

# PLATTE CANYON WATER & SANITATION DISTRICT

## Alcohol and Drug Policy in Compliance with the Federal Omnibus Transportation Employee Testing

Effective Date: November 29, 2018

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Platte Canyon Water & Sanitation District (the District is committed to a safe, healthy and productive work environment for all employees free from the effects of substance abuse. The use of controlled substances (as herein defined) or alcohol may pose a serious threat to health and safety by impairing employee judgment, resulting in increased safety risks, injuries, and faulty decision-making.

The use of controlled substances or the misuse of alcohol increases the risk of accidents, jeopardizes the safe work environment, and causes harm to an individual's health and personal life.

### Scope:

This Policy shall apply to all employees required, as a condition of employment, to possess a valid Colorado Commercial Driver's License (CDL Employee or CDL Employees).

For purposes of this policy, a CDL employee is covered by United States Department of Transportation (DOT) regulations as those regulations relate to the employee's fitness-for-duty and use of alcohol prior to going on duty, while on duty, or while operating or having physical control of a commercial motor vehicle. DOT testing for controlled substances under this policy requires that CDL employees abstain from the use of controlled substances at any time or risk violating DOT regulations prohibiting the presence of controlled substances in their body. For purposes of this policy, the term "controlled substances" means marijuana, cocaine, amphetamines (including 3,4-Methylenedioxyamphetamine (MDA)), opioids, and phencyclidine (PCP).

Under this policy, performing a "safety-sensitive" function means all of the time after a CDL employee begins to work or is required to be ready to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include: (1) All time at Platte Canyon or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by Platte Canyon; (2) All time inspecting equipment as required by the law or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth; (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

When a CDL employee must take prescription or over-the counter drugs, the employee must ask the medical professional or pharmacist if the drug has any side effects which may impair the employee's ability to safely or productively perform the employee's job duties. If there is the potential impairment of the employee's ability to work safely or productively, the employee must report this information to the supervisor. With input from the employee, the District will determine if the employee should work in his regular job, be temporarily assigned to another job or placed off-work.

## Statement of Policy:

The goal of this policy is to establish procedures to support a safety and health program and to comply with minimum federal safety standards for safety-sensitive functions regulated by the DOT. These standards were designed to reduce accidents that result from Employee use of controlled substances and alcohol.

No CDL employee shall unlawfully manufacture, use, possess, or distribute controlled substances.

No CDL employee shall report to work, perform safety sensitive duties, or, while in the employ of the District, have at any time, any controlled substance present in their body. Safety sensitive duties shall include, but not necessarily be limited to operation of District equipment, operation of District vehicles, assisting in the operation of District equipment and vehicles or performance. Presence of controlled substances will be determined by testing performed as described in this policy.

No CDL employee shall perform safety sensitive functions within four (4) hours of consuming alcohol.

No CDL employee shall consume alcohol while performing safety sensitive functions.

No CDL employee shall possess alcohol while on duty.

No CDL employee shall report to work or perform safety sensitive functions while having an alcohol concentration of 0.02 grams of alcohol per 210 liters of breath or greater. A CDL employee's alcohol concentration will be determined by testing as described in this Policy.

No CDL employee shall leave the scene of an accident, without a valid reason, before arranging to have both a controlled substance and alcohol test performed.

No CDL employee shall consume alcohol after an accident unless eight (8) hours have elapsed, the employee has been tested, or the District has determined that the employee's performance could not have contributed to the accident, whichever comes first.

No CDL employee shall refuse to take a required test.

## Consequences of Violation under District Policy:

Any violation of this policy will result in discipline up to and including termination under the District's independent authority, as provided for by the DOT, even for the first offense.

Any CDL employee who tests positive for marijuana is in violation of the District's drug policy, even if the CDL employee is exempt from criminal prosecution under a state medical marijuana law or is using marijuana recreationally in conformity with a state law. Be advised that a positive drug test for marijuana constitutes a violation of the District's drug and alcohol policy and may lead to your termination. For more information, please speak with the Assistant District Manager.

Any CDL employee who has been observed using or possessing controlled substances or alcohol during work time, including lunch breaks, or on District premises is in violation of this policy.

Any CDL employee who adulterates or otherwise interferes with accurate testing required pursuant to this Policy is in violation with this Policy.

The District will not hire applicants who test positive for controlled substances.

The District will provide any CDL employee who violates a DOT drug and alcohol test, a listing of Substance Abuse Professionals (SAP) readily available to the employee.

## Minimum Consequences of Violations as Mandated by DOT

The following consequences are minimum requirements as set out by the DOT. Compliance with the following does not guarantee a CDL employee will be returned to work following a violation of this policy. CDL employees will be subject to disciplinary action up to and including termination for violation of this policy, regardless of eligibility to return to work under the DOT regulations.

If a CDL employee tests positive for a controlled substance or has an alcohol concentration of .02 or greater, the employee will be removed from safety-sensitive functions.

To be eligible to return to work or a safety-sensitive function after testing at an alcohol concentration of .02 to .039, the employee must be off duty for at least 24 hours.

To be eligible to return to work after a positive controlled substance test or a test indicating an alcohol concentration of .04 or greater, the CDL employee must be evaluated by an SAP. If the SAP determines that additional treatment is necessary, the CDL employee must complete such treatment. In addition, the CDL employee will be subject to follow-up testing.

Before a driver returns to duty requiring the performance of a safety-sensitive function after violating the alcohol or controlled substance provisions outlined by DOT, the driver shall undergo a return-to-duty test with a result indicating a verified negative result.

## Substance Screening:

For the purpose of assuring compliance with the Federal Department of Transportation regulations and this policy, applicants for safety-sensitive positions and CDL employees who perform safety-sensitive functions will be subject to controlled substance and alcohol screening under the circumstances described below. Applicants and CDL employees are required to submit to testing in the following circumstances as a condition of their employment.

## Testing Provisions:

### Pre-Employment Testing

Applicants for driving-related positions shall undergo a test for the presence of controlled substances prior to being hired or used by the District. Under no circumstances may a CDL employee perform a safety-sensitive function until a confirmed negative result is received.

Applicants who refuse to submit to testing will not be hired.

### Random Testing

All current CDL employees will be subject to controlled substance testing and alcohol testing at any time on a random basis as a term and condition of holding a driver position. Upon being notified of selection, the CDL employee must immediately proceed to the testing site.

Random testing will be spread reasonably throughout the year and will be unannounced to ensure that no CDL employee receives advanced knowledge of the time of testing. All CDL employee will have an equal chance of being selected each time a random selection is made.

The number of controlled substances tests conducted annually shall equal or exceed 25 percent of the number of CDL employee positions subject to testing.

The number of alcohol tests conducted annually shall equal or exceed 10 percent of the number of CDL employee positions subject to testing.

#### Post-Accident Testing

Any current CDL employee must immediately submit to a post-accident drug and post-accident alcohol test if involved in the following types of accidents:

- After an accident that involves a death of a human being, or bodily injury to a person who must receive immediate medical treatment away from the scene, or,
- One or more of the vehicles involved is towed away from the scene, or,
- A citation is issued to the CDL employee for a moving violation.

If an employee is directed to submit to a drug and/or alcohol test at the scene of an accident by a federal, state, or local law enforcement officer, the employee is to contact his or her supervisor immediately to report this and to provide the name and badge number of the officer who conducted the test. The District may use the results from the test at the scene to determine if the driver has violated this testing requirement.

A driver will not be allowed to return to work until a confirmed negative test result is received. The District will place the driver on leave pending the receipt of drug testing results. Leave shall be paid if a confirmed negative test result is received. Leave shall be non-paid if a confirmed positive test result is received.

#### Reasonable Suspicion

A current CDL employee will be required to immediately submit to controlled substance or alcohol testing upon reasonable suspicion. Reasonable suspicion means that the actions, appearance or conduct of the CDL employee on duty are indicative of the use and/or presence in the employee's body of a controlled substance or alcohol. Reasonable suspicion is based on specific, contemporaneous, articulable observations concerning the appearance behavior, speech or body odors of the employee.

A CDL employee will not be allowed to return to work until a confirmed negative test result is received. The District will place the driver on a leave pending the receipt of drug testing results. Leave shall be paid if a confirmed negative test result is received. Leave shall be non-paid if a confirmed positive test result is received.

#### Follow-up and Return to Duty Testing

Any driver who has been required to or voluntarily undergoes rehabilitation for substance abuse must submit to a drug test and receive a confirmed negative test result and an alcohol test (with a result of less than .02) before returning to work. In addition, the driver will be subject to follow-up testing in accordance with the recommendations of the Substance Abuse Professional.

Any employee that fails the return-to-duty test, a follow-up test, or fails to successfully complete the requirements prescribed by the SAP will be subject to disciplinary action up to and including termination.

### Testing Procedures:

#### Controlled Substance

Controlled substance screening shall be conducted in a laboratory certified by the Department of Health and Human Services (DHHS) and in accordance with the Procedures for Transportation Workplace Drug Testing Programs. All controlled substance screening includes split sampling which provides that a urine sample be split into two separate containers.

Precautions shall be taken to ensure that the specimen is not adulterated or diluted during the collection procedure and that the information on the sample matches the information on the custody and control form

Dilute test results will be treated as follows:

- Dilute positives are treated as a verified positive test;
- Dilute negatives with the creatinine concentration equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL will be retested under direct observation. A second dilute negative result will be treated as a negative test result;
- Dilute negatives with the creatinine concentration greater than 5 mg/dL will/will not be retested. A second dilute negative result will be treated as a negative test result unless the MRO directs the District to retest under direct observation.

The substance screen will test for the following drugs - marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and ecstasy.

Any positive test will be confirmed by a gas chromatography/mass spectrometry (GC/MS) test.

The District shall retain a Medical Review Officer (MRO) who will receive the laboratory results of the testing procedure. The MRO shall be a licensed physician and have knowledge of substance abuse disorders and appropriate medical training to evaluate positive test results, medical history, and any other relevant biomedical information. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication.

The MRO shall also review all specimens which are found to be adulterated or contain substituted specimens. In the instance of an adulterate or substituted specimen, the MRO will provide the driver an opportunity to present a legitimate medical explanation. If no legitimate medical explanation is provided, the MRO will report the verified adulterated or substituted specimen to the District. The District will consider the verified adulterated or substituted specimen as a refusal to test and immediately remove the CDL employee from performing safety-sensitive functions. The CDL employee may then be subjected to disciplinary action under the District's independent authority.

The MRO will be sent the sole custodian of the individual test results. The MRO will advise the District only of whether the results were negative or positive.

After receiving notification of a verified positive test, an adulterated or substituted specimen, a CDL employee may request that the split sample be analyzed. Such a request must be made within 72 hours of notification of the verified positive test. If such a request is made, the sample will be tested at another DHHS certified laboratory, at the CDL employee's expense. Upon written request within seven (7) days of a verified positive test, the CDL employee may obtain copies of any records pertaining to his or her controlled substance tests.

### Alcohol Testing

Alcohol testing shall be conducted by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing Device (EBT). The CDL employee will provide a breath sample. If an employee's alcohol concentration is greater than .02, a second confirmation test will be performed.

## Refusal to Submit to Testing

This provision regarding the refusal to submit to testing excludes applicants for employment. Refusal to submit to testing is a violation of this Policy. Any employee refusing to submit to testing will be referred to a Substance Abuse Professional and will face appropriate disciplinary action. The following behaviors constitute a refusal:

Refusal to submit is defined as:

- refusal to appear for testing
- failure to remain at the testing site until the testing process is complete
- failure to provide a urine specimen
- in instances where observed or monitored collection is required, failure to allow observation or monitoring
- refusal to sign the testing form
- failure to provide adequate breath
- failure to take a second test as directed
- otherwise fail to cooperate in the testing process
- perform any actions which prevent the completion of the test
- a test result reported by the MRO as a verified adulterated or substituted test
- inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation
- failure to undergo a medical examination or evaluation when directed
- tampering with, attempting to adulterate, adulteration or substitution of the specimen, or interference with the collection procedure
- not reporting to the collection site in the time allotted
- leaving the scene of an accident without a valid reason before the tests have been conducted

## Voluntary Employee Self-Identification Program

The District supports sound treatment efforts. Whenever practical, the District will assist CDL employees in overcoming drug, alcohol, and other problems which may affect employee job performance as long as this Policy has not already been violated. A CDL employee may not self-identify in order to avoid required testing. The following is required to participate in this voluntary program: the CDL employee makes the admission of alcohol misuse or controlled substances use **prior** to reporting to duty to perform a safety sensitive function and the CDL employee does not perform a safety sensitive function until the District is satisfied that the CDL employee has been evaluated and has successfully completed education or treatment requirements.

CDL employees who seek voluntary treatment prior to a violation of this Policy will not be disciplined for making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program. The CDL employee will be allowed a sufficient opportunity to seek evaluation, education or treatment to establish control over the CDL employee's drug or alcohol problem. CDL employees who seek voluntary assistance will be returned to return to safety sensitive duties only upon successful completion of an educational or treatment program as determined by a drug and alcohol abuse evaluation expert. Prior to the CDL employee participating in a safety sensitive function, the CDL employee shall undergo a return-to-duty test with a result indicating an alcohol concentration of less than .02 and/or controlled substance test with a verified negative test. In addition, the District may monitor any CDL employee who voluntarily reports under this provision by conducting unannounced follow-up testing not to exceed 60 months following the driver's return to work.

If the CDL employee elects to enter an appropriate treatment program, the CDL employee may be placed on unpaid status but will be required to use any accrued vacation time while participating in the evaluation and treatment program so long as the employee is complying with the conditions of treatment. The District will have the right to require verification from the health care provider for a release to work and/or verification of treatment as covered by the District's medical leave policies. More information regarding availability of treatment resources and possible insurance coverage for treatment services is available from the Assistant District Manager.

### Company Representative

Please contact the District Manager or his/her designee if you have any questions about this policy or wish to discuss issues related to the use of controlled substances or the misuse of alcohol.

### Inspection and Searches

The District may conduct unannounced inspection for violations of this Policy in the workplace, work sites, or company premises. Employees are expected to cooperate in any inspection.

### At Will Employment

Nothing in this policy is to be construed to prohibit the District from maintaining a safe work environment or imposing disciplinary action as it deems appropriate for reasons of misconduct or poor performance, regardless of whether the misconduct or poor performance arises from drug or alcohol use. Such disciplinary actions may include termination of employment. Employment is at-will and subject to termination by the District or the employee at any time, with or without notice and with or without cause.

## ACKNOWLEDGMENT OF POLICY

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I, \_\_\_\_\_, have received a copy of Platte Canyon Water and Sanitation District's Drug and Alcohol Policy in compliance with the Federal Omnibus Transportation Employee Testing Act and understand I must abide by the terms of this Policy to continue my employment with the District.

I understand that this Policy in no way modifies my status as an at-will employee and in no way implies, infers, or guarantees my continued employment for any definite term. I may be dismissed at the discretion of the District for other reasons than failing to follow the terms of this Policy.

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Employee Name

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Employee Signature

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Date Acknowledged