


MISSOURI DEPARTMENT OF TRANSPORTATION  PERSONNEL POLICY MANUAL	Chapter Title Employee Conduct		
	Policy Title Drug Testing Program		
	Policy Number 2508	Page 1 of 9	Effective Date August 1, 2021
Approved By Steve Meystrik, Human Resources Director Signature on File	Supersedes Policy Number 2508	Page 1 of 8	Prior Effective Date December 18, 2020

POLICY STATEMENT

The department will conduct drug tests on applicants and employees as described in this policy. MoDOT's goal is to provide an efficient, safe work environment for department employees and protect the public. All employees are prohibited from testing positive for metabolites of substances that are listed in the schedules of the Federal Controlled Substances Act (CSA). Testing positive for such metabolites on a drug test conducted by MoDOT or an external entity licensed or certified to perform drug tests, is considered misconduct connected to work and will result in the employee being dismissed from employment and not eligible for rehire. Violation of this policy will result in discipline up to and including termination.

PROVISIONS/REQUIREMENTS

SECTION I - GENERAL

1. Employees are prohibited from taking any illegal drugs or controlled substances (unless prescribed for them by a person licensed to practice medicine), which might impair performance during working hours.
 - A. Taking prescription medications that are expired, lacking expiration dates, no longer valid as prescribed by law, or when the employee is no longer being treated by the prescribing practitioner for the symptom(s) and/or diagnosis the medication was initially prescribed for, could result in a positive drug test.
 - B. All employees are prohibited from being under the influence of marijuana or products containing tetrahydrocannabinol (THC), the psychoactive compound

in marijuana, (including medical marijuana) while at work, working, or attempting to work.

- C. "Medication" and "legally prescribed drugs" does not include medical marijuana, and "controlled substances" includes any drug that is illegal under the CSA.
 - D. Under Personnel Policy 2507, "Federal Drug-Free Workplace Act," employees are required to inform their immediate supervisor when they are taking lawfully prescribed drugs that may impair their work performance.
 - E. Supervisors must avoid assigning safety-sensitive functions to employees if their prescriptions cause safety concerns (drowsiness, blurred vision, etc.).
- 2. The department will conduct drug tests on all external applicants who accept conditional job offers and employees in accordance with this personnel policy.
 - 3. Employees who test positive on drug tests will be dismissed from employment with the department and are not eligible for rehire.
 - 4. Employees who unlawfully manufacture, distribute, dispense, possess, or use controlled substances on the job will be disciplined according to procedures of Personnel Policy 2507, "Federal Drug-Free Workplace Act."

SECTION II - TESTING PROCEDURES

- 5. MoDOT complies with U. S. Department of Transportation (DOT) regulations which require the department to conduct drug tests as described in this personnel policy for:
 - A. External applicants who are offered positions which require a commercial driver's license (CDL positions).
 - B. Employees in non-CDL positions who are offered CDL positions.
 - C. Employees in CDL positions.
 - D. Employees who hold a CDL and may be called upon at any time, on an occasional or emergency basis, to operate a commercial motor vehicle (CMV).

Although not specifically required by DOT regulations, the department will also conduct drug tests as described in this personnel policy for:

- A. External applicants who are offered non-CDL positions.
- B. Employees in non-CDL positions.

Applicants, employees, and collection facilities must be notified whether a drug test is being conducted due to DOT requirements or department requirements. This notification may be provided by the local human resources staff for pre-employment/post-offer tests, the district safety office, Central Office Employee Health and Wellness Unit, or by the supervisor for other categories of tests.

Employees who volunteer to perform safety-sensitive duties are required to sign the "Volunteer for Safety-Sensitive Job Duties Drug and Alcohol Testing Acknowledgment" form.

SECTION III - TESTING CATEGORIES

External Applicant Testing

6. External applicants will be subject to pre-employment drug testing after accepting a conditional offer of employment to either a wage or a salaried position. External applicants who test positive will be informed in writing that the department's offer is withdrawn. These applicants (as well as applicants who refuse to be tested, adulterate or substitute a urine sample, or fail to report for a test) will be informed they will not be considered now, or in the future, for employment. They will be given information for referral to a local Substance Abuse Professional (SAP).

Employee Testing

7. Wage and salaried employees will be subject to drug testing as listed below. Further explanations of drug testing are provided in paragraphs 8-12.
 - A. Random testing is required for employees in CDL and other safety-sensitive positions (see paragraph 8). The DOT also requires random testing for employees who are not in CDL or safety-sensitive positions, but who hold a CDL and may be called upon at any time, on an occasional or emergency basis, to operate a commercial motor vehicle (CMV).
 - B. Pre-employment testing is required, prior to the operation of a CMV, when an employee has not been subject to DOT random testing for more than 30 days. This includes employees who have been given a conditional offer to fill a CDL or other safety-sensitive position; employees who hold a CDL and volunteer to operate a CMV; and employees who hold a CDL and are required to operate a CMV (see paragraph 9).
 - C. Reasonable suspicion testing is required when evidence provides reasonable suspicion that an employee is drug impaired while on duty (for all employees) or used illegal drugs off the job (for employees performing safety-sensitive duties only) (see paragraph 10).
 - D. Post-accident testing is required when an employee is involved in a serious accident (see paragraph 11).

- E. Return-to-duty testing is required after an employee voluntarily participates in a drug rehabilitation or drug education program under Section IV of this Policy (see paragraph 12).

Random Testing

- 8. The department conducts random drug tests on wage and salaried employees as described below:
 - A. DOT regulations require the department to conduct random drug tests on:
 - 1) Employees who are in a CDL position. These employees are subject to DOT random testing year-round.
 - 2) Employees who are not in a CDL position, but who have a CDL and volunteer or are required by the department to operate a CMV. These employees are subject to DOT Random Testing for any period of time during which they may be called upon at any time, on an occasional or emergency basis, to operate a commercial motor vehicle (CMV).
 - B. Although not specifically required by DOT regulations, the department also conducts random drug tests on employees in positions which are safety-sensitive, but do not require a CDL.

Pre-employment Testing

- 9. The department conducts pre-employment drug tests on employees as described below:
 - A. Wage and salaried employees in non-safety-sensitive positions selected to fill CDL or other safety-sensitive positions (promotion, demotion, or transfer) are required to take a pre-employment drug test. Employees changing from wage to salaried status will be tested only if they are moving from non-CDL/non-safety-sensitive positions to CDL/safety-sensitive positions.
 - B. Wage and salaried employees in non-CDL positions who hold a CDL and volunteer or are required to operate a CMV are required to take a pre-employment drug test if they have not been subject to DOT random testing for more than 30 days.

Reasonable Suspicion Testing

- 10. Wage and salaried employees in any position will be required to complete a drug test when evidence shows reasonable suspicion an employee has:
 - A. Used illegal drugs on the job.

- B. Performed job duties while affected by drugs.
- C. Used illegal drugs off the job (for employees performing safety-sensitive duties only).

The decision to test must be based on direct observations by a supervisor who has been trained in the detection of illegal drug use. The supervisor is required to immediately complete the Reasonable Suspicion Observation Form, but no later than 24 hours after making the observations. **At the time of observation, the supervisor must contact either the district safety office or local HR representative for further guidance.** Information on what may provide reasonable suspicion is outlined in Procedures Manual for Personnel Policy 2508.

If a drug test is required, it must be completed within 32 hours after the suspicious behavior is observed and discussed with the employee. Employees tested due to reasonable suspicion will be suspended without pay between the time they provide a urine sample and the test results are known. Employees who have negative test results will be allowed to return to work with back pay and benefits to ensure there is no loss of pay to the employee. Employees whose results are positive on this test will be dismissed from employment with the department.

Post-Accident Testing

11. There are two categories of testing under post-accident testing, as noted below. Employees tested under post-accident testing criteria will not be suspended without pay while waiting for test results. These employees will be allowed to return to their normal assignments pending their tests results, per DOT regulations. **At the time of the accident, the supervisor must contact either the district safety office or local HR representative for further guidance.**
 - A. DOT Required Testing: Wage and salaried employees who perform DOT safety-sensitive functions will be required to complete a drug test when directly involved in a serious accident - an accident in which they are driving a commercial motor vehicle (CMV) on a public road and the accident resulted in either:
 - 1) A human fatality; or
 - 2) A citation being issued, within 32 hours of the accident to the driver under state or local laws for a moving traffic violation arising from the accident and one of the following two situations existed:
 - a. Bodily injury occurred to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or

- b. Disabling damage occurred to one or more of the motor vehicles, which required the motor vehicle to be transported away from the scene of the accident.

Due to the restrictions for testing of this category, especially that the accident be on a public road, supervisors are expected to contact law enforcement officials to help investigate the accident. Whether a law enforcement official arrives or not, supervisors are responsible for determining if a drug test should be required. Even if a law enforcement official conducts a drug test, MoDOT must take all necessary steps to conduct its own DOT drug test in a timely manner.

If a drug test is required, it must be completed within 32 hours following the accident. A drug test cannot be required after 32 hours.

- B. Department Personnel Policy Required Testing: Although not specifically required by DOT regulations, the department will also conduct post-accident drug testing on any employee under the circumstances described below. The criteria in both (1) and (2) below must be met to require a drug test by department personnel policy.

- 1) When the employee is on department business and directly involved in an accident on public or private property in which the circumstances show the employee either caused the accident, or failed to take reasonable measures to avoid the accident.
- 2) The accident caused either:
 - a. A fatality or bodily injury requiring immediate medical treatment away from the scene of the accident; or
 - b. Property damage (to public or private property) in excess of \$5,000.

If a drug test is required under department personnel policy, it must be completed within 32 hours following the accident. A drug test cannot be required after 32 hours.

Return-to-Duty Testing

12. After voluntarily participating in a drug rehabilitation or drug education program under Section IV of this Policy, an employee must undergo a return-to-duty test/ controlled substance test with a verified negative test result for controlled substance use.

SECTION IV – VOLUNTARY REHABILITATION OR EDUCATION

13. The department encourages employees who feel they have a drug problem to

voluntarily participate in a drug rehabilitation or drug education program, but these employees are subject to the same tests as any other employee and they may not enter a drug rehabilitation program to avoid disciplinary action. Employees must notify their supervisor if they are voluntarily participating in a drug rehabilitation or drug education program under section IV of this Policy. **Upon notification, the supervisor must contact the local HR representative and the Employee Health and Wellness Unit for further guidance.**

Employees are responsible for the cost of their rehabilitation or drug education program. Employees may contact the Employee Assistance Program or their insurance provider to learn what coverage they have for a drug rehabilitation or drug education program. Information about drug rehabilitation centers in Missouri will be provided by the local HR representative.

Salaried employees who attend a drug rehabilitation or drug education program must utilize accumulated sick leave, annual leave, or compensatory time for time spent in the program. ShareLeave will not be available for time spent in a drug rehabilitation or drug education program. Employees who use all their paid leave time may be placed on sick leave without pay status to complete the program; or they may be allowed to claim unpaid Family and Medical Leave Act (FMLA) leave, if they have not used their limit of FMLA leave during the previous 12 months and the leave time qualifies under the FMLA.

After voluntarily participating in a drug rehabilitation or drug education program under Section IV of this Policy, an employee must do the following prior to returning to work:

- A. Provide proof of successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor); AND
- B. Undergo a return-to-duty controlled substance test with a verified negative test result for controlled substance use.

Failure to meet these return-to-work requirements will result in termination of employment.

Participation in long-term outpatient or support programs (i.e., Narcotics Anonymous) is not included in the requirements of this section.

SECTION V – DISCIPLINE

14. Testing positive for metabolites of substances that are listed in the schedules of the CSA on a drug test conducted by MoDOT or an external entity licensed or certified to perform drug tests is considered misconduct connected to work and will result in the employee being dismissed from employment and ineligible for rehire with the department.

15. For drug tests conducted by MoDOT, employees who test positive, refuse to complete a required drug test, adulterate a sample, substitute a sample, or fail to report for a drug test when scheduled, will be dismissed from employment and will not be eligible for rehire with the department. If a test should be cancelled for any reason, then the employee will have a second test and, upon the recommendation of the Medical Review Officer (MRO), it may be a direct observation collection. The results of this second test will determine if the employee's test is positive or negative.
16. Employees who otherwise violate this Policy's prohibition on taking illegal drugs or controlled substances which might impair performance during working hours (e.g. admission of current drug use that does not fall under section IV of this Policy) will be dismissed from employment and will not be eligible for rehire with the department.

SECTION VI - TEST RESULT CHALLENGES

17. Applicants and employees who wish to challenge test results for drug tests conducted by MoDOT when their original drug tests are positive may do so by requesting a test of their split specimen within 72 hours of when the MRO notifies them of their right to have the split specimen tested. Applicants and employees will be responsible for paying for transporting their sample to the second laboratory, laboratory testing, review by an MRO, and other related costs. The results of these second tests will determine what action will be taken.

If the employee chooses to challenge the results of the test conducted by MoDOT by requesting a test of the split specimen, the employee will remain in a suspension without pay status pending the results of the split specimen test. If the results of the split specimen test come back positive, the employee will be terminated from employment. If the results come back negative the employee will be allowed to return to work with back pay and benefits to ensure there is no loss of pay to the employee.

SECTION VII - ADMINISTRATION

18. Administration of the department's drug testing program will be handled by the Employee Health and Wellness Unit who will be responsible for maintaining all records relating to the drug testing program. All information specifically related to drug testing of employees and external applicants is confidential and will be treated as such by those who have a need for the information in the performance of their duties.
19. Except as specifically required by DOT regulations, the director of MoDOT shall have discretion to vary the terms of this personnel policy if individual circumstances warrant.

CROSS REFERENCES

[Personnel Policy 2507, "Federal Drug-Free Workplace Act"
Drug and Alcohol Sharepoint Site](#)

PROCEDURES

[Procedure 2508, "Drug Testing Program"](#)

FORMS

["Volunteer for Safety-Sensitive Job Duties Drug and Alcohol Testing Acknowledgement"
Form](#)