



**Drug & Alcohol Testing for
Employees Included or
Excluded from B.U.s 02, 03, 04,
13 & 15**

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Table of Contents

Drug and Alcohol Testing Memorandum of Agreement	5
Drug and Alcohol Testing Agreement (DTA)	7
Part I Reasonable Suspicion Alcohol and Controlled Substance Testing	7
I Statement of Purpose	7
II Definitions	7
III Voluntary Admission	10
IV Prohibitions	12
V Test	14
VI Post Accident Tests	14
VII Random Test	15
VIII Reasonable Suspicion Test	15
IX Return to Work Test	17
X Follow Up Test	18
XI Test	19
XII Alcohol Test Procedures	19
XIII Controlled Substance Test Procedures	20
XIV Evaluation, Referral, Rehabilitation	21
XV Administrative and Corrective Actions	21
XVI Discipline, Resignation, and Last Chance Agreement	23
XVII Notice and Information	26
XVIII Information and Records	28
XIX Indemnification and Defense	28
XX Savings Clause	29
Part II Random Alcohol and Controlled Substance Testing	30
R-1 Statement of Purpose	30
R-II Definitions	30
R-III Voluntary Admission	33
R-IV Prohibitions	35
R-V Pre-Duty and Probationary Test	37

R-VI Post Accident Test	38
R-VII Random Test	39
R-VIII Reasonable Suspicion Test	40
R-IX Return to Work Test	40
R-X Follow-up Test	40
R-XI Test	41
R-XII Alcohol Test Procedures	41
R-XIII Controlled Substance Test Procedures	42
R-XIV Education, Referral, and Rehabilitation	43
R-XV Administrative and Corrective Actions	44
R-XVI Discipline, Resignation, and Last Chance Resignations	45
R-XVII Notice and Information	49
R-XVIII Information and Records	50
R-XIX Indemnification and Defense	51
R-XX Savings Clause	51
Exhibit A Last Chance Agreement	52
Exhibit B Last Chance Agreement	53
Exhibit C Resignation Agreement	54
Attachment D	55
Educational and Informational Materials	57
Alcohol and Drug Information	59
Testing Procedures Explained	69
Referral to Employee Assistance Program	75
Health, Safety, and Public Trust Positions (Hawai`i County)	79
Summary of Drug and Alcohol Testing Agreement	83

DRUG AND ALCOHOL TESTING MEMORANDUM OF AGREEMENT
(Units 02, 03, 04, 09 and 13)

This MEMORANDUM OF AGREEMENT is entered into this 14th day of February 2003, by and between the Hawaii Government Employees Association, AF-SCME, Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawaii, the City and County of Honolulu, the County of Hawaii, the County of Maui, the County of Kauai, the Judiciary, the Hawaii Health Systems Corporation, hereinafter called the Employer, on behalf of Employees in bargaining units 02, 03, 04, 09 and 13.

The Union and the Employer agree that an agreement was reached on a new Article covering the subject of drug and alcohol testing. One part of the Article pertains to random testing while the other part is for testing based on reasonable suspicion, post accident, and other events. Also, the new Article is part of the arbitrated collective bargaining agreements for units 02, 03, 04, 09 and 13 in effect from July 1, 1999 to June 30, 2003.

The Union and the Employer further agree that such new Article was modified by the parties to reflect a "two strikes and you're out" drug and alcohol testing procedure. The modified drug and alcohol testing procedure is attached hereto.

The Drug and Alcohol Testing Article for the aforementioned bargaining units will be numbered as follows:

Unit 02	-	Article 50
Unit 03	-	Article 52
Unit 04	-	Article 50
Unit 09	-	Article 55
Unit 13	-	Article 50

IN WITNESS WHEREOF, the parties hereto, by their authorized representatives, have executed this MEMORANDUM OF AGREEMENT.

FOR THE EMPLOYER:

/s/ Ted Hong

Ted, Hong, Chief Negotiator
State of Hawaii

/s/ Kathleen Watanabe

Kathleen Watanabe, Director
Department of Human Resources Development
State of Hawaii

/s/ Cheryl K. Okuma-Sepe

Cheryl K. Okuma-Sepe, Director
Department of Human Resources
City and County of Honolulu

/s/ Michael Ben

Michael Ben, Director
Department of Civil Service
County of Hawaii

/s/ Lynn Krieg

Lynn Krieg, Director
Department of Personnel Services
County of Maui

/s/ Malcom Fernandez

Malcom Fernandez, Director
Department of Personnel Services
County of Kauai

/s/ Kenneth Nakamatsu

Kenneth Nakamatsu, Personnel Director
The Judiciary

/s/ Janice Wakatsuki

Janice Wakatsuki, Vice-President
Director of Human Resources
Hawaii Health Systems Corporation

FOR THE UNION:

/s/ Randy Perreira for

Russell K. Okata, Executive Director
Hawaii Government Employees Association
AFSCME, Local 152. AFL-CIO

DRUG AND ALCOHOL TESTING AGREEMENT (DTA)

PART I

REASONABLE SUSPICION ALCOHOL AND CONTROLLED SUBSTANCE TESTING

I. STATEMENT OF PURPOSE

- A. This Drug Testing Agreement (DTA) is intended to keep the workplace free from the hazards of the use of alcohol and controlled substances by adopting a drug and alcohol-testing program as specified herein.
- B. Employees are expected to report to work in a physical and mental condition consistent with this Agreement, which enables them to perform their duties in a safe and productive manner.
- C. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary actions under this DTA shall be afforded "due process" as provided in this DTA and applicable provisions of the respective collective bargaining agreements.

II. DEFINITIONS

A. ACCIDENT

An occurrence involving an Employer's vehicle operating on a public road which results in: a fatality; bodily injury to a person requiring immediate medical treatment away from the accident; or one or more vehicles is disabled and must be towed from the scene. Note: Post-accident testing is only required when there is a fatality or when the employee has been cited for a moving vehicle violation as a result of an accident.

B. ALCOHOL

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl alcohol and isopropyl alcohol.

C. ALCOHOL CONCENTRATION

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. The 210 liters represents the volume of breath tested for alcohol. (A reading of 0.02 represents 0.02 grams of alcohol per 210 liters of breath.)

D. ALCOHOL USE

The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

E. CONTROLLED SUBSTANCE

Substance other than alcohol such as marijuana, cocaine, opiates, amphetamines, and phencyclidine. Other substances under the Controlled Substance Act (21 U.S.C. 802) may be added after consultation and mutual agreement with the union.

F. EMPLOYEE

All employees whose positions are included in bargaining units 2,3,4,9, or 13.

G. U.S. DOT RULES

For the purpose of this DTA, "U.S. DOT Rules" shall mean the use of procedures and standards which are similar to the extent possible to that which is found in the U.S. Department of Transportation Rules on Drug and Alcohol Testing for drivers of Commercial Motor Vehicles (Part 382). The State Department of Health Rules on Substance Abuse Testing shall prevail if there is any conflict between the State Rules and the federal regulations.

H. EMPLOYER

The State of Hawaii (including Judiciary and Hawai'i Health Systems Corporation), City and County of Honolulu, County of Hawai'i, County of Maui and County of Kauai.

I. REFUSAL TO TEST

A refusal to test is when an employee 1) fails to provide adequate

breath for alcohol testing as required by this Agreement, without a valid medical explanation, after he or she has received notice of the requirement for breath testing in accordance with this Agreement; 2} fails to provide an adequate urine sample for controlled substances testing as required by this Agreement, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing in accordance with the provisions of this Agreement; or 3} engages in conduct that clearly obstructs the testing process. Examples of what constitutes a refusal include, but are not limited to, the following:

1. Refusal to take a test either by statement or action;
2. Refusal to sign appropriate forms as required;
3. Failure to report for a scheduled appointment to provide a specimen;
4. Failure to report to the collection site in the time allotted;
5. Tampering with or attempting to adulterate the specimen or collection procedure;
6. Failure to cooperate or comply with the collection site person, Breath Alcohol Technician, Substance Abuse Professional (SAP), or Medical Review Officer (MRO);
7. Failure to provide adequate breath or urine specimen within a reasonable time period without a valid medical explanation;
8. Engaging in conduct that clearly obstructs the testing process;
9. Leaving the scene of an accident without a valid reason or without authorization from a supervisor.

J. SUBSTANCE ABUSE PROFESSIONAL

A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the Na-

tional Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

K. SUPERVISOR

The Employer designee who has passed requirements as provided in Section VIII.a.

L. WORK

Work means from the time the employee reports to work until the time the employee ends work or when the employee is required to be in readiness for work (stand-by).

III. VOLUNTARY ADMISSION

- A. Employees are encouraged to voluntarily admit to the Employer an alcohol and/or controlled substance problem before they are required to take an alcohol and/or controlled substance test and before they have engaged in conduct which would warrant disciplinary action.

The provisions of this Section are available only to covered employees who voluntarily admit to having an alcohol and/or controlled substance abuse problem before they are notified to take an alcohol or controlled substances test pursuant to this DTA and/or before they have engaged in behavior which is prohibited under this DTA.

- B. An employee who voluntarily admits to the Employer to having an alcohol and/or controlled substance problem as provided in Section III.a. shall be immediately removed from the job and placed on sick leave, vacation leave, or authorized leave without pay as determined by the employee and required to comply with the following:

1. Mandatory participation in an Employer approved SAP evaluation, SAP recommended rehabilitation program and completion of such program.
2. Mandatory return to work testing and unannounced follow-up testing as determined by the SAP.

a. NUMBER OF TESTS

- 1) The number of follow-up alcohol and controlled substance tests shall be set by an SAP and consist of at least six (6) tests in the first twelve (12) months following the employee's return to work.
- 2) Follow-up tests shall not exceed sixty (60) months from the date of the employee's return to work.
- 3) The SAP may terminate the requirement for follow up tests at any time after the first six (6) tests have been administered if the SAP determines that tests are no longer necessary.

C. The Employer shall select the SAP, provided that the SAP shall not be an employee of the Employer.

D. The employee shall be allowed to use sick leave, vacation leave, or authorized leave without pay during the period of the SAP recommended rehabilitation program. The employee must satisfactorily complete such rehabilitation program.

E. Cost

1. The cost of the SAP services shall be borne by the Employer.
2. The cost of testing required by the Employer including follow-up testing as required by the SAP shall be borne by the Employer.
3. The cost of the rehabilitation program and treatment required by the program shall be borne by the employee.
4. The cost of testing required by the rehabilitation program shall be borne by the employee.

F. The time spent in completing any tests required as a result of a rehabilitation program or return to work test, including travel time, shall not be considered as time worked.

- G. An employee who refuses to comply with the provisions of this Section (III), who refuses to take a controlled substance or alcohol test (section IV. a.7 and IV. b. 4" including adulterating or substituting a specimen) or who refuses to comply with the SAP requirements, including failure to follow or to complete the rehabilitation program within a time frame deemed reasonable by the SAP, shall be discharged.
- H. An employee who tests positive for alcohol or controlled substance during return to duty or follow-up testing shall be subject to the schedule of discipline in this DT A.

IV. PROHIBITIONS

A. ALCOHOL

Employees shall not:

1. Except for health, safety, and public trust (HSPT) employees and those subject to post accident testing, report to work or continue working while having an alcohol concentration of 0.04 or higher. HSPT employees and those who are subject to post accident testing shall not report to work or continue working while having an alcohol concentration of 0.02 or higher.
2. Possess alcohol while working except when the employee is required to handle alcohol or products containing alcohol as part of the employee's job duties.
3. Consume alcohol while working.
4. Work within four (4) hours after using alcohol.
5. Use alcohol for eight (8) hours after an accident, or until the employee completes an alcohol test, whichever is sooner.
6. Work after voluntarily admitting to having an alcohol problem pursuant to Section III until a return to work test is administered and results in a negative test.
7. Refuse to submit to a required alcohol test.

B. CONTROLLED SUBSTANCE

Employees shall not:

1. Report to work or continue working with a controlled substance in their system, or use controlled substances while working, except when the controlled substance is prescribed by a physician for the employee and is used in accordance with the physician's instructions. Note: If the employee is subject to testing under Part II of this Agreement which covers employees in HGEA bargaining units who are in HSPT positions in addition to the above, the physician must have advised the employee that the substance does not adversely affect the employee's ability to work. If not, the prohibition above applies.
2. Possess controlled substance while working except when the employee is required to handle a controlled substance (s) as part of the employee's job duties or when prescribed by a physician who has advised the employee that the substance does not adversely affect the ability to work.
3. Work after voluntarily admitting to having a controlled substance problem pursuant to Section III or testing positive until a return to work test is administered and results in a negative test.
4. Refuse to submit to a required controlled substance test.

Note: A valid prescription for the employee for marinol is the only reason the MRO will consider in determining if a positive test result for marijuana should be declared negative. The use of hemp products, including hemp seed oil, shall not be considered reasons to declare a test negative. Employees are cautioned that the prohibitions not only require that the employee have a valid prescription, but that the physician has advised the employee that the substance does not adversely affect the ability to work.

V. TEST

A. PRE-DUTY TEST

Prior to being placed on the temporary assignment list for a position in which the employee will be subject to testing under Part II of this Agreement which covers employees in HGEA bargaining units who are in HSPT positions, the employee shall be subject to a controlled substance test.

B. ALCOHOL TESTING

There shall be no pre-duty alcohol testing.

C. PROMOTIONS, TEMPORARY ASSIGNMENTS, OR OTHER PERSONNEL CHANGES

After compliance with Section V. a., a covered employee as provided in Section II. f. shall not be subject to alcohol and controlled substance tests as a condition for receiving a promotion, temporary assignment or other personnel changes, unless required by other laws, rules or policies.

VI. POST-ACCIDENT TESTS

A. REQUIRED TESTS

Following an accident as defined in Section II. a., employees involved shall submit to an alcohol and controlled substance test if the employee is driving an Employer's vehicle and the employee is a "regular driver" and if required by the Employer. If the accident involved a loss of human life, the employee who was driving the vehicle shall be tested. If no fatality occurs but a driver receives a citation for a moving traffic violation, the driver shall be tested if one of the following occurs: 1) a person involved in the accident requires treatment away from the scene of the accident, or 2) one or more of the vehicles involved in the accident is disabled and must be towed from the scene.

For the purposes of this section, a "regular driver" shall mean an employee who the Employer has determined drives an average of 120 round trips in a twelve-month period (October 1 to September 30 of the preceding year)--multiple trips in a single day shall

count as one trip. The 120 trip requirement shall be reduced if a driver is unavailable for duty due to leaves with or without pay or temporary assignment or temporary reallocation to another job. The reduction shall be calculated as follows: 120 days - (days unavailable x 50%). The determination will be made annually and all regular drivers shall be notified by January 1 of each year of the determination. If a regular driver's duties change significantly, the driver may request a review of the determination.

B. ALCOHOL

An alcohol test required by Section VI. a. shall be administered within two hours but no later than eight (8) hours following the accident. If the test is not administered within eight (8) hours following the accident, the Employer shall cease attempts to administer an alcohol test.

C. CONTROLLED SUBSTANCE

A controlled substance test required by Section VI. a. shall be administered within thirty two (32) hours following the accident. If the test is not administered within thirty two (32) hours following the accident, the Employer shall cease attempts to administer a controlled substance test.

D. MEDICAL ATTENTION AND CARE

Nothing in Section VI shall be construed to require the delay of necessary medical attention for injured persons following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

VII. RANDOM TEST

Employees shall be subject to random testing in accordance with Part II of the Drug and Alcohol Testing Agreement which covers employees in HSPT positions.

VIII. REASONABLE SUSPICION TEST

A. TRAINING OF SUPERVISORS

1. Supervisors designated to determine whether reasonable

suspicion exists must receive at least sixty (60) minutes of training on alcohol misuse, at least sixty (60) minutes of training on controlled substance use and indicators of probable use and misuse.

2. Supervisors shall be subject to training once every five (5) years.
3. The Employer shall provide to the Union a list of trained supervisors, their names, positions, extent and nature of training, date of the last training and the jurisdiction. A current list will be provided when there are changes to the original list.

B. AUTHORITY

1. Supervisors who have received the training as provided in Section VIII. a. may direct an employee to submit to an alcohol and/or controlled substance test when that supervisor has reasonable suspicion to believe an employee has violated any of the prohibitions in Section IV. a. 1,2,3,4 and 6 or Section IV. b. 1,2, and 3 (with respect to the positive test), except as otherwise provided in the U.S. DOT Rules.

The supervisor shall have another witness observe the employee before directing the employee to submit to an alcohol and/or controlled substances test. For the purposes of this section, a witness may be any person working for the Employer.

2. The reasonable suspicion must be based on a specific, contemporaneous, articulable observation made by the supervisor making the reasonable suspicion determination concerning the appearance, behavior, speech, or body odor of the employee.

C. CONFLICTS

The supervisor who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the employee.

D. DOCUMENTATION OF REASONABLE SUSPICION

1. A written record shall be made of the observation leading to an alcohol or a controlled substance reasonable suspicion test and signed by the supervisor who made the observation and approved by the Employer within twenty four (24) hours of the observed behavior or in the case of a controlled substance, before the results of a controlled substance test is released, whichever is earlier.
2. A copy of the record of facts and observations shall be given to the employee.
3. The behavior giving rise to reasonable suspicion must be a recognized symptom of impairment of alcohol or controlled substance use and is not reasonably explained as the result of other causes.

E. COMPLIANCE

A test which is not valid as provided in the U.S. DOT Rules or violates the employee's rights, shall not be used for discipline.

IX. RETURN TO WORK TEST

A. RETURN TO WORK - ALCOHOL TEST

1. An employee who is an HSPT employee or who is subject to post accident testing who has committed a prohibited act described in Section IV. a. 1, 3, 4 and 5 who is not separated from service and who has been cleared by the SAP to return to work shall be subject to a return to work alcohol test with a result indicating an alcohol concentration of less than 0.02.

An employee who is not an HSPT employee and who is not subject to post accident testing who has committed a prohibited act described in Section. IV. a. 1, 3, 4 and 5 who is not separated from service and who has been cleared by the SAP to return to work shall be subject to a return to work alcohol test with a result indicating an alcohol concentration of less than 0.04.

2. The employee shall also be subject to a return to work con-

trolled substance test if the SAP recommends the test.

B. RETURN TO WORK CONTROLLED SUBSTANCE TEST

1. An employee who has committed a prohibition as described in Section, IV. b. 1 and 3 who is not separated from service and who has been cleared by the SAP to return to work shall be subject to a return to work controlled substance test with a verified negative test for controlled substance.
2. The employee shall also be subject to a return to work alcohol test if the SAP recommends the test.

X. FOLLOW UP TEST

A. EVALUATION

1. An employee who committed a prohibited act described in Section IV. a. 1, 3, 4, 5, and 6 or Section IV. b. 1 and 3 shall be evaluated by an SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use.
2. After the employee returns to work, the employee shall be subject to unannounced follow up alcohol and controlled substance tests as determined by the SAP.

B. NUMBER OF TESTS

1. The number of follow up alcohol and controlled substance tests referred to in Section X. a. shall be set by an SAP and consist of at least six (6) tests in the first twelve (12) months following the employee's return to work.
2. Follow up tests shall not exceed sixty (60) months from the date of the employee's return to work.
3. The SAP may terminate the requirement for follow up tests at any time after the first six (6) tests have been administered, if the SAP determines that tests are no longer necessary.

C. CHOICE OF SAP

The SAP shall not be an employee of an Employer.

XI. TEST

Alcohol or controlled substance tests shall be as provided in the U.S. DOT Rules, State Department of Health Rules, or this DT A as applicable.

XII. ALCOHOL TEST PROCEDURES.

A. STANDARDS

1. Test procedures and practices shall comply with U.S. DOT rules (as defined).
2. Test procedures shall protect the privacy of the employee and ensure that the tests are attributable to the correct employee.

B. TEST DEVICE

1. Alcohol tests shall be conducted by a Breath Alcohol Technician (BAT) using an Evidential Breath Test Device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on its Conforming Products Lists of Breath Measurement Devices.
2. Other tests which meet the requirements of the state Department of Health or U.S. Department of Transportation may be used in lieu of the above after consultation and mutual agreement with the union.

C. CONFIRMATORY TEST

An employee who tests positive on an alcohol test shall be subject to a confirmation test which shall be administered as provided in the U.S. DOT Rules.

D. COMPLIANCE

A test which is not valid as provided in the U.S. DOT Rules or violates the employee's rights shall not be used for discipline.

XIII. CONTROLLED SUBSTANCE TEST PROCEDURES

A. STANDARDS

1. Test procedures and practices shall comply with U.S. DOT Rules.
2. Test procedures shall protect the privacy and dignity of the individual, ensure the integrity of the test process, safeguard the validity of the test through confirmatory test, and ensure that the tests are attributable to the correct employee.

B. TEST DEVICE

Controlled substance tests will be by urinalysis and shall be performed by laboratories certified by the state Department of Health.

C. CHOICE OF MEDICAL REVIEW OFFICER

The MRO shall not be an employee of the employer.

D. MEDICAL EXPLANATION

Prior to making a final decision to verify or report a positive test, the MRO shall give the employee an opportunity to discuss the test. If the MRO determines there is a legitimate medical explanation for the positive test, the MRO shall take no further action and report the test as negative.

E. RETESTING CONFIRMED POSITIVE SPECIMENS SPLIT SAMPLE

1. An employee may request an analysis of the split sample within seventy two (72) hours of having been informed of a verified positive test.

The employee may instruct the MRO to have the analysis be at another laboratory certified by the State Department of Health and approved by the Employer for analysis.

The employee shall pay for the cost of the test analysis of the split sample; however, the employee shall be reimbursed if the results of the test is negative.

F. COMPLIANCE

A test which is not valid as provided in the U.S. DOT Rules or violates the employee's rights shall not be used for discipline.

XIV. EVALUATION, REFERRAL AND REHABILITATION

A. NOTICE TO EMPLOYEE

An employee who has engaged in conduct prohibited by Section IV. a. 1,2,3,4 and 6 or Section IV. b. 1,2,3, (with respect to the positive test), and 4 shall be advised by the Employer of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substance including the names, address, and telephone numbers of SAPs and counseling and rehabilitation programs.

B. EVALUATION AND REFERRAL

An employee who is engaged in conduct prohibited by Section IV. o. 1,3,4,5 and 6 or Section IV. b. 1 and 3, shall be referred to an SAP for evaluation.

C. COST

The cost for the SAP services shall be borne by the Employer.

D. REHABIUT ATION

The employee will be responsible for the cost of the rehabilitation program and treatment required by the program.

XV. ADMINISTRATIVE AND CORRECTIVE ACTIONS

A. COVERAGE

1. When tests are required by the Employer, the Employer shall pay for the cost of the tests.
2. Except where otherwise provided, the time spent in completing the testing, including travel time, shall be considered as time worked.
3. When tests are required as the result of a rehabilitation pro-

gram, or the return to work test, the time spent in completing the tests, including travel time, shall not be considered as time worked.

B. CALL BACK NOTICE

1. An employee on non-work status who is an HSPT employee or who is subject to post accident testing and who is called back to work shall report to the Employer the consumption of alcohol within the previous four (4) hours or have reason to believe that the alcohol concentration level would be 0.02 or greater.

An employee on non work status who is not an HSPT employee and who is not subject to post accident testing and who is called back to work shall report to the Employer the consumption of alcohol within the previous four (4) hours or have reason to believe that the alcohol concentration level would be 0.04 or greater.

2. The employee shall not be offered work and shall not be required to submit to an alcohol test or be subject to disciplinary action.

C. COSTS

Except as otherwise provided in this DTA the cost of the alcohol and controlled substance tests shall be borne by the Employer.

D. REMOVAL FROM WORK FOR A POSITIVE TEST RESULT

1. An employee with a positive alcohol test of 0.04 or greater or a positive controlled substance test shall be removed immediately from work.
2. The employee shall be scheduled for an immediate evaluation by an SAP.
3. The SAP shall complete the evaluation within a reasonable period of time after the employee has been removed from work.
4. Before returning to work, the employee shall be subject to the SAP's recommended rehabilitation program and take a

return to work test as provided in Section IX.

5. An employee with a positive test shall be immediately placed on sick leave, vacation leave, compensatory time or authorized leave without pay as determined by the employee.

E. REMOVAL FROM WORK--BAC 0.02<0.04

An employee in an HSPT position or an employee covered by post accident testing who has an alcohol test result of 0.02 or greater, but less than 0.04, shall be removed immediately from work and prohibited from work for at least twenty four (24) hours.

All other employees covered by this Agreement who have an alcohol test result of 0.02 or greater, but less than 0.04, shall be removed immediately from work and prohibited from work for at least twenty four (24) hours. However, the employee will be allowed to return to work for the remainder of the employee's shift, if any, provided that four hours have passed since the positive test and the employee takes another test and has a test result of 0.02 or less.

XVI. DISCIPLINE, RESIGNATION AND LAST CHANCE RESIGNATIONS

A. NOTICE OF TEST RESULTS

An employee who tests positive for alcohol and/or controlled substance shall be given written notice of the test with a copy of the documents to verify the chain of custody.

B. FIRST POSITIVE CONTROLLED SUBSTANCE TEST

1. An employee who has a first positive controlled substance test as provided in Section V, VII, VIII, IX. and X except for first positive controlled substance test as provided in Section R-V.b.I (Random Testing DTA) shall be discharged unless the employee agrees to sign Exhibit A, Last Chance Agreement, whereby the employee agrees to resign from employment in the event of a second positive controlled substance test occurring within two (2) years of the first positive controlled substance test exclusive of time from the date the employee has been removed from work and time

spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s).

2. When the employee signs Exhibit A, Last Chance Agreement, the employee shall be suspended for twenty (20) working days instead of being discharged.
3. The employee will be referred to the SAP and must comply with the SAP's recommended rehabilitation program.

C. SECOND POSITIVE CONTROLLED SUBSTANCE TEST

An employee who tests positive for a controlled substance for a second time within two (2) years of the first positive controlled substance test exclusive of time from the date the employee has been removed from work and time spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s), shall be deemed to have resigned as provided in Exhibit A, Last Chance Agreement.

D. FIRST POSITIVE ALCOHOL TEST

1. An employee who has a first positive alcohol test as provided in Section V, VII, VIII, IX and X except for first positive controlled substance test as provided in Section R-V.b.1 (Random Testing DTA), shall be discharged unless the employee agrees to sign Exhibit B, Last Chance Agreement, whereby the employee agrees to resign from employment in the event of a second positive alcohol test.
2. When the employee signs Exhibit B, Last Chance Agreement, the employee shall be suspended for twenty (20) working days.

E. SECOND POSITIVE ALCOHOL TEST

An employee who tests positive for alcohol for a second time within two (2) years of the first positive alcohol test results exclusive of time from the date the employee has been removed from work and time spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s)' shall be deemed to have resigned as provided in Exhibit B, Last Chance Agreement.

F. REHABILITATION PROGRAM TEST

Positive alcohol and controlled substance tests that occur during the SAP's recommended rehabilitation program shall not be used to make a determination as provided in Section XVI.

G. REFUSAL TO TEST

1. An employee who refuses to submit to a required alcohol or controlled substance test in violation of Section IV. a. 7 or Section IV. b. 4 shall be discharged.
2. An employee who provides a "specimen adulterated" or "specimen substituted" as interpreted by the U.S. Department of Transportation for a controlled substance test shall constitute a refusal to test in violation of Section IV. b. 4 and shall be discharged.

H. FAILURE TO FOLLOW OR COMPLETE THE REHABILITATION PROGRAM

An employee who fails to follow or complete the SAP's recommended rehabilitation program shall be discharged.

I. POST-ACCIDENT TEST

An employee who is required to submit to an alcohol and controlled substance test as provided in Section VI. a and tests positive for alcohol or controlled substance may be disciplined as provided in the applicable collective bargaining agreement.

J. POSSESSION OF CONTROLLED SUBSTANCE

Any employee in possession of a controlled substance(s) (with the exception noted in the prohibitions) which is non-manifested nor prescribed for the employee by a physician shall be subject to disciplinary action, up to and including termination based on just cause principles.

K. POSSESSION OF ALCOHOL

Any employee in possession of alcohol (with the exception noted in the prohibitions) shall be subject to disciplinary action, up to

and including termination based on just cause principles.

L. NEGATIVE RESULTS

If an employee is tested based on reasonable suspicion and the test results in a negative finding, appropriate disciplinary action may still be warranted on the basis that there is just cause for such action based on the employee's conduct while on duty which gave rise to the supervisor's reasonable suspicion.

M. POSITIVE TEST RESULTS UNDER PART II OF THE AGREEMENT WHICH COVERS HEALTH, SAFETY, AND PUBLIC TRUST POSITIONS

Positive test results from testing conducted under Part II of this Agreement covering employees in HGEA bargaining units who are in HSPT positions shall be included when determining appropriate disciplinary action under this Section. For example, if an HSPT employee has a positive random test result and then has a positive reasonable suspicion test result, the reasonable suspicion test result would be treated as a second positive test result for the purposes of determining disciplinary action.

XVII. NOTICE AND INFORMATION

A. EDUCATIONAL MATERIALS

The Employer shall provide detailed educational materials to a covered employee that explains this DTA. At a minimum, the materials shall include the following:

1. The categories of employees who are subject to this DTA.
2. Specific information on conduct that is prohibited.
3. The circumstances under which an employee may be subject to an alcohol and controlled substance test.
4. The procedures that will be used to test for alcohol or controlled substance.
5. The requirement that an employee submit to a test.
6. An explanation of what constitutes a refusal to submit to a test.

7. A list of employees, positions, and departments.

XVIII. INFORMATION AND RECORDS

A. CONFIDENTIALITY

1. The Employer and the Union shall comply with the confidentiality provisions of the State Department of Health rules on Substance Abuse Testing.
2. Information and records pertaining to the employee shall be released after receipt of a written request for information from the employee as provided in the State Department of Health Rules.

B. MAINTENANCE AND DESTRUCTION

Information and records maintained pertaining to the employee shall be maintained in a secure location except as otherwise provided by the U.S. DOT Rules.

The information and records shall be destroyed as provided in the U.S. DOT Rules.

C. SUBPOENAS

The Employer shall make every reasonable effort to notify the employee and the Union of the receipt of a subpoena for information concerning an employee's alcohol and/or controlled substance tests.

XIX. INDEMNIFICATION AND DEFENSE

- A. The Employer shall be responsible for defending all statutory and constitutional challenges to the enforceability of this DT A.
- B. The Employer shall defend the Union against any claim or action arising out of the Employer's administration or implementation of the Drug and Alcohol Testing Agreement.
- C. Subject to the recommendation of the Employer and the express approval of the appropriate legislative body, the Employer shall pay all damages awarded against the Union because of a claim or action.

7. The consequences for an employee found to have violated this DT A.
8. Information on the effects of alcohol and controlled substance.
9. The Employer designee to be contacted for questions or additional information.

B. SIGNED STATEMENT

The Employer shall obtain a signed statement from each covered employee that indicates that each covered employee has been advised of the requirements of this DT A and has received educational materials as provided in Section XVII. a. prior to the beginning of the testing program.

C. INFORMATION

The Employer shall transmit annually to the Union, without cost, by the end of March of each year, the following:

1. A list showing a statistical account of the alcohol and controlled substance test results conducted as provided in this DT A, which shall indicate the number of negative and positive tests and the dates and numbers of employees tested in the previous one (1) year period for each form of test.
2. The names and addresses of the laboratories hired to do alcohol and controlled substance tests.
3. The names and addresses of the SAPs and a copy of the certification.
4. The names and addresses of the MRO and a copy of the certification.
5. The names of the supervisors who are authorized to recommend a reasonable suspicion test.
6. The names of the Employer designee to provide information to the employees as provided in this DTA.

XX. SAVINGS CLAUSE

Should any part of this Agreement, including the attachments, be rendered or declared invalid by reason of any legislation, State DOH rules or by a decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.

PART II

RANDOM ALCOHOL AND CONTROLLED SUBSTANCE TESTING

R-I. STATEMENT OF PURPOSE

- A. This Drug Testing Agreement (DTA) is intended to keep the workplace free from the hazards of the use of alcohol and controlled substances by adopting a drug and alcohol testing program as specified in this section.
- B. Employees are expected to report to work in a physical and mental condition consistent with this Agreement which enables them to perform their duties in a safe and productive manner.
- C. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary actions under this DT A shall be afforded "due process" as provided in this DTA and applicable provisions of the respective collective bargaining agreements.

R-II. DEFINITIONS

A. ACCIDENT

An occurrence involving an Employer's vehicle operating on a public road which results in: a fatality; bodily injury to a person requiring immediate medical treatment away from the accident; or one or more vehicles is disabled and must be towed from the scene. Note: Post-accident testing is only required when there is a fatality or when the employee has been cited for a moving vehicle violation as a result of an accident.

B. ALCOHOL

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl alcohol and isopropyl alcohol.

C. ALCOHOL CONCENTRATION

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. The 210 liters represents the volume of breath tested for alcohol. (A reading of 0.02 represents 0.02 grams of alcohol per 210 liters of breath.)

D. ALCOHOL USE

The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

E. CONTROLLED SUBSTANCE

Substance other than alcohol such as marijuana, cocaine, opiates, amphetamines, and phencyclidine. Other substances under the Controlled Substance Act (21 U.S.C. 802) may be added after consultation and mutual agreement with the union.

F. EMPLOYEE

All employees in health, safety, or public trust (HSPT) positions. (A list of these positions is contained in attachment D. The Employer may make changes to the list after consultation and mutual agreement with the Union.)

G. U.S. DOT RULES

For the purpose of this DTA, "U.S. DOT Rules" shall mean the use of procedures and standards which are similar to the extent possible to that which is found in the Department of Transportation Rules on Drug and Alcohol Testing for drivers of Commercial Motor Vehicles (Part 382). The State Department of Health Rules on Substance Abuse Testing shall prevail if there is any conflict between the State Rules and the federal regulations.

H. EMPLOYER

The State of Hawaii (including Judiciary and Hawaii Health Systems Corporation), City and County of Honolulu, County of Hawaii, County of Maui and County of Kauai.

I. REFUSAL TO TEST

A refusal to test is when an employee 1) fails to provide adequate breath for alcohol testing as required by this Agreement, without a valid medical explanation, after he or she has received notice of the requirement for breath testing in accordance with this Agree-

ment; 2) fails to provide an adequate urine sample for controlled substances testing as required by this Agreement, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing in accordance with the provisions of this Agreement; or 3) engages in conduct that clearly obstructs the testing process. Examples of what constitutes a refusal include, but are not limited to, the following:

1. Refusal to take a test either by statement or action;
2. Refusal to sign appropriate forms as required;
3. Failure to report for a scheduled appointment to provide a specimen;
4. Failure to report to the collection site in the time allotted;
5. Tampering with or attempting to adulterate the specimen or collection procedure;
6. Failure to cooperate or comply with the collection site person, Breath Alcohol Technician, Substance Abuse Professional (SAP), or Medical Review Officer (MRO);
7. Failure to provide adequate breath or urine specimen within a reasonable time period without a valid medical explanation;
8. Engaging in conduct that clearly obstructs the testing process;
9. Leaving the scene of an accident without a valid reason or without authorization from a supervisor.

J. HEALTH, SAFETY, AND PUBLIC TRUST (HSPT) POSITIONS

These positions have a direct impact on public health or safety (for example, positions which require first responder skills) or are positions with a special public trust (for example, positions in which the employee is authorized to carry a weapon). The parties agree to meet on an as needed basis for the purpose of identifying classes/positions as safety sensitive for

inclusion in an employers' pool for random testing. Thereafter, the parties will meet as needed to review and update the list. Mutual agreement is required to make any changes to the list.

K. SUBSTANCE ABUSE PROFESSIONAL (SAP)

A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

L. SUPERVISOR

The Employer designee who has passed requirements as provided in Part I, Section VIII.a.

M. WORK

Work means from the time the employee reports to work until the time the employee ends work or when the employee is required to be in readiness for work (stand-by).

R-III. VOLUNTARY ADMISSION

- A. Employees are encouraged to voluntarily admit to the Employer an alcohol and/or controlled substance problem before they are required to take an alcohol and/or controlled substance test and before they have engaged in conduct which would warrant disciplinary action.

The provisions of this Section are available only to covered employees who voluntarily admit to having an alcohol and/or controlled substance abuse problem before they are notified to take an alcohol or controlled substances test pursuant to this DTA and/or before they have engaged in behavior which is prohibited under this DTA.

- B. An employee who voluntarily admits to the Employer to having an alcohol and/or controlled substance problem as provided in R-III.a shall be immediately removed from the job and placed on sick leave, vacation leave, or authorized leave without pay as determined by the employee and required to comply with the follow-

ing:

1. Mandatory participation in an Employer approved SAP evaluation, SAP recommended rehabilitation program, and completion of such program.
2. Mandatory return to work testing and unannounced follow-up testing as determined by the SAP.
 - a. NUMBER OF TESTS
 - 1) The number of follow-up alcohol and controlled substance tests shall be set by an SAP and consist of at least six (6) tests in the first twelve (12) months following the employee's return to work.
 - 2) Follow-up tests shall not exceed sixty (60) months from the date of the employee's return to work.
 - 3) The SAP may terminate the requirement for follow up tests at any time after the first six (6) tests have been administered if the SAP determines that tests are no longer necessary.
- C. The Employer shall select the SAP, provided that the SAP shall not be an employee of the Employer.
- D. The employee shall be allowed to use sick leave, vacation leave, or authorized leave without pay during the period of the SAP recommended rehabilitation program. The employee must satisfactorily complete such rehabilitation program.
- E. Cost
 1. The cost of the SAP services shall be borne by the Employer.
 2. The cost of testing required by the Employer including follow-up testing as required by the SAP shall be borne by the Employer.
 3. The cost of the rehabilitation program and treatment re-

quired by the program shall be borne by the employee.

4. The cost of testing required by the rehabilitation program shall be borne by the employee.
- F. The time spent in completing any tests required as a result of a rehabilitation program or return to work test, including travel time, shall not be considered as time worked.
- G. An employee who refuses to comply with the provisions of this Section (R-III), who refuses to take a controlled substance or alcohol test (section R-IV. a.7 and R-IV. b. 4, including adulterating or substituting a specimen) or who refuses to comply with the SAP requirements, including failure to follow or to completing the rehabilitation program within a time frame deemed reasonable by the SAP, shall be discharged.
- H. An employee who tests positive for alcohol or controlled substance during return to duty or follow-up testing shall be subject to the schedule of discipline in this DTA.

R-IV. PROHIBITIONS

A. ALCOHOL

Employees shall not:

1. Report to work or continue working while having an alcohol concentration of 0.02 or higher.
2. Possess alcohol while working except when the employee is required to handle alcohol or products containing alcohol as part of the employee's job duties.
3. Consume alcohol while working.
4. Work within four (4) hours after using alcohol.
5. Use alcohol for eight (8) hours after an accident, or until the employee completes an alcohol test, whichever is sooner.
6. Work after voluntarily admitting to having an alcohol problem pursuant to Section III until a return to work test is administered and results in a negative test.

7. Refuse to submit to a required alcohol test.

B. CONTROLLED SUBSTANCE

Employees shall not:

1. Report to work or continue working with a controlled substance in their system, or use controlled substances while working, except when the controlled substance is prescribed by a physician for the employee and is used in accordance with the physician's instructions. Note: If the employee is subject to testing under Part II of the Agreement which covers employees in HGEA bargaining units who are in HSPT positions in addition to the above, the physician must have advised the employee that the substance does not adversely affect the employee's ability to work. If not the prohibition above applies.
2. Possess controlled substance while working except when the employee is required to handle a controlled substance (s) as part of the employee's job duties or when prescribed by a physician who has advised the employee that the substance does not adversely affect the ability to work.
3. Work after voluntarily admitting to having a controlled substance problem pursuant to Section R-III. or testing positive until a return to work test is administered and results in a negative test.
4. Refuse to submit to a required controlled substance test.

Note: A valid prescription for the employee for marinol is the only reason the MRO will consider in determining if a positive test result for marijuana should be declared negative. The use of hemp products, including hemp seed oil, shall not be considered reasons to declare a test negative. Employees are cautioned that the prohibitions not only require that an employee have a valid prescription, but that the physicians has advised the employee that the substance does not adversely affect the ability to work.

R-V. PRE-DUTY AND PROBATIONARY TEST

A. PRE-DUTY TEST

1. Pre-duty tests shall be administered in accordance with Part I of the Drug and Alcohol Testing Agreement which covers all employees in HGEA bargaining units. That testing is as follows:

Prior to being placed on the temporary assignment list for a position in which the employee will be subject to testing under Part II of the Agreement which covers employees in HGEA bargaining units who are in HSPT positions, the employees shall be subject to a controlled substance test.

2. ALCOHOL TESTING

There shall be no pre-duty alcohol testing.

3. PROMOTIONS, TEMPORARY ASSIGNMENTS, OR OTHER PERSONNEL CHANGES.

B. PROBATIONARY TESTING

1. The Employer shall conduct controlled substance tests of all covered employees at least once while the employees are on an initial probationary period in an HSPT position.
2. The Employer shall conduct controlled substance tests of all covered employees at least once while the employees are on a new probationary period in an HSPT position.
3. In the event an employee tests positive, the employee shall be subject to discipline and other requirements of an employee who tests positive as provided in section R-XVI. In

addition, employees on new probationary periods shall have their probationary period terminated.

4. Test of the employees on an initial or new probationary period shall not be included in determining the minimum number of drug or alcohol tests established in Section R-VII.a.

R-VI. POST-ACCIDENT TEST

A. REQUIRED TESTS

Following an accident as defined in section R-II.a, employees involved shall submit to an alcohol and controlled substance test if the employee is driving an Employer's vehicle and the employee is a "regular driver" and if required by the Employer. If the accident involved the lost of human life, the employee who was driving the vehicle shall be tested. If no fatality occurs, but a driver receives a citation for a moving traffic violation, the driver shall be tested if one of the following occurs:

- 1) a person involved in the accident requires treatment away from the scene of the accident, or
- 2) one or more of the vehicles involved in the accident is disabled and must be towed away from the scene.

For the purposes of this section, a "regular driver" shall mean an employee who the Employer has determined drives an average of 120 round trips in a twelve-month period (October 1 to September 30 of the preceding year)—multiple trips in a single day count as one trip. The 120 trip requirement shall be reduced if a driver is unavailable for duty due to leaves with or without pay or temporary assignment or temporary reallocation to another job. The reduction shall be calculated as follows: $120 \text{ days} - (\text{days unavailable} \times 50\%)$.

B. ALCOHOL

An alcohol test required by Section R-VI.a shall be administered within two hours, but no later than eight (8) hours following the accident. If the test is not administered within eight (8) hours following the accident, the Employer shall cease attempts to administer an alcohol test.

C. CONTROLLED SUBSTANCE

A controlled substance test required by Section R-VI.a shall be administered within thirty two (32) hours following the accident. If the test is not administered within thirty two (32) hours following the accident, the Employer shall cease attempts to administer a controlled substance test.

D. MEDICAL ATTENTION AND CARE

Nothing in Section R-VI shall be construed to require the delay of necessary medical attention for injured persons following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

R-VII. RANDOM TEST

The Employer will conduct random alcohol and controlled substance tests of HSPT employees.

A. RATE OF TEST

1. The tests will be conducted on an annual basis and the number of alcohol tests conducted each year will not be less than five per cent (5%) of the average number of HSPT employee positions each year.
2. The number of controlled substance tests conducted each year will not be less than twenty-five per cent (25%) of the average number of HSPT employee positions each year.

B. SELECTION METHOD

1. The selection of employees shall be determined by a scientifically valid random number selection method.
2. Each employee within a designated pool shall have an equal chance of being tested each time the selections are made. The Employer shall determine the number of testing pools to be used for this program and shall assign each covered employee to a designated pool.

3. Random tests shall be conducted as provided in the U.S. DOT Rules.

R-VIII. REASONABLE SUSPICION TEST

Reasonable suspicion tests shall be conducted in accordance with Part I of the Drug and Alcohol Testing Agreement which covers all employees in HGEA bargaining units.

R-IX. RETURN TO WORK TEST

A. RETURN TO WORK - ALCOHOL TEST

1. An employee who has committed a prohibited act described in Section R-IV.a. 1,3,4 and 5 who is not separated from service and who has been cleared by the SAP to return to work shall be subject to a return to work alcohol test with a result indicating an alcohol concentration of less than 0.02.
2. The employee shall also be subject to a return to work controlled substance test if the SAP recommends the test.

B. RETURN TO WORK CONTROLLED SUBSTANCE TEST

1. An employee who has committed a prohibition as described in Section R-IV. b. 1, and 3 who is not separated from service, and who has been cleared by the SAP to return to work shall be subject to a return to work controlled substance test with a verified negative test for controlled substance.
2. The employee shall also be subject to a return to work alcohol test if the SAP recommends the test.

R.X. FOLLOW UP TEST

A. EVALUATION

1. An employee who committed a prohibited act described in Section R-IV. a. 1,3,4,5, and 6 or Section R-IV. b. 1 and 3 shall be evaluated by an SAP who shall determine what assistance, if any, the employee needs in resolving problems

associated with alcohol misuse and controlled substance use.

2. After the employee returns to work, the employee shall be subject to unannounced follow up alcohol and controlled substance tests as determined by the SAP.

B. NUMBER OF TESTS

1. The number of follow up alcohol and controlled substance tests referred to in Section R-X.a shall be set by an SAP and consist of at least six (6) tests in the first twelve (12) months following the employee's return to work.
2. Follow up tests shall not exceed sixty (60) months from the date of the employee's return to work.
3. The SAP may terminate the requirement for follow up tests at any time after the first six (6) tests have been administered, if the SAP determines that tests are no longer necessary.

C. CHOICE OF SAP

The SAP shall not be an employee of an Employer.

R-XI. TEST

Alcohol or controlled substance tests shall be as provided in the U.S. DOT Rules, State Department of Health Rules, or this DTA as applicable.

R-XII. ALCOHOL TEST PROCEDURES

A. STANDARDS

1. Test procedures and practices shall comply with U.S. DOT rules (as defined).
2. Test procedures shall protect the privacy of the employee and ensure that the tests are attributable to the correct employee.

B. TEST DEVICE

1. Alcohol tests shall be conducted by a Breath Alcohol Technician (BAT) using an Evidential Breath Test Device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA) and Placed on its Conforming Products Lists of Breath Measurement Devices.
2. Other tests which meet the requirements of the State Department of Health or Department of Transportation may be used in lieu of the above after consultation and mutual agreement with the union.

C. CONFIRMATORY TEST

An employee who tests positive on an alcohol test shall be subject to a confirmation test which shall be administered as provided in the U.S. DOT Rules.

D. COMPLIANCE

A test which is not valid as provided in the U.S. DOT Rules or violates the employee's rights shall not be used for discipline.

R-XIII. CONTROLLED SUBSTANCE TEST PROCEDURES

A. STANDARDS

1. Test procedures and practices shall comply with U.S. DOT Rules.
2. Test procedures shall protect the privacy and dignity of the individual, ensure the integrity of the test process, - safeguard the validity of the test through confirmatory test, and ensure that the tests are attributable to the correct employee.

B. TEST DEVICE

Controlled substance tests will be by urinalysis and shall be performed by laboratories certified by the State Department of Health.

C. CHOICE OF MEDICAL REVIEW OFFICER

The MRO shall not be an employee of the employer.

D. MEDICAL EXPLANATION

Prior to making a final decision to verify or report a positive test, the MRO shall give the employee an opportunity to discuss the test. If the MRO determines there is a legitimate medical explanation for the positive test, the MRO shall take no further action and report the test as negative.

E. RETESTING CONFIRMED POSITIVE SPECIMENS SPLIT SAMPLE

1. An employee may request a re-analysis of the split sample within seventy two (72) hours of having been informed of a verified positive test.
2. The employee may instruct the MRO to have the analysis be at another laboratory certified by the State Department of Health and approved by the Employer for analysis.
3. The employee shall pay for the cost of the test analysis of the split sample, however, the employee shall be reimbursed if the results of the test is negative.

F. COMPLIANCE

A test which is not valid as provided in the U.S. DOT Rules or violates the employee's rights shall not be used for discipline.

R-XIV. EVALUATION, REFERRAL AND REHABILITATION

A. NOTICE TO EMPLOYEE

An employee who has engaged in conduct prohibited by Section R-IV. a. 1,2,3,4 and 6 or Section R-IV. b. 1,2,3 (with respect to the positive test), and 4 shall be advised by the Employer of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substance, including the names, address, and telephone numbers of SAPs and counseling and rehabilitation programs.

B. EVALUATION AND REFERRAL

An employee who is engaged in conduct prohibited by Section R-

IV. a. 1, 3, 4, 5 and 6 or Section R-IV. b 1 and 3 shall be referred to an SAP for evaluation.

C. COST

The cost for the SAP services shall be borne by the Employer.

D. REHABILITATION

The employee will be responsible for the cost of the rehabilitation program and treatment required by the program.

R-XV. ADMINISTRATIVE AND CORRECTIVE ACTIONS

A. COVERAGE

1. When tests are required by the Employer, the Employer shall pay for the cost of the tests.
2. Except where otherwise provided, the time spent in completing the testing, including travel time, shall be considered as time worked.
3. When tests are required as the result of a rehabilitation program, or the return to work test, the time spent in completing the tests, including travel time, shall not be considered as time worked.

B. CALL BACK NOTICE

1. An employee on non work status who is called back to work shall report to the Employer the consumption of alcohol within the previous four (4) hours or have reason to believe that the alcohol concentration level would be 0.02 or greater.
2. The employee shall not be offered work and shall not be required to submit to an alcohol test or be subject to disciplinary action.

C. COSTS

Except as otherwise provided in this DT A. the cost of the alcohol and controlled substance tests shall be borne by the Employer.

D. REMOVAL FROM WORK FOR A POSITIVE TEST RESULT.

1. An employee with a positive alcohol test of 0.04 or greater or a positive controlled substance test shall be removed immediately from work.
2. The employee shall be scheduled for an immediate evaluation by an SAP.
3. The SAP shall complete the evaluation within a reasonable period of time after the employee has been removed from work.
4. Before returning to work, the employee shall be subject to the SAP's recommended rehabilitation program and take a return to work test as provided in Section R-IX..
5. An employee with a positive test shall be immediately placed on sick leave, vacation leave, compensatory time or authorized leave without pay as determined by the employee.

E. REMOVAL FROM WORK--BAC 0.02<0.04

An employee in an HSPT position or an employee who is subject to post accident testing who has an alcohol test result of 0.02 or greater, but less than 0.04, shall be removed immediately from work and prohibited from work for at least twenty four (24) hours.

R-XVI. DISCIPLINE, RESIGNATION AND LAST CHANCE RESIGNATIONS

An employee who has a positive test result or violates any other prohibition under this Part of the Agreement shall be subject to the disciplinary provisions of Part I of the Drug and Alcohol Testing Agreement which covers all employees in HGEA bargaining units. For the purpose of determining appropriate disciplinary action, positive test results (or violations of other prohibitions) from either Part shall be added together and treated as if they resulted under one Part. The disciplinary provisions are as follows:

A. NOTICE OF TEST RESULTS

An employee who tests positive for alcohol and/or controlled sub-

stance shall be given written notice of the test with a copy of the documents to verify the chain of custody.

B. FIRST POSITIVE CONTROLLED SUBSTANCE TEST

1. An employee who has a first positive controlled substance test as provided in Section R-V, R-VII, R-VIII, R-IX and R-X except for first positive controlled substance test as provided in Section R-V.b.1, shall be discharged unless the employee agrees to sign the Exhibit A Last Chance Agreement, whereby the employee agrees to resign from employment in the event of a second positive controlled substance test occurring within two (2) years of the first positive controlled substance test exclusive of time from the date the employee has been removed from work and time spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s).
2. When the employee signs Exhibit A Last Chance Agreement, the employee shall be suspended for twenty (20) working days instead of being discharged.
3. The employee will be referred to the SAP and must comply with the SAP's recommended rehabilitation program.
4. Before an employee is subject to an initial probationary controlled substance test as provided in the Probationary Period Testing Section of Part II of the Drug and Alcohol Testing Agreement covering employees in HSPT positions, the employee shall agree to sign Exhibit C, Resignation Agreement, or be discharged whereby the employee agrees to resign from employment when the employee is first tested positive for controlled substance while on an initial probationary period. (For new probationary employees, refer to Section R-Vb.3.)

C. SECOND POSITIVE CONTROLLED SUBSTANCE TEST

An employee who tests positive for a controlled substance for a second time within two (2) years of the first positive controlled substance test exclusive of time from the date the employee has been removed from work and time spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s) shall be deemed to have re-

signed as provided in Exhibit A Last Chance Agreement.

D. FIRST POSITIVE ALCOHOL TEST

1. An employee who has a first positive alcohol test as provided in Section R-V., R-VII., R-VIII., R-IX., and R-X. shall be discharged unless the employee agrees to sign Exhibit B, Last Chance Agreement, whereby the employee agrees to resign from employment in the event of a second positive alcohol test.
2. When the employee signs Exhibit B, Last Chance Agreement, the employee shall be suspended for twenty (20) working days.

E. SECOND POSITIVE ALCOHOL TEST

An employee who tests positive for alcohol for a second time within two (2) years of the first positive alcohol test results exclusive of time from the date the employee has been removed from work and time spent in evaluation and treatment, until the date the employee has returned to work following a negative return to work test(s), shall be deemed to have resigned as provided in Exhibit B, Last Chance Agreement.

F. REHABILITATION PROGRAM TEST

Positive alcohol and controlled substance tests that occur during the SAP's recommended rehabilitation program shall not be used to make a determination as provided in Section R-XVI.

G. REFUSAL TO TEST

1. An employee who refuses to submit to a required alcohol or controlled substance test in violation of Section R-IV. a. 7 or Section R-IV. b. 4 shall be discharged.
2. An employee who provides a "specimen adulterated" or "specimen substituted" as interpreted by the U.S. Department of Transportation, for a controlled substance test shall constitute a refusal to test in violation of Section R-IV. b. 4 and shall be discharged.

H. FAILURE TO FOLLOW OR COMPLETE THE REHABILITATION PROGRAM

An employee who fails to follow or complete the SAP's recommended rehabilitation program shall be discharged.

I. POST-ACCIDENT TEST

An employee who is required to submit to an alcohol and controlled substance test as provided in VI. a. and tests positive for alcohol or controlled substance may be disciplined as provided in the applicable collective bargaining agreement.

J. POSSESSION OF CONTROLLED SUBSTANCE

Any employee in possession of a controlled substance(s) (with the exception noted in the prohibitions) which is non-manifested nor prescribed for the employee by a physician shall be subject to disciplinary action, up to and including termination based on just cause principles.

K. POSSESSION OF ALCOHOL

Any employee in possession of alcohol (with the exception noted in the prohibitions) shall be subject to disciplinary action, up to and including termination based on just cause principles.

L. NEGATIVE RESULTS

If an employee is tested based on reasonable suspicion and the test results in a negative finding, appropriate disciplinary action may still be warranted on the basis that there is just cause for such action based on the employee's conduct while on duty which gave rise to the supervisor's reasonable suspicion.

M. POSITIVE TEST RESULTS UNDER PART I OF THE AGREEMENT WHICH COVERS ALL EMPLOYEES IN HGEA BARGAINING UNITS

Positive test results from testing conducted under Part I of the Drug and Alcohol Testing Agreement covering all employees in HGEA bargaining units shall be included when determining appropriate disciplinary action under this Section. For example, *if* an HSPT employee has a positive random test result and then has a positive reasonable suspicion test result, the reasonable suspicion test result would be treated as a second positive test result for the pur-

poses of determining disciplinary action.

R-XVII. NOTICE AND INFORMATION

A. EDUCATIONAL MATERIALS

The Employer shall provide detailed educational materials to a covered employee that explains this DTA. At a minimum, the materials shall include the following:

1. The categories of employees who are subject to this DTA.
2. Specific information on conduct that is prohibited.
3. The circumstances under which an employee may be subject to an alcohol and controlled substance test.
4. The procedures that will be used to test for alcohol or controlled substance.
5. The requirement that an employee submit to a test.
6. An explanation of what constitutes a refusal to submit to a test.
7. The consequences for an employee found to have violated this DT A.
8. Information on the effects of alcohol and controlled substance.
9. The Employer designee to be contacted for questions or additional information.

B. SIGNED STATEMENT

The Employer shall obtain a signed statement from each covered employee that indicates that each covered employee has been advised of the requirements of this DT A and has received educational materials as provided in Section R-XVII. o. prior to the beginning of the testing program.

C. INFORMATION

The Employer shall transmit annually to the Union, without cost, by the end of March of each year, the following:

1. A list showing a statistical account of the alcohol and controlled substance test results conducted as provided in this DT A, which shall indicate the number of negative and positive tests and the dates and numbers of employees tested in the previous one (1) year period for each form of test.
2. The names and addresses of the laboratories hired to do alcohol and controlled substance tests.
3. The names and addresses of the Substance Abuse Professionals (SAP) and a copy of the certification.
4. The names and addresses of the Medical Review Officer (MRO) and a copy of the certification.
5. The names of the supervisors who are authorized to recommend a reasonable suspicion test.
6. The names of the Employer designee to provide information to the employees as provided in this DT A.
7. A list of employees, positions, and department.

R-XVIII. INFORMATION AND RECORDS

A. CONFIDENTIALITY

1. The Employer and the Union shall comply with the confidentiality provisions of the State Department of Health rules on Substance Abuse Testing.
2. Information and records pertaining to the employee shall be released after receipt of a written request for information from the employee as provided in the State Department of Health Rules.

B. MAINTENANCE AND DESTRUCTION

1. Information and records maintained pertaining to the employee shall be maintained in a secure location except as otherwise provided by the U.S. DOT Rules.

2. The information and records shall be destroyed as provided in the U.S. DOT Rules.

D. SUBPOENAS

The Employer shall make every reasonable effort to notify the employee and the Union of the receipt of a subpoena for information concerning an employee's alcohol and/or controlled substance tests.

R-XIX. INDEMNIFICATION AND DEFENSE

- A. The Employer shall be responsible for defending all statutory and constitutional challenges to the enforceability of this DT A.
- B. The Employer shall defend the Union against any claim or action arising out of the Employer's administration or implementation of the Drug and Alcohol Testing Agreement.
- C. Subject to the recommendation of the Employer and the express approval of the appropriate legislative body, the Employer shall pay all damages awarded against the Union because of a claim or action.

R-XX. SAVINGS CLAUSE

Should any part of this Agreement, including the attachments, be rendered or declared invalid by reason of any legislation, State DOH rules or by a decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.

EXHIBIT A

LAST CHANCE AGREEMENT

This Agreement entered into this ____ day of _____, _____ by and between the employee _____ and the Employer.

1. The employee has tested positive for controlled substance as provided in this DTA for the first time
2. The employee agrees to sign Exhibit A instead of being discharged and whereby the employee agrees to resign from employment in the event of a second positive controlled substance test occurring within two (2) years of the first positive test.
3. The employee agrees that when the employee signs Exhibit A the employee shall be suspended for twenty (20) working days instead of being discharged
4. The employee agrees to resign from employment on a no-fault basis when the employee tests positive for controlled substance for a second time within two (2) years of the first positive controlled substance test effective on the date of the second positive test
5. The employee agrees that Exhibit A has been carefully read and voluntarily accepts Exhibit A with full knowledge and understanding of its contents and meaning.
6. The employee agrees that the employee's resignation from employment deprives the employee of the right to grieve as provided in the grievance section of the applicable bargaining unit agreement or challenge the resignation
7. The Employer agrees that the employee's resignation from employment as provided in this DTA shall be reported in the employee's personnel file as a resignation without fault.
8. Exhibit A shall be confidential, except as may be necessary to ensure compliance with its terms.

Employee:

Employer:

Signature

Signature

Date:

Date:

EXHIBIT B

LAST CHANCE AGREEMENT

This Agreement entered into this ____ day of _____, _____ by and between the employee _____ and the Employer.

1. The employee has tested positive for alcohol substance as provided in this DTA for the first time
2. The employee agrees to sign Exhibit B instead of being discharged and whereby the employee agrees to resign from employment in the event of a second positive alcohol test occurring within two (2) years of the first positive test
3. The employee agrees that when the employee signs Exhibit B the employee shall be suspended for twenty (20) working days instead of being discharged.
4. The employee agrees to resign from employment on a no-fault basis when the employee tests positive for alcohol for a second time within two (2) years of the first positive alcohol test effective on the date of the second positive test.
5. The employee agrees that Exhibit B has been carefully read and voluntarily accepts Exhibit B with full knowledge and understanding of its contents and meaning
6. The employee agrees that the employee's resignation from employment deprives the employee of the right to grieve as provided in the grievance section of the applicable bargaining unit agreement or challenge the resignation.
7. The Employer agrees that the employee's resignation from employment as provided in this DTA shall be reported in the employee's personnel file as a resignation without fault.
8. Exhibit B shall be confidential, except as may be necessary to ensure compliance with its terms.

Employee:

Employer:

Signature

Signature

Date:

Date:

EXHIBIT C

RESIGNATION AGREEMENT

This Agreement is entered into this ____ day of _____, ____ by and between the employee _____ and the Employer

1. The employee agrees to sign Exhibit C instead of being discharged and whereby the employee agrees to resign from employment in the event of a first positive controlled substance test occurring during the initial probationary period.
2. The employee agrees that Exhibit C has been carefully read and voluntarily accepts Exhibit C with full knowledge and understanding of its contents and meaning.
3. The employee agrees that resignation from employment deprives the employee of the right to grieve as provided in the grievance section of the applicable bargaining unit agreement or challenge the resignation.
4. The Employer agrees that the employee's resignation from employment as provided in Section R-XVI.b.4. shall be reported in the employee's Personnel file as a resignation without fault.
5. Exhibit C shall be confidential, except as may be necessary to ensure compliance with its terms.

Employee:

Employer:

Signature

Signature

Date:

Date:

STATE OF HAWAII

Deputy Sheriff 1 & 11 - (BU 03)

Deputy Sheriff III & IV - (BU 04)

Conservation and Resource Enforcement Officer I, II, III & IV - (BU 03) Conservation and Resource Enforcement Officer V - (BU 04)

CITY AND COUNTY OF HONOLULU

Water Safety Officer I, II & III - (BU 03)

Water Safety Officer IV & V - (BU 04)

Swimming Instructor - (BU 03)

Recreation Assistant III (Pool) - (BU 03)

Recreation Specialist I (Ocean Recreation) - (BU 13)

Recreation Director II (Swimming) - (BU 13)

Investigator I, II, III & IV (Prosecutor's Office) - (BU 13)

HAWAII COUNTY

Water Safety Officer I, II & III - (BU 03)

Water Safety Officer IV - (BU 04)

Lifeguard 1 - (BU 03)

Swimming Instructor - (BU 03)

Senior Lifeguard - (BU 03)

Investigator I, II, III, IV, V & VI - (BU 13)

MAUI COUNTY

Water Safety Officer I, II & III - (BU 03)

Supervising Water Safety Officer - (BU 04)

Pool Guard - (BU 03)

Senior Pool Guard - (BU 03)

Investigator IV & V (BU 13)

KAUAI COUNTY

Water Safety Officer I, II & III - (BU 03)

Water Safety Supervising Officer - (BU 04)

Lifeguard - (BU 03)

Recreation Worker II (Pool) - (BU 03)

Special Investigator - (BU 13)

Note: Each jurisdiction will provide a listing of affected employees by position number and class title. (See pages 79-82 for County of Hawai'i listing.)

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Educational And Informational Materials

Alcohol and Drug Information	59
Testing Procedures Explained	69
Referral to Employee Assistance Program	75
Health, Safety, and Public Trust Positions	79
Summary of Drug and Alcohol Testing Agreement	83

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INTRODUCTION

A drug is any chemical substance that produces physical, mental, emotional or behavioral change in the user. Drug abuse is an excessive or inappropriate use of a drug, which results in behavior that adversely affects an individual's occupational, familial or social functioning.)

ALCOHOL

Drinking among workers can threaten public safety, impair job performance, and result in costly medical, social and other problems affecting employees and employers alike. Productivity losses attributed to alcohol were estimated at \$119 billion for 1995. Several factors contribute to problem drinking in the workplace. Employers are in a unique position to mitigate some of these factors and to motivate employees to seek help for alcohol problems.

Drinking is associated with the workplace culture and acceptance of drinking, workplace alienation, the availability of alcohol, and the existence and enforcement of workplace alcohol policies.

SYMPTOMS:

Slower Reactions

Slurred Speech

Confusion

Drowsiness

Balance, Coordination and Judgment Suffer²

MARIJUANA

Marijuana is a green or gray mixture of dried, shredded flowers and leaves of the hemp plant *Cannabis sativa*. There are over 200 slang terms for marijuana including "pot," "herb," "weed," "boom," "Mary Jane," "gangster," and "chronic." It is usually smoked as a cigarette (called a joint or a nail) or in a pipe or bong. In recent years, marijuana has appeared in blunts, which are cigars that have been emptied of tobacco and refilled with marijuana, often in combination with another drug, such as crack. Some users also mix marijuana into foods or use it to brew tea.

The main active chemical in marijuana is THC (delta-9-tetrahydrocannabinol). In 1988, it was discovered that the membranes of certain nerve cells contain protein receptors that bind THC. Once securely in place, THC kicks off a series of cellular reactions that ultimately lead to the high that users experience when they smoke marijuana. The short-term effects of marijuana use include problems with memory and learning; distorted perception; difficulty in thinking and problem solving; loss of coordination; and increased heart rate, anxiety, and panic attacks.

Scientists have found that whether an individual has positive or negative sensations after smoking marijuana can be influenced by heredity. A recent study demonstrated that identical male twins were more likely than non-identical male twins to report similar responses to marijuana use, indicating a genetic basis for their sensations. Identical twins share all of their genes; and fraternal twins share about half.

Environmental factors such as the availability of marijuana, expectations about how the drug would affect them, the influence of friends and social contacts, and other factors that differentiate identical twins' experiences also were found to have an important effect; however, it also was discovered that the twins' shared or family environment before age 18 had no detectable influence on their response to marijuana.

Health Hazards

Effects of Marijuana on the Brain

Researchers have found that THC changes the way in which sensory information gets into and is processed by the hippocampus. The hippocampus is a component of the brain's limbic system that is crucial for learning, memory, and the integration of sensory experiences with emotions and motivations. Investigations have shown that neurons in the information processing system of the hippocampus and the activity of the nerve fibers in this region are suppressed by THC. In addition, researchers have discovered that learned behaviors, which depend on the hippocampus, also deteriorate via this mechanism.

Recent research findings also indicate that long-term use of marijuana produces changes in the brain similar to those seen after long-term use of other major drugs of abuse.

Effects on the Lungs

Someone who smokes marijuana regularly may have many of the same respiratory problems as tobacco smokers. These individuals may have daily cough and phlegm, symptoms of chronic bronchitis, and more frequent chest colds. Continuing to smoke marijuana can lead to abnormal functioning of lung tissue injured or destroyed by marijuana smoke.

Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than among tobacco smokers. This may be due to the marijuana users' inhaling more deeply and holding the smoke in the lungs and because marijuana smoke is unfiltered.

Effects on Heart Rate and Blood Pressure

Recent findings indicate that smoking marijuana while shooting up cocaine has the potential to cause severe increases in heart rate and blood pressure. In one study, experienced marijuana and cocaine users were given marijuana alone, cocaine alone, and then a combination of both. Each drug alone produced cardiovascular effects; when they were combined, the effects were greater and lasted longer. The heart rate of the subjects in the study increased 29 beats per minute with marijuana alone and 32 beats per minute with cocaine alone. When the drugs were given together, the heart rate increased by 49 beats per minute, and the increased rate persisted for a longer time. The drugs were given with the subjects sitting quietly. In normal circumstances, an individual may smoke marijuana and inject cocaine and then do something physically stressful that may significantly increase the risk of overloading the cardiovascular system.

Effects of Heavy Marijuana Use on Learning and Social Behavior

A study of college students has shown that critical skills related to attention, memory, and learning are impaired among people who use marijuana heavily, even after discontinuing its use for at least 24 hours. Researchers compared 65 "heavy users:" who had smoked marijuana a median of 29 of the past 30 days, and 64 "light users:" who had smoked a median of 1 of the past 30 days. After a closely monitored 19- to 24-hour period of abstinence from marijuana and other illicit drugs and alcohol, the undergraduates were given several standard tests measuring aspects of attention, memory, and learning. Compared to the light users, heavy marijuana users made more errors and had more difficulty sustaining attention, shifting attention to meet the demands of changes in the environment, and in registering, processing, and using information. These findings suggest that the greater impairment among heavy users is likely due to an alteration of brain activity produced by marijuana.

Longitudinal research on marijuana use among young people below college age indicates those who used marijuana have lower achievement than the non-users, more acceptance of deviant behavior, more delinquent behavior and aggression, greater rebelliousness, poorer relationships with parents, and more associations with delinquent and drug-using friends..

Research also shows more anger and more regressive behavior (thumb sucking, temper tantrums) in toddlers whose parents use marijuana than among the toddlers of non-using parents.

Effects on Pregnancy

Any drug of abuse can affect a mother's health during pregnancy, making it a time when expectant mothers should take special care of themselves.

Drugs of abuse may interfere with proper nutrition and rest, which can affect good functioning of the immune system. Some studies have found that babies born to mothers who used marijuana during pregnancy were smaller than those born to mothers who did not use the drug. In general, smaller babies are more likely to develop health problems.

A nursing mother who uses marijuana passes some of the THC to the baby in her breast milk. Research indicates that the use of marijuana by a mother during the first month of breast-feeding can impair the infant's motor development (control of muscle movement).

Addictive Potential

A drug is addicting if it causes compulsive, often uncontrollable drug craving, seeking, and use, even in the face of negative health and social consequences. Marijuana meets this criterion. More than 120,000 people enter treatment per year for their primary marijuana addiction. In addition, animal studies suggest marijuana causes physical dependence, and some people report withdrawal symptoms.³

SYMPTOMS:

Bloodshot eyes

Muscular tremors

Appearance of intoxication

Impaired time and distance perception

Inability to maintain attention

Disorientation

Impaired divided attention⁴

METHAMPHETAMINE

Methamphetamine is an addictive stimulant drug that strongly activates certain systems in the brain. Methamphetamine is made in illegal laboratories and has a high potential for abuse and dependence. Street methamphetamine is referred to by many names, such as "speed," "meth," and "chalk." Methamphetamine hydrochloride, clear chunky crystals resembling ice, which can be inhaled by smoking, is referred to as "ice," "crystal" and "glass." Methamphetamine releases high levels of the neurotransmitter dopamine, which stimulates brain cells, enhancing mood and body movement. It also appears to have a neurotoxic effect, damag-

ing brain cells that contain dopamine and serotonin, another neurotransmitter. Over time, methamphetamine appears to cause reduced levels of dopamine, which can result in symptoms like those of Parkinson's disease, a severe movement disorder.

Methamphetamine is taken orally or intranasally (snorting the powder), by intravenous injection, and by smoking. Immediately after smoking or intravenous injection, the methamphetamine user experiences an intense sensation, called a "rush" or "flash," that lasts only a few minutes and is described as extremely pleasurable. Oral or intranasal use produces euphoria - a high, but not a rush. Users may become addicted quickly, and use it with increasing frequency and in increasing doses.

Methamphetamine releases high levels of the neurotransmitter dopamine, which stimulates brain cells, enhancing mood and body movement. It also appears to have a neurotoxic effect, damaging brain cells that contain dopamine and serotonin, another neurotransmitter.

The central nervous system (CNS) actions that result from taking even small amounts of methamphetamine include increased wakefulness, increased physical activity, decreased appetite, increased respiration, hypothermia, and euphoria. Other CNS effects include irritability, insomnia, confusion, tremors, convulsions, anxiety, paranoia, and aggressiveness. hypothermia and convulsions can result in death.

Methamphetamine causes increased heart rate and blood pressure and can cause irreversible damage to blood vessels in the brain, producing strokes. Other effects of methamphetamine include respiratory problems, irregular heartbeat, and extreme anorexia. Its use can result in cardiovascular collapse and death.⁵

SYMPTOMS:

Weight Loss
Nervousness
Moodiness and Irritability
Excessive Talking and Excitation
Aggressive and Violent Behavior
Impaired Speech
Acne, Sores
Severe Depression₆

PHENCYCLIDINE

PCP (phencyclidine) was developed in the 1950s as an intravenous anesthetic. Use of PCP in humans was discontinued in 1965, because it was found that patients often became agitated, delusional, and irrational while recovering from its anesthetic effects. PCP is illegally manufactured in laboratories and is sold on

the street by such names as "angel dust," "ozone," "wack," and "rocket fuel." "Killer joints" and "crystal supergrass" are names that refer to PCP combined with marijuana. The variety of street names for PCP reflects its bizarre and volatile effects.

PCP is a white crystalline powder that is readily soluble in water or alcohol. It has a distinctive bitter chemical taste. PCP can be mixed easily with dyes and turns up on the illicit drug market in a variety of tablets, capsules, and colored powders. It is normally used in one of three ways: snorted, smoked, or eaten. For smoking, PCP is often applied to a leafy material such as mint, parsley, oregano, or marijuana.

Health Hazards

PCP is addicting; that is, its use often leads to psychological dependence, craving, and compulsive PCP-seeking behavior. It was first introduced as a street drug in the 1960s and quickly gained a reputation as a drug that could cause bad reactions and was not worth the risk. Many people, after using the drug once, will not knowingly use it again. Yet others use it consistently and regularly. Some persist in using PCP because of its addicting properties. Others cite feelings of strength, power, invulnerability and a numbing effect on the mind as reasons for their continued PCP use.

Many PCP users are brought to emergency rooms because of PCP's unpleasant psychological effects or because of overdoses. In a hospital or detention setting, they often become violent or suicidal, and are very dangerous to themselves and to others. They should be kept in a calm setting and should not be left alone.

At low to moderate doses, physiological effects of PCP include a slight increase in breathing rate and a more pronounced rise in blood pressure and pulse rate. Respiration becomes shallow, and flushing and profuse sweating occurs. Generalized numbness of the extremities and muscular incoordination also may occur. Psychological effects include distinct changes in body awareness, similar to those associated with alcohol intoxication. Use of PCP among adolescents may interfere with hormones related to normal growth and development as well as with the learning process.

At high doses of PCP, there is a drop in blood pressure, pulse rate, and respiration. This may be accompanied by nausea, vomiting, blurred vision, flicking up and down of the eyes, drooling, loss of balance, and dizziness. High doses of PCP can also cause seizures, coma, and death (though death more often results from accidental injury or suicide during PCP intoxication). Psychological effects at high doses include illusions and hallucinations. PCP can cause effects that mimic the full range of symptoms of schizophrenia, such as delusions, paranoia, disordered thinking, a sensation of distance from one's environment, and catatonia. Speech is often sparse and garbled.

People who use PCP for long periods report memory loss, difficulties with speech and thinking, depression, and weight loss. These symptoms can persist up to a year after cessation of PCP use. Mood disorders also have been reported. PCP has sedative effects, and interactions with other central nervous system depressants, such as alcohol and benzodiazepines, can lead to coma or accidental overdose.⁷

SYMPTOMS:

Flushing
Profuse Sweating
Violent Behavior
Loss of Ability to Think Sequentially⁸

COCAINE

Cocaine is a powerfully addictive drug of abuse. Once having tried cocaine, an individual cannot predict or control the extent to which he or she will continue to use the drug.

The major routes of administration of cocaine are sniffing or snorting, injecting, and smoking (including free-base and crack cocaine). Snorting is the process of inhaling cocaine powder through the nose where it is absorbed into the bloodstream through the nasal tissues. Injecting is the act of using a needle to release the drug directly into the bloodstream. Smoking involves inhaling cocaine vapor or smoke into the lungs where absorption into the bloodstream is as rapid as by injection.

"Crack" is the street name given to cocaine that has been processed from cocaine hydrochloride to a free base for smoking. Rather than requiring the more volatile method of processing cocaine using ether, crack cocaine is processed with ammonia or sodium bicarbonate (baking soda) and water and heated to remove the hydrochloride, thus producing a form of cocaine that can be smoked. The term "crack" refers to the crackling sound heard when the mixture is smoked (heated), presumably from the sodium bicarbonate.

There is great risk whether cocaine is ingested by inhalation (snorting), injection, or smoking. It appears that compulsive cocaine use may develop even more rapidly if the substance is smoked rather than snorted. Smoking allows extremely high doses of cocaine to reach the brain very quickly and brings an intense and immediate high. The injecting drug user is at risk for transmitting or acquiring HIV infection/AIDS if needles or other injection equipment are shared.

Health Hazards

Cocaine is a strong central nervous system stimulant that interferes with the re-

absorption process of dopamine, a chemical messenger associated with pleasure and movement. Dopamine is released as part of the brain's reward system and is involved in the high that characterizes cocaine consumption.

Physical effects of cocaine use include constricted peripheral blood vessels, dilated pupils, and increased temperature, heart rate, and blood pressure. The duration of cocaine's immediate euphoric effects, which include hyperstimulation, reduced fatigue, and mental clarity, depends on the route of administration. The faster the absorption, the more intense the high. On the other hand, the faster the absorption, the shorter the duration of action. The high from snorting may last 15 to 30 minutes, while that from smoking may last 5 to 10 minutes. Increased use can reduce the period of stimulation.

Some users of cocaine report feelings of restlessness, irritability, and anxiety. An appreciable tolerance to the high may be developed, and many addicts report that they seek but fail to achieve as much pleasure as they did from their first exposure. Scientific evidence suggests that the powerful neuropsychologic reinforcing property of cocaine is responsible for an individual's continued use, despite harmful physical and social consequences. In rare instances, sudden death can occur on the first use of cocaine or unexpectedly thereafter. However, there is no way to determine who is prone to sudden death.

High doses of cocaine and/or prolonged use can trigger paranoia. Smoking crack cocaine can produce a particularly aggressive paranoid behavior in users. When addicted individuals stop using cocaine, they often become depressed. This also may lead to further cocaine use to alleviate depression. Prolonged cocaine snorting can result in ulceration of the mucous membrane of the nose and can damage the nasal septum enough to cause it to collapse. Cocaine-related deaths are often a result of cardiac arrest or seizures followed by respiratory arrest.⁹

SYMPTOMS:

Excessive Excitation
Excessive Talking
Increased Alertness
Paranoia
Aggressive Behavior
Impaired Speech
Loss of Appetite
Severe Depression¹⁰

OPIATES (Heroin)

Heroin is a highly addictive drug, and its use is a serious problem in America.

Recent studies suggest a shift from injecting heroin to snorting or smoking because of increased purity and the misconception that these forms of use will not lead to addiction.

Heroin is processed from morphine, a naturally occurring substance extracted from the seedpod of the Asian poppy plant. Heroin usually appears as a white or brown powder. Street names for heroin include "smack," "H," "skag," and "junk." Other names may refer to types of heroin produced in a specific geographical area, such as "Mexican black tar."

Health Hazards

Heroin abuse is associated with serious health conditions, including fatal overdose, spontaneous abortion, collapsed veins, and infectious diseases, including HIV/AIDS and hepatitis.

The short-term effects of heroin abuse appear soon after a single dose and disappear in a few hours. After an injection of heroin, the user reports feeling a surge of euphoria ("rush") accompanied by a warm flushing of the skin, a dry mouth, and heavy extremities. Following this initial euphoria, the user goes "on the nod," an alternately wakeful and drowsy state. Mental functioning becomes clouded due to the depression of the central nervous system. Long-term effects of heroin appear after repeated use for some period of time. Chronic users may develop collapsed veins, infection of the heart lining and valves, abscesses, cellulitis, and liver disease. Pulmonary complications, including various types of pneumonia, may result from the poor health condition of the abuser, as well as from heroin's depressing effects on respiration.

In addition to the effects of the drug itself, street heroin may have additives that do not readily dissolve and result in clogging the blood vessels that lead to the lungs, liver, kidneys, or brain. This can cause infection or even death of small patches of cells in vital organs.

Reports from SAMHSA's 1995 Drug Abuse Warning Network (DAWN), which collects data on drug-related hospital emergency room episodes and drug-related deaths from 21 metropolitan areas, rank heroin second as the most frequently mentioned drug in overall drug-related deaths. From 1990 through 1995, the number of heroin-related episodes doubled. Between 1994 and 1995, there was a 19 percent increase in heroin-related emergency department episodes.

SYMPTOMS:

Constriction of the Pupil of the Eye
Reduced Visual Acuity
Itching Skin
Increased Perspiration¹¹

-
- 1 Drug-Free Workplace, A Guide for Supervisors, by Dr. Dale Masi.
 - 2 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.
 - 3 National Institute on Drug Abuse - Marijuana, Printed November 1999.
 - 4 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.
 - 5 National Institute on Drug Abuse - Methamphetamine, Printed in October 2001.
 - 6 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.
 - 7 National Institute on Drug Abuse - Phencyclidine, Printed in October 2001.
 - 8 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.
 - 9 National Institute on Drug Abuse - Cocaine Abuse and Addiction, Printed May 1999.
 - 10 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.
 - 11 Material provided by Start Now Hawaii for the City & County of Honolulu, 2001.

TESTING PROCEDURES EXPLAINED

GENERAL

Employees in positions that are included in HGEA bargaining units will be tested for the presence of alcohol and/or drugs in accordance with the Drug and Alcohol Testing Agreements (DTA) for Employees in HGEA Bargaining Units 2, 3, 4, 9, and 13. The testing procedures shall:

- protect the privacy and dignity of the individual in accordance with the DTA;
- ensure the integrity of the testing processes;
- safeguard the validity of test results through confirmatory testing; and
- ensure that test results are attributed to the correct individual.

The following types of tests are required:

- Reasonable Suspicion
- Return to Duty
- Follow-up

In addition, employees who are determined by their departments to be "Regular Drivers" shall also be subject to the following test:

- Post -Accident

Finally, employees who are in (or will enter) Health, Safety and Public Trust positions shall be subject to the following tests in addition to all of the above tests:

- Pre-employment/Pre-duty
- Random

The cost of the drug testing and/or alcohol testing required by this policy shall be paid by the Employer, except that the job applicant or employee shall be responsible for the cost of testing a split urine specimen for drug testing or re-

testing of the original urine specimen if the applicant or employee requests such testing.

DRUGS

- 1) All drug testing conducted pursuant to this policy shall involve a screening by immunoassay (EMIT) of urine specimens. Testing shall be done by a laboratory certified by the state, Department of Health (DOH). If a negative result is received, the sample will be considered to be free of drugs. Specimens may also be tested for signs of adulteration, substitution or other attempts to obstruct the testing process.
- 2) If a positive result occurs on the initial screening, a gas chromatography/mass spectrometry (GC/MS) process shall be used for confirmation.
- 3) Both the initial screening and the GC/MS process must indicate the presence of drugs for the sample to be a confirmed positive drug test result. All positive drug test results shall be verified by the designated Medical Review Officer (MRO).
- 4) When a verified confirmed positive drug test result occurs for an employee, the MRO will:
 - a) Review and interpret positive drug test results to determine if any legitimate medical explanation exists for the confirmed positive result; and
 - b) Notify the employee of the confirmed positive drug test results and provide the opportunity to discuss it; and
 - c) Advise the employee who has a verified positive test that the employee has 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test and pays for the test, the MRO shall direct, in writing, the laboratory to ship the split specimen, to another DOH-certified laboratory for analysis; and
 - d) If the analysis of the split specimen fails to confirm the presence of the drug(s) or drug metabolites(s) found in the primary specimen,

or if the split specimen is unavailable or inadequate for testing, the MRO shall cancel the original positive test result and report the cancellation, and the reasons for it to the Director of Personnel and the employee;

- 5) Any employee who has a verified positive drug test shall be immediately removed from work. The employee shall be referred to a Substance Abuse Professional (SAP). The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use.
- 6) The cost of this evaluation by the SAP shall be the responsibility of the County of Hawai'i, and any information received by the SAP during this evaluation shall be shared with the Employer. The SAP evaluation shall be conducted as soon as possible. Under no circumstances will an individual be permitted to work for the County of Hawai'i unless he/she has complied with all requirements of this policy, including but not limited to, being evaluated by the SAP to determine his/her problems associated with the illegal use of drugs and alcohol misuse.

ALCOHOL

- 1) Breath specimen for alcohol testing shall be collected through the use of an evidential breath testing device (EBT) that is approved by the National Highway Traffic Safety Administration. The test shall be performed by a certified breath alcohol technician (BAT).
- 2) The employee is required to provide positive identification to the breath alcohol technician.
- 3) The employee and the BAT shall complete, date, and sign the alcohol testing form. The employee and the BAT sign the form indicating that the employee is present and providing a breath specimen.
- 4) If the result of the screening test is less than 0.02, no further testing is required and the BAT shall report the test to the Director of Personnel as a negative test.
- 5) If the result of the screening test is 0.02 or greater, a confirmation test shall be performed. The confirmation test shall be conducted at least 15

minutes, but not more than 20 minutes, after the completion of the initial screening test.

- 6) The BAT shall instruct the employee not to eat, drink, or put any object or substance in his or her mouth. The BAT shall also instruct the employee not to belch to the extent possible. The BAT shall inform the employee that the test will be conducted at the end of the waiting period (not more than 20 minutes after the completion of the initial screening test), even if the employee has disregarded the foregoing instructions.
- 7) Before the confirmation test is administered, the BAT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the BAT shall conduct a second air blank. If the second air blank reading is greater than 0.00, the EBT shall not be used to conduct the test.
- 8) If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.
- 9) If the result displayed on the EBT is not the same as that on the EBT print-out, the test shall be cancelled and the EBT removed from service.
- 10) The BAT shall sign and date the form. The employee shall sign and date the certification statement, which included a notice that the employee cannot work if the results are 0.02 or greater.
- 11) If the test result is 0.02 or greater, the BAT will inform the Director of Personnel immediately and the employee will be removed from work.
- 12) Refusal by an employee to:
 - a) complete and sign the alcohol testing form;
 - b) provide breath;
 - c) provide an adequate amount of breath; or
 - d) otherwise cooperate with the collection process

shall be noted on the form and the test shall be terminated.

- 13) If an employee attempts and fails to provide an adequate amount of breath, the BAT shall note this on the form and immediately inform the

Director of Personnel. The Director of Personnel shall direct the employee to obtain, from a licensed physician who is acceptable to the Director of Personnel, an evaluation concerning the employee's medical ability to provide an adequate amount of breath. The evaluation should be made as soon as practical after the attempted breath test. If the physician indicates that there was a valid medical reason for the inadequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be considered a refusal. If no valid medical reason is determined, the inadequate amount of breath shall be considered a refusal to take the test.

Note: If an employee requests to have the evaluation done by his/her own physician, the Director of Personnel shall determine if the request will be granted or denied. If the request is granted the employee will be responsible for paying for the cost of the evaluation.

14) Any employee who has a breath alcohol content of 0.02 or greater shall be immediately removed from work. In addition, the following shall apply:

- For employees who are not HSPT employees and who are not regular drivers and who have a test result of 0.02 or greater, but less than 0.04:

The employee will be prohibited from working for at least 24 hours. However the employee will be permitted to return to work for the remainder of the employee's shift, if any, provided that four hours have passed since the positive test and the employee takes another test and has a test result of 0.02 or less.

- For employees who are HSPT employees and/or who are regular drivers who have a test result of 0.02 or greater; or for employees who are not HSPT employees and who are not regular drivers who have a test result of 0.04 or greater:
 - a) The employee will be prohibited from working for at least 24 hours, and
 - b) The employee will be required to undergo an evaluation by an SAP and to comply with all SAP requirements.

- 15) The cost of this evaluation by the SAP shall be the responsibility of the County of Hawai'i, and appropriate information from the evaluation and the recommendation of the SAP shall be shared with the Director of Personnel. The SAP evaluation shall be conducted as soon as possible. Under no circumstances will an individual be permitted to work for the County of Hawai'i unless he/she has complied with all requirements of this policy, including but not limited to, being evaluated by the SAP to determine his/her problems associated with the illegal use of drugs and alcohol misuse.

REFUSALS

Employees who refuse to submit to a drug or alcohol test, or who are determined to have refused to submit to a test, shall be discharged. A refusal includes, but is not limited to:

- 1) Refusal to take a test either by statement or action.
- 2) Refusal to sign appropriate forms as required.
- 3) Failure to report for a scheduled appointment to provide a specimen.
- 4) Failure to report to the collection site in the time allotted.
- 5) Tampering with or attempting to adulterate the specimen or collection procedure.
- 6) Failure to cooperate or comply with the collection site person, Breath Alcohol Technician, Substance Abuse Professional, or Medical Review Officer.
- 7) Failure to provide adequate breath or urine specimen within a reasonable time period without a valid medical explanation.
- 8) Engaging in conduct that clearly obstructs the testing process (for example an employee who asked another person to submit the specimen for him/her would be deemed to have refused the test).
- 9) For regular drivers of County of Hawai'i vehicles leaving the scene of an accident without a valid reason before the tests have been conducted.

REFERRAL TO THE EMPLOYEE ASSISTANCE PROGRAM

The purpose of the Employee Assistance Program is to assist employees in coping effectively with personal problems affecting job performance. The overall mission of the EAP is to support and retain valued employees whenever possible and to increase job effectiveness. (It does not supersede or replace any required action.)

EAP services are free of charge to Employees and their families. Problems that can be resolved through short-term counseling or brief intervention that do not call for long term, highly specialized, or intensive therapy may be handled by the EAP staff. If a problem is more complex, requiring specialized services or intensive intervention, the EAP *staff* may refer to resources in the community. The programs may be covered by employer/union health plans.

Supervisors are strongly encouraged to consult with their departmental personnel representatives at any time performance problems which may be due to personal problems are suspected. Referral of the employee to the EAP may be appropriate. The Employer recognizes that supervisors should not have to make judgments or diagnose any employee's problems. The Supervisor's focus should be on job performance and productivity.

There are two ways an employee can be referred to the EAP:

1. **SELF-REFERRAL** (including family)

An employee, or a member of an employee's family, who wants confidential assistance for a personal problem can call the EAP Counselor directly. Usually, an appointment is set up to discuss the problem and possible ways to handle it. All communication with the EAP Counselor is strictly confidential unless the person seeking help gives written permission to disclose information.

2. **SUPERVISOR REFERRAL**

A. Employee-initiated. Supervisors may call EAP for assistance and referral when an employee approaches them with a personal problem.

B. Job performance referral. This kind of referral is based on a deterioration of job performance which the supervisor believes may be due to a personal problem or other evidence that a personal problem is the cause of unsatisfactory job performance.

The supervisor can call the EAP counselor to discuss concerns and how best to handle a situation. At that time, a tentative appointment may be made for the employee. When the supervisor meets with the employee to discuss performance problem(s) and other concerns, the employee can be reminded of the EAP, his/her right to confidential professional help, and can either be offered the tentative appointment, or strongly encouraged to call EAP on his/her own.

Participation in EAP is voluntary, and the final decision whether to use the program is left with the employee. If the employee chooses not to accept assistance, supervisors should reinforce possible consequences of failure to improve; supervisors may also point out that EAP is always available should the employee change his/her mind in the future.

Any questions about the drug and alcohol program shall be referred to the following:

Michael R. Ben, SPHR
Director of Personnel
101 Pauahi Street, Suite 2
Hilo, Hawaii 96720-4224
Phone: 961-8361

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HEALTH, SAFETY, AND PUBIC TRUST POSITIONS

Position Number	Class Title	Department
4059	Investigator V	Pros. Attny.
3079	Investigator V	Pros. Attny.
3739	Investigator V	Pros. Attny.
2985	Investigator VI	Pros. Attny.
4211	Investigator V Temp	Pros. Attny.
3486	Investigator V	Pros. Attny.
3241	Investigator V	Pros. Attny.
3257	Investigator V	Pros. Attny.
1733	Water Safety Officer IV	P&R
2065	Lifeguard I (Pool) 3/5T	P&R
2098	Sr. Lifeguard	P&R
2099	Sr. Lifeguard	P&R
2710	Sr. Lifeguard	P&R
2711	Lifeguard I (Pool)	P&R
2712	Sr. Lifeguard	P&R
2760	Sr. Lifeguard	P&R
2822	Water Safety Officer IV	P&R
2854	Lifeguard I (Pool)	P&R
2855	Lifeguard I (Pool) 3/5T	P&R
2856	Lifeguard I (Pool) 1/2T	P&R
2857	Lifeguard I (Pool) 2/5T	P&R
2858	Water Safety Officer II 3/4 T	P&R
2859	Water Safety Officer II	P&R
2860	Water Safety Officer II	P&R
2865	Water Safety Officer II 3/4T	P&R
2866	Water Safety Officer I 13/5T	P&R

HEALTH, SAFETY AND PUBLIC TRUST POSITIONS

Position Number	Class Title	Department
2867	Water Safety Officer II 3/4T	P&R
2868	Water Safety Officer II	P&R
2869	Water Safety Officer II 1/2T	P&R
2874	Water Safety Officer II 1/2T	P&R
2875	Water Safety Officer II 1/2T	P&R
2876	Sr. Lifeguard	P&R
2878	Sr. Lifeguard	P&R
3231	Water Safety Officer II	P&R
3233	Water Safety Officer II	P&R
3466	Water Safety Officer II	P&R
3543	Water Safety Officer II	P&R
3604	Water Safety Officer ii	P&R
3755	Water Safety Officer II 1/2T	P&R
3756	Water Safety Officer II 1/2T	P&R
3810	Water Safety Officer II	P&R
3811	Water Safety Officer II	P&R
3812	Water Safety Officer II	P&R
3813	Water Safety Officer II	P&R
3814	Water Safety Officer II	P&R
3815	Water Safety Officer II	P&R
3816	Water Safety Officer II	P&R
3884	Lifeguard I (Pool)TEMP	P&R
3885	Water Safety Officer I (TEMP)	P&R
3886	Water Safety Officer I (TEMP)	P&R

HEALTH, SAFETY AND PUBLIC TRUST POSITIONS

Position Number	Class Title	Department
3887	Water Safety Officer I (TEMP)	P&R
3888	Water Safety Officer I (TEMP)	P&R
3889	Water Safety Officer I (TEMP)	P&R
3890	Water Safety Officer I 1/2T	P&R
3891	Water Safety Officer I 1/2T	P&R
3892	Water Safety Officer I 1/2 T	P&R
3893	Swimming Instructor (TEMP)	P&R
3894	Swimming Instructor (TEMP)	P&R
3895	Swimming Instructor (TEMP)	P&R
3896	Swimming Instructor (TEMP)	P&R
3897	Swimming Instructor (TEMP)	P&R
3898	Swimming Instructor (TEMP)	P&R
3899	Swimming Instructor (TEMP)	P&R
3900	Swimming Instructor (TEMP)	P&R
3901	Swimming Instructor (TEMP)	P&R
3902	Swimming Instructor (TEMP)	P&R
3903	Swimming Instructor (TEMP)	P&R
3904	Swimming Instructor (TEMP)	P&R
3914	Sr. Lifeguard	P&R
3915	Lifeguard I (Pool)	P&R
3916	Lifeguard I (Pool) 2/5T	P&R
3917	Lifeguard I (Pool) 2/5T	P&R
3918	Lifeguard I (Pool) 1/2 TEMP	P&R
4056	Water Safety Officer II 1/2T	P&R

HEALTH, SAFETY AND PUBLIC TRUST POSITIONS

Position Number	Class Title	<u>Department</u>
4057	Water Safety Officer II 1/2T	P&R
4091	Water Safety Officer II 1/2T	P&R
4092	Water Safety Officer II 1 /2T	P&R
4093	Water Safety Officer II 1/2T	P&R
4094	Water Safety Officer II 1 /2T	P&R
4131	Sr. Life Guard	P&R
4132	Lifeguard I (Pool)	P&R
4134	Lifeguard I (Pool)	P&R
4135	Swim Instr 1/2T (TEMP)	P&R
4136	Lifeguard I (Pool) 1/2T (TEMP)	P&R
4137	Lifeguard I (Pool) 1/2 T (TEMP)	P&R

Summary of Drug and Alcohol Testing Agreement

Effective Date July 1, 2003

Employee Coverage - The agreement covers all employees whose positions are included in bargaining units 2, 3, 4, 9 or 13.

Voluntary Admission - Employees are encouraged to voluntarily admit to the Employer a drug or alcohol problem before they are required to take an alcohol and/or controlled substance test and before they are engaged in conduct which would warrant disciplinary action.

Drugs - The agreement prohibits employees from reporting to work or continuing working with a controlled substance in their system or use controlled substances while working, except when the controlled substance is prescribed for the employee and is used in accordance with the physician's instructions. Additional requirements are imposed on Health, Safety and Public Trust (HSPT) employees.

Alcohol - The agreement prohibits the employee from working within four (4) hours after using alcohol. HSPT employees and those who are subject to post accident testing shall not report to work or continue working while having an alcohol concentration of 0.02 or higher. All other employees covered by this agreement shall not report to work or continue working while having an alcohol concentration of 0.04 or higher.

Call-Back Duty - Employees are prohibited from accepting call-back duty if their use of alcohol or drugs may violate this agreement.

Refusals - Employees who refuse to submit to a drug or alcohol test, or who are determined to have refused to submit to a test shall be discharged. An employee who provides an "adulterated specimen" or "substituted specimen" for a controlled substance testing shall be discharged.

Circumstances for Drug and Alcohol Testing:

Pre-Duty Test

Prior to being placed on the temporary assignment list for an HSPT position subject to random testing, the employee shall be subject to a controlled substance test.

Probationary Testing

Employees on an initial or new probationary period in an HSPT position shall be subject to a drug test at least once during the probationary period.

Reasonable Suspicion

All employees are subject to reasonable suspicion testing.

Post-Accident

Any employee who is driving an Employer's vehicle and is a "regular driver" and is involved in an accident that involved a loss of human life; or the driver received a citation for a moving traffic violation and either a person involved in the accident requires treatment away from the scene, or one or more vehicles involved is disabled, the employee shall be subject to an alcohol and controlled substance test.

Random

HSTP employees shall undergo random drug and/or alcohol testing when selected for such testing.

Return to Duty

Any employee who has engaged in prohibited conduct and has been cleared by the Substance Abuse Professional (SAP) to return to work shall be subject to a return to work controlled substance test and/or alcohol test (if the SAP recommends the test).

Follow-Up

After the employee who committed a prohibited act returns to work he/she shall be subject to unannounced follow up alcohol and/or controlled substance tests as determined by the SAF.

Discipline

(Note: All time periods listed below excludes the time spent in rehabilitation.)

Positive Drug Test:

First Positive Test Result - Discharge unless employee agrees to sign last chance agreement, whereby employee agrees to resign in the event of a second positive. When employee signs last chance agreement, employee shall be suspended for twenty (20) working days.

Second Positive Test Result - If occurs within a two-year period employee shall be deemed to have resigned.

Positive Alcohol Test:

First Positive Test Result - Discharge unless employee agrees to sign last chance agreement, whereby employee agrees to resign in the event of a second positive. When employee signs last chance agreement, employee shall be suspended for twenty (20) working days.

Second Positive Test Result - If occurs within a two-year period employee shall be deemed to have resigned.

Confidentiality - All results from substance abuse testing and information relating to an employee's treatment for substance abuse problems shall be treated as confidential information.

*The above information is a brief summary of the Drug and Alcohol Testing Agreement. It is not a substitute for the agreement, and should there be an interpretation issue between this summary and the agreement, the agreement shall govern. Each employee is encouraged to read the agreement in its entirety.

Notes