-4785

HAWAII

Alcohol and Drug Abuse Branch
3627 Kilauea Avenue
Room 405
Honolulu, HI 96816
(808) 734-2263

IDAHO

Bureau of Substance Abuse
Department of Health & Welfare
700 West State
Boise, ID 83720
(208) 334-4368

ILLINOIS

Illinois Dangerous Drugs Commission
300 North State Street, Suite 1500
Chicago, IL 60610
(312) 822-9860

INDIANA

Division of Addiction Services
Department of Mental Health
429 North Pennsylvania Street
Indianapolis, IN 46204
(317) 232-7816

IOWA

Iowa Department of
Substance Abuse
505 Fifth Avenue
Insurance Exchange Bldg.
Suite 202
Des Moines, IA 50319
(515) 281-3641

KANSAS

Alcohol and Drug Abuse Services
2700 West Sixth Street
Biddle Building
Topeka, KS 66606

KENTUCKY

Alcohol and Drug Branch
Bureau for Health Services
Department of Human Resources
275 East Main Street
Frankfort, KY 40621
(502) 564-2880

LOUISIANA

Office of Mental Health &
Substance Abuse
P. O. Box 4049
655 North 5th Street
Batton Rouge, LA 70821
(504) 324-2565

MAINE

Office of Alcoholism and Drug
Abuse Prevention
Bureau of Rehabilitation
32 Winthrop Street
Augusta, ME 04330
(207) 289-2781

MARYLAND

Maryland State Drug Abuse
Administration
201 West Preston Street
Baltimore, MD 21201
(301) 383-3312

MASSACHUSETTS

Division of Drug Rehabilitation
160 North Washington Street
Boston, MA 02114
(617) 727-8617

MICHIGAN

Office of Substance Abuse Services
Department of Public Health
3500 North Logan Street
Lansing, MI 48909
(517) 373-8603

MINNESOTA

Chemical Dependency Program Division
Department of Public Welfare
4th Floor Centennial Building
658 Cedar
St. Paul, MN 55155
(612) 296-4614

MISSISSIPPI

Division of Alcohol and Drug Abuse
Department of Mental Health
12th Floor, Robert E. Lee
Office Building
Jackson, MS 39201
(601) 354-7031

MISSOURI

Division of Alcoholism and Drug
Abuse
Department of Mental Health
2002 Missouri Boulevard
P. O. Box 687
Jefferson City, MO 65101
(314) 751-4942

MONTANA

Alcohol and Drug Abuse Division
State of Montana
Department of Institutions
Helena, MT 59601
(406) 449-2827

NEBRASKA

Division of Alcoholism and Drug
Abuse
Department of Public Institutions
P. O. Box 94728
Lincoln, NE 68509
(402) 471-2851, Ext. 415

NEVADA

Bureau of Alcohol and Drug Abuse
Department of Human Resources
505 East King Street
Carson City, NV 89710
(702) 885-4790

NEW HAMPSHIRE

Office of Alcohol & Drug Abuse
Prevention
Health and Welfare Building
Hazen Drive
Concord, NH 05501
(603) 271-4627

NEW JERSEY

Division of Narcotic and Drug
Abuse Control
129 East Hanover Street
Trenton, NJ 08625
(609) 292-5760

NEW MEXICO

Substance Abuse Bureau
Behavioral Sciences Division
Health and Environment Department
P. O. Box 968
Santa Fe, NM 87503
(505) 827-5271, Ext. 228

NEW YORK

Division of Substance Abuse Services
Executive Park South
Box 8200
Albany, NY 12203
(518) 457-7629

OHIO

Bureau of Drug Abuse
65 South Front Street
Columbus, Ohio 43215
(614) 466-9023

NORTH CAROLINA

Alcohol and Drug Abuse Section
Division of Mental Health and
Mental Retardation Services
325 North Salisbury Street
Raleigh, NC 27661
(919) 733-4670

NORTH DAKOTA

Division of Alcoholism & Drug Abuse
Mental Health/Mental Retardation
Services
State Department of Health
909 Basin Avenue
Bismarck, ND 58505
(701) 224-2767

OKLAHOMA

Alcohol and Drug Programs
Department of Mental Health
P. O. Box 53277, Capitol Station
4545 North Lincoln Boulevard
Suite 100 East Terrace
Oklahoma City, OK 73152
(405) 521-0044

OREGON

Mental Health Division
2575 Bittern Street, N.E.
Salem, OR 97310
(503) 378-2163

PENNSYLVANIA

Office of Drug and Alcohol Programs
Riverside Office, Building #1,
Suite N
2101 North Front Street
Harrisburg, PA 17120
(717) 787-9857

RHODE ISLAND

Division of Substance Abuse
303 General Hospital
Cranston, RI 02020
(401) 464-2091

SOUTH CAROLINA

South Carolina Commission on
Alcohol and Drug Abuse
3700 Forest Drive
Columbia, SC 29204
(803) 758-2521/2183

SOUTH DAKOTA

Division of Alcohol and Drug Abuse
Joe Foss Building
Pierre, SD 57501
(605) 773-4806

TENNESSEE

Alcohol and Drug Abuse Services
Tennessee Department of Mental Health
And Mental Retardation
James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
(615) 741-1921

TEXAS

Drug Abuse Prevention Division
Texas Department of Community Affairs
P. O. Box 13166
Austin, TX 78711
(512) 475-2431

UTAH

Division of Alcoholism & Drugs
150 West North Temple, Suite 350
P. O. Box 2500
Salt Lake City, UT 84110
(801) 533-6532

VERMONT

Alcohol and Drug Abuse Division
103 South Main Street
Waterbury, VT 05676
(802) 241-2170, 241-1000

VIRGINIA

Division of Substance Abuse
State Department of Mental Health &
Mental Retardation
P. O. Box 1797
109 Governor Street
Richmond, VA
(804)786-5313

WASHINGTON

Bureau of Alcoholism and
Substance Abuse
Washington Department of Social &
Health Services
Office Building
Olympia, WA 98504
(206) 753-5866

WEST VIRGINIA

Division of Alcohol and Drug Abuse
State Capitol
1800 Kanawha Boulevard E
Charleston, WV 25305
(304) 348-3616

WISCONSIN

State Bureau of Alcohol and
Other Drug Abuse
1 West Wilson Street
P. O. Box 7851
Madison, WI 53707
(608) 266-2717

WYOMING

Alcohol and Drug Abuse Programs
Hathaway Building
Cheyenne, WY 82002
(307) 777-7115, Ext. 7118

APPENDIX L

LIST OF DHHS CERTIFIED LABORATORIES

Listed below are the laboratories certified by DHHS to perform drug testing. This list was published in the February 21, 1989 issue of the Federal Register. An updated listing will be published in the Federal Register monthly. Newly certified laboratories, as well as those that lose their certifications, will be identified as the lists are updated over time.

To become certified and listed, a laboratory must undergo three rounds of performance testing plus on-site inspections by DHHS. The standards are very strict. To maintain the certification, the laboratory must participate in an every-other-month performance testing program and undergo periodic, on-site inspections.

American Medical Laboratories, Inc.
11091 Main Street, P.O. Box 188
Fairfax, VA 22030
Telephone: 703-691-9100

Center for Human Toxicology
417 Wakara Way
Room 290
University Research Park
Salt Lake City, UT 84108
Telephone: 801-581-5117

ChemWest Analytical Laboratories, Inc.
600 West North Market Boulevard
Sacramento, CA 95834
Telephone: 916-923-0840

CompuChem Laboratories, Inc.
3308 Chapel Hill/Nelson Highway
P.O. Box 12652
Research Triangle Park, NC 27709
Telephone: 919-549-8263, 919-248-6494

Doctors and Physicians Laboratory
801 East Dixie Avenue
Leesburg, FL 32748
Telephone: 904-787-9006

International Clinical Laboratories
8000 Sovereign Row
Dallas, TX 75247
Telephone: 214-638-1301

Med Arts/South Community Hospital
1001 Southwest 44th Street
Oklahoma City, OK 73109
Telephone: 405-636-7041

Medtox Laboratories, Inc.
402 West County Road D
St. Paul, MN 55112
Telephone: 612-636-7466

MetPath, Inc.
1355 Mittel Boulevard
Wood Dale, IL 60191
Telephone: 312-595-3888

National Center for Forensic Science
(formerly Maryland Medical Laboratories)
1901 Sulpher Spring Road
Baltimore, MD 21227
Telephone: 301-247-9100

Nichols Institute
7323 Engineering Road
San Diego, CA 92111
Telephone: 619-278-5900

SmithKline Bio-Science Laboratories

(formerly International Toxicology
Laboratories)
2201 West Campbell Park Drive
Chicago, IL 60612
Telephone: 312-885-2010

South Bend Medical Foundation, Inc.
530 North Lafayette Boulevard
South Bend, IN 46601
Telephone: 219-234-4176

APPENDIX M

QUALITY ASSURANCE BLIND TESTING

The Department of Transportation Interim Final Rule (49 CFR 40.31) requires any employer, or consortium of employers, who submits more than 1,000 urine specimens a year for laboratory analysis to conduct blind performance testing.

Blind Performance Testing

Blind performance testing is conducted by transit operators to verify the continued quality and reliability of a DHHS certified laboratory. Transit operators purchase, prepare, and label test specimens. These specimens are then submitted to their contracted DHHS laboratory as if they are bonafide specimens. The laboratory will not know that they are test specimens.

A drug-free urine specimen is submitted to verify that the laboratory is not reporting positive results for drugs not present, which is known as a false positive result. Spiked samples, containing known quantities of one or more of the drugs authorized for testing, are used to verify the laboratory's ability to detect drugs above the threshold level. Failure to detect those drugs is known as a false negative result.

During the first 90 days after an employer institutes a drug testing program, 50 percent of the total submitted specimens (up to a maximum of 500 samples) must be blind performance tests. Of the performance tests submitted, approximately 80 percent must be drug free, and 20 percent must be spiked. After the first 90 days of testing, ten percent of all specimens submitted must be blind performance tests (up to a maximum of 250 samples).

Preparation of the Quality Assurance (QA) Specimens

There are three sources for preparing the specimens to be submitted: (1) an independent urine supplier, (2) your MRO, or (3) your designated site collection person. The MRO is the most appropriate person to coordinate the process. Keep in mind, however, that whoever is selected to prepare the specimens must use the same procedure as for any other submitted specimen. A fictitious name is used on the urine custody and control form.

Obtaining QA Specimens

Several biological specimen laboratories collect and pool urine for this purpose. They can provide drug-free specimens and spiked specimens with known amounts of specific drugs. The urine can be purchased in bulk or in individual specimen units. The specimen is shipped in dry ice to preserve it from bacterial deterioration. Drug-free urine should be certified as such by the supplier and also certified as HIV free. The National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, MD 20857 (telephone 301-443-6500), can provide a list of laboratories providing this service.

Blind Performance Testing Required

Two different situations exist for blind performance testing, as follows:

- Laboratory supplying QA specimens does not perform GC/MS testing

  In this situation, the laboratory supplying the QA specimens provides three specimens from a homogeneous source and a statement attesting to that fact. The first specimen is tested by your testing laboratory and the second is tested by an independent laboratory. The third specimen is held in a secure, controlled environment. If the results agree, no further action is necessary. If the results disagree, then the third specimen is tested by another independent laboratory. If either of the two independent laboratories' results agrees with your testing laboratory's result, no further action is needed. If both independent laboratories' results disagree with your testing laboratory's results, the discrepancy must be reported to UMTA.

- Laboratory supplying QA specimens performs GC/MS testing

  In this situation, the laboratory supplying the QA specimens provides two specimens from a homogeneous source, a statement attesting to that fact, and the GC/MS test results for the source. This situation requires only one independent laboratory test in addition to your testing laboratory. Only if both the independent laboratories' results and those of the laboratory supplying the QA specimen disagree with your testing laboratory's result must a report be made to UMTA. Otherwise, no further action is necessary.

Normal Reported Errors

If your testing laboratory appears to have made an error, you are to notify UMTA. UMTA or DHHS will investigate the error and report to you the results of the inquiry.

If the investigation shows that a false positive result was caused by an administrative error, your testing laboratory will be required to take corrective action to minimize such an occurrence in the future. Technical or methodological errors require the transit operator to instruct the laboratory to send to UMTA all quality control data from the batch of specimens that included the false positive specimen. In addition, your testing laboratory will retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle.

Calculation for 1,000 or More Specimens in the First Year

To calculate the potential number of total specimens you expect to be submitted annually to your testing laboratory, remember that during the first year of implementation an employer need randomly test only at an average rate of 25 percent. The last collection period, however, must be at an annual rate of 50 percent of covered employees.

Therefore, as a rule of thumb, during the first year you can anticipate 0.25 random specimens per covered employee. In addition, blind performance testing will generate an average of 0.075 to 0.1 additional specimens. Even though the first 90 days requires quality assurance testing of 50 percent of all specimens collected, the random rate could be as low as 10 percent. Pre-employment, post-accident, reasonable cause, and return to duty testing could generate 0.1 to 0.2 additional specimens per covered employee per year. As a consequence, during the first year you can anticipate approximately 0.425 to 0.55 specimens per covered employee per year.*

During the second year you can anticipate approximately 0.65 to 0.85 specimens per employee. Random testing will generate 0.5 specimens per covered employee; quality assurance testing will generate 0.05 samples per employee, while pre-employment, post-accident, reasonable cause, and return to duty testing may generate between 0.1 to 0.3 specimens per covered employee. By the third and subsequent years you can anticipate the submission rate to level off to approximately 0.55 to 0.65 specimens per covered employee per year. To calculate the anticipated total specimens, multiply the submission rate by the total number of covered employees.

If you employ 2,000 or more covered employees, you should anticipate instituting blind performance testing the first year. If you employ 1,500 or more covered employees, you should anticipate blind performance testing starting in the second year. Remember, if you are the primary contractor for a consortium of smaller transit operators, the total number of specimens submitted through the consortium becomes the qualifying number.

Other QA Tests

The DOT Interim Final Rule does not require any other QA tests. You may wish to test a sterile water blind specimen. This will assure that the presealed collection cups and containers are contamination free. A drug-contaminated presealed sterile cup or container is a virtual impossibility. However, a person could raise the issue to challenge a positive result. Testing the containers periodically will eliminate this possibility. A 0.5 to 1 percent sterile water blind testing rate is probably adequate.

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* If the quarterly random rates for the first year are 10 percent, 15 percent, 25 percent, and 50 percent, the average would be 25 percent. The blind performance testing for random specimens during the first quarter is 50 percent of the random specimens, plus 50 percent of all pre-employment, post-accident, reasonable cause, and return to duty tests. In the second and subsequent quarters, blind performance tests are 10 percent of all specimens submitted.

APPENDIX N

RULEMAKING BY OTHER DOT AGENCIES

For those transit agencies whose operations include commuter rail transportation services or waterborne transportation services, additional drug program requirements apply. For agencies with commuter rail operations, those employees assigned to the rail operations must be covered under a substance abuse program meeting the Federal Railroad Administration's (FRA's) regulations (49 CFR Parts 217 and 219). Those employees assigned to waterborne operations must be covered under a substance abuse program meeting the Coast Guard (CG) regulations (49 CFR Parts 4, 5 and 16). All other employees performing sensitive safety functions in the respective transit agencies must be covered by the anti-drug program of the UMTA Final Rule (49 CFR Part 653). Thus, the employees of a multimodal transit agency falling under the purview of either the FRA or CG in addition to UMTA must be separated into distinct groups by mode in determining applicable substance abuse regulations.

The regulations cited in this appendix were published on the same day (November 21, 1988) in the Federal Register. There are substantive differences in the regulations of the three DOT agencies (UMTA, FRA, and CG). For example, both the FRA and the CG rules include testing for alcohol as well as drugs, whereas the UMTA rule does not include testing for alcohol. The FRA and CG rules actively promote EAPs or require them, respectively, whereas UMTA leaves the formation of an EAP up to local transit agency management.

Regarding certification, an UMTA grant recipient falling under requirements of either the FRA or CG must clearly state this fact in its certification to UMTA. The text of the certification of a recipient that provides commuter rail transportation regulated by the FRA shall be as follows:

> I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance have an anti-drug program that meets the requirements of the Federal Railroad Administration's regulations for employees regulated by the Federal Railroad Administration, and have established and implemented an anti-drug program in accordance with the terms of 49 CFR Part 653 for all other employees who perform sensitive safety functions.

The text of the certification of a recipient that provides waterborne transportation service regulated by the United States Coast Guard shall be as follows:

> I, (name), (title), certify that (name of recipient) and all operators providing mass transportation service for (name of recipient) with Federal financial assistance have an anti-drug program that meets the requirements of the United States Coast Guard regulations for employees regulated by the United States Coast Guard, and have established and implemented an anti-drug program in accordance with the terms of 49 CFR Part 653 for all other employees who perform sensitive safety functions.

APPENDIX O

SUMMARY OF ANTI-DRUG PROGRAM REQUIREMENTS AND DUE DATES

Requirement	Due Date	Addressee	Reference
Certification of compliance with 49 CFR Part 653	December 21, 1989 for large operators December 21, 1990 for small operators	UMTA Regional Office	49 CFR 653.35
Temporary waiver from compliance with 49 CFR Part 653	No later than December 21, 1989 Expires no later than December 21, 1990	Office of the Chief Counsel (UCC-10) Urban Mass Transportation Administration 400 Seventh St., S.W., Room 9316 Washington, D.C. 20590	49 CFR 653.37
Request for approval to test for drugs in addition to the five drugs listed in 49 CFR Part 653	N/A	Office of the Chief Counsel (UCC-10) Urban Mass Transportation Administration 400 Seventh St., S.W., Room 9316 Washington, D.C. 20590	49 CFR 653.1(b), 49 CFR 40.21
Semiannual report to UMTA	February 15 and August 15 each year, following initial program implementation	Office of Safety (UTS-3) Urban Mass Transportation Administration 400 Seventh St., S.W., Room 6432 Washington, D.C. 20590	49 CFR 653.31
Scientifically insufficient test results	February 15 and August 15 each year, following initial program implementation	Office of Safety (UTS-3) Urban Mass Transportation Administration 400 Seventh St., S.W., Room 6432 Washington, D.C. 20590	49 CFR 40.33(g)
Certification of compliance with the Drug-Free Workplace Act of 1988 (49 CFR Part 29)	Prior to receipt of Federal grants on or after March 18, 1989	UMTA Regional Office	49 CFR Part 29, Appendix C, UMTA Circular 9100.1B
Notification of a conviction under a criminal drug statute	Within ten days of receiving notice of the conviction	UMTA Regional Office	49 CFR Part 29

U.S. Department
of Transportation

**Urban Mass
Transportation
Administration**

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Washington, D.C. 20590

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