

NORTH TEXAS MUNICIPAL WATER DISTRICT

MAY 1991

DISTRICT POLICY NO. 18
AMENDED SEPTEMBER 1995
AMENDED FEBRUARY 1997
AMENDED MARCH 2008

SUBSTANCE ABUSE POLICY AND PROCEDURES

SECTION 1. PURPOSE AND SCOPE

It is the intent of the NTMWD Board of Directors to provide a working environment free from the problems associated with either illicit drugs or abusive use of prescription or over-the-counter drugs and medications. All employees of NTMWD are subject to the provisions of this policy.

The Member Cities and Customers served by NTMWD have a right to expect that the NTMWD workplace will be free from intoxicating beverages and illegal inhalants and their harmful influences. Accordingly, the following is established as NTMWD Substance Abuse Policy, which shall apply to all employees of the NTMWD, effective October 1, 1995.

All NTMWD drivers performing safety-sensitive functions are subject to drug and alcohol testing pursuant to Federal Department of Transportation (D.O.T.) guidelines. These requirements are also incorporated into applicable sections of this procedure.

SECTION 2. DEFINITIONS

For purposes hereof, the following words and phrases shall be defined as follows:

A. "Illicit drugs" shall mean those substances as follows:

1. Marijuana
2. Cocaine
3. Amphetamines
4. Opiates
5. Phencyclidine
6. Any prescription drug for which the person does not have a valid prescription

B. "On the job" shall mean:

1. presence at any place or location during working hours or while on duty, when such presence is at the direction of a supervisor or otherwise for the purpose of conducting NTMWD business or performing NTMWD functions;
2. presence in an NTMWD-owned or NTMWD-leased vehicle at any time; or
3. presence in a privately owned vehicle which is being used for the purpose of conducting NTMWD business or for performing NTMWD functions.

C. "Under the influence of illicit drugs" shall mean having present in the body, or urine, a quantity of an illicit drug sufficient to register a positive result on the drug screen utilized by the NTMWD, for the following substances:

1. Marijuana
2. Cocaine
3. Amphetamines
4. Opiates
5. Phencyclidine

In addition, evidence of presence of prescription drugs, for which the person does not have a valid prescription, or taking any dosage which exceeds the prescription of a drug for which the person has a valid prescription, is also prohibited. Further, evidence of the presence of over-the-counter drugs or medications which abuses product dosage is also prohibited.

D. "Under the influence of alcoholic beverages" shall mean:

1. not having the normal use of mental or physical faculties by reason of the introduction of alcohol into the body; or
2. having an alcohol concentration equal to or greater than 0.02.

E. "Alcoholic beverages" shall mean alcohol, or any beverage containing more than one-half (1/2) of one (1) percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted. For positions subject to the Federal Department of Transportation's Regulations, "alcohol" shall mean the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecule weight alcohols, including methyl or isopropyl alcohol.

F. "Reasonable suspicion" shall mean a suspicion based upon facts which would lead a reasonably prudent person to believe it likely that the employee in question was under the influence of illicit drugs or alcoholic beverages as defined herein.

For persons performing safety-sensitive functions, reasonable suspicion testing will be conducted when a trained supervisor or other employer official observes behavior or appearance that is characteristic of alcohol and/or drug misuse or abuse. For positions requiring a state or higher authority mandated commercial driver's license, if it is determined that a reasonable suspicion exists but testing cannot be administered, the driver must be removed from performing safety-sensitive functions for at least 24 hours.

G. "Illegal inhalants" shall include:

- (a) "volatile chemicals" as defined in Chapter 484 of the Texas Health and Safety Code; and,
- (b) "abusable glue or aerosol paint" as defined in Chapter 485 of the Texas Health and Safety Code.

H. "Under the influence of illegal inhalants" shall mean not having the normal use of mental or physical faculties by reason of the introduction of illegal inhalants into the body.

- I. "Safety-Sensitive Functions" shall mean those duties requiring a state or higher authority mandated commercial driver's license (CDL). A CDL is required for driving a motor vehicle which: 1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or 2) has a gross vehicle weight rating of 26,001 or more pounds; or 3) is designed to transport 16 or more passengers, including the driver.

- J. "Accident" shall mean an occurrence involving a motor vehicle operating on a public road which results in: 1) a fatality; 2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or, 3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. The term accident does not include: 1) an occurrence involving only boarding or getting out or off of a stationary motor vehicle; 2) an occurrence involving only the loading and unloading of cargo.

SECTION 3. PROHIBITED CONDUCT

All employees of the NTMWD are hereby prohibited from engaging in the following conduct:

- A. Using, possessing, selling, or otherwise distributing illicit drugs while on the job; illicit use of drugs by safety-sensitive drivers is prohibited on or off duty;
- B. Using, possessing, selling, or otherwise distributing alcoholic beverages while on the job;
- C. Reporting for work or remaining on the job while under the influence of illicit drugs or refusal to take a drug test within eight (8) hours of an accident, or as soon as a supervisor is available to transport the employee to a testing facility, whichever is sooner;
- D. Reporting to work or remaining on the job while under the influence of alcoholic beverages; or refusal to submit to an alcohol test within eight (8) hours after an accident, or as soon as a supervisor is available to transport the employee to a testing facility, whichever is sooner;
- E. Using, possessing, selling, or otherwise distributing illegal inhalants in violation of Chapter 484 or Chapter 485 of the Texas Health and Safety Code while on the job;
- F. Reporting for work or remaining on the job while under the influence of illegal inhalants, or refusal to submit to a drug test within eight (8) hours after an accident, or as soon as a supervisor is available to transport the employee to a testing facility, whichever is sooner;
- G. Reporting for work or remaining on the job while impaired as a result of medication or any other substance. If this occurs, the employee will inform the supervisor immediately. A doctor's statement may be required by the supervisor to verify possible impairment.

Further, nothing contained herein is intended to authorize, permit or condone the possession, sale, distribution or use of any illegal or controlled substance, including, without limitation, any and all "designer drugs". The possession, sale, distribution or use of such illegal or controlled substances may result in disciplinary actions under any and all applicable policies and procedures of the NTMWD.

SECTION 4. PRE-EMPLOYMENT DRUG TESTING

All applicants for employment with the NTMWD will be required to submit to pre-employment drug testing prior to hiring. Only those applicants who have completed the interviewing and selection process and are still being considered for employment will be required to submit to drug testing. Any job offer that is extended to an applicant will be contingent upon test results that do not indicate a positive result as specified hereinafter.

The pre-employment drug testing will require the applicant to provide a urine specimen at an NTMWD approved medical facility under standardized drug testing procedures. A licensed toxicology laboratory will then perform an analysis of the specimen under controlled conditions by trained personnel. At the time of the drug testing, each applicant will be informed of the testing procedure and consequences of positive test results. The applicant will be requested to sign a Drug Testing Consent Form acknowledging his/her understanding of the test, authorizing the diagnostic procedure, and releasing the test results to the NTMWD. Any applicant who refuses to sign a consent form or who refuses to undergo the drug testing will be ineligible for employment consideration.

In the event the analysis indicates the presence of illicit drugs as defined in the NTMWD Substance Abuse Policy, a confirmatory test will be performed, utilizing Gas Chromatography/Mass Spectrometry or other appropriate equivalent technology. If this second test confirms the positive test result, the applicant will be given the opportunity to provide written proof within five (5) work days that the applicant has a current, valid prescription for the substance in question; failing which the applicant will be denied employment and disqualified for further consideration.

For safety-sensitive drivers, a breath alcohol test will also be conducted after the offer of employment is made, but before actually performing safety-sensitive functions for the first time. Positive test results and refusals to test will result in non-selection for driver applicants or dismissal for employees.

SECTION 5. REASONABLE SUSPICION DRUG TESTING

A. Drug Testing

Anytime there exists a reasonable suspicion that an employee has violated the provisions of Section 3, Paragraph (C), (F), or (G) hereof, the NTMWD will require the employee to submit to drug testing, including urine testing.

Reasonable suspicion testing will be conducted when a trained supervisor or trained designee observes behavior or appearance that is characteristic of alcohol and/or drug misuse or abuse. The supervisor/designee will consult with the Director of Finance, Accounting & Personnel, or appropriate designee, and must obtain approval from the Executive Director, or appropriate designee, prior to reasonable suspicion testing. For safety-sensitive drivers, if it is determined that a reasonable suspicion exists but testing cannot be administered, the driver must be removed from performing safety-sensitive functions for at least 24 hours.

Failure by the employee to submit to such drug testing shall be grounds for disciplinary action up to and including dismissal.

Testing will be conducted by a vendor approved by NTMWD.

Supervisory personnel should transport the employee to and from the testing site and, if appropriate, to the employee's home depending on individual circumstances.

B. Alcohol Testing

Anytime there exists a reasonable suspicion that an employee has violated the provisions of Section 3, Paragraph (D) hereof, the NTMWD will require the employee to submit to a test to determine the alcohol content of the employee.

Refusal of the employee to submit to such alcohol testing, or refusal to provide the required breath sample, shall be grounds for disciplinary action, up to and including dismissal.

Reasonable suspicion testing for safety-sensitive personnel will be conducted when a trained supervisor or trained designee observes behavior or appearance that is characteristic of alcohol and/or drug misuse or abuse. For personnel performing safety-sensitive functions, if it is determined that a reasonable suspicion exists but testing cannot be administered, the driver must be removed from performing safety-sensitive functions for at least 24 hours.

The supervisor/designee will consult with the Director of Finance, Accounting & Personnel, or appropriate designee, and must obtain approval from the Executive Director, or appropriate designee, prior to testing.

Failure by the employee to submit to such alcohol testing shall be grounds for disciplinary action, up to and including dismissal.

Alcohol tests will be conducted by a trained breath alcohol technician, using an evidential breath testing device. A breath test is conducted first. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted, the results of which will determine any actions taken. Tests will generally be conducted by a contract medical services provider. Results of alcohol testing will be immediately available after the test.

Supervisory personnel should transport the employee to and from the testing site and, if appropriate, to the employee's home depending on individual circumstances.

C. Substitution of Law Enforcement Testing

In post-accident situations, the NTMWD may substitute a blood or breath alcohol test and a urine drug test performed by local law enforcement officials, using procedures required by their jurisdictions, if the NTMWD obtains the test results from the local jurisdiction or the driver. If the NTMWD substitutes a law enforcement based post-accident test, it must take the actions appropriate to the result (as outlined in (F) below).

D. Additional Alcohol and Drug Testing Requirements for Safety-Sensitive Drivers and all other NTMWD Drivers.

For safety-sensitive drivers and all other NTMWD drivers, post-accident alcohol and drug testing will be required of each driver who has an accident as defined in Section 2, Paragraph J.

If an alcohol test is not administered within two (2) hours following the accident, the supervisor must prepare a written report stating the reasons why the test was not administered promptly. Post-accident alcohol tests may not be administered more than eight (8) hours following the accident. Drug tests must be administered within eight (8) hours of the accident, or as soon as a supervisor is available to transport the employee to a testing facility, whichever is sooner.

If the employee drug or alcohol test results in a positive result, then follow-up testing will be required if the employee continues employment with the NTMWD. Follow-up tests are unannounced, and at least six (6) tests must be conducted in the first 12 months after a driver returns to duty.

Follow-up testing may be extended for up to 60 months following return to duty. Employees will be responsible for lab fees which result from return-to-duty and follow-up testing.

Note: For the types of testing described in Section 5, Paragraph D, the department head will consult with the Director of Finance, Accounting & Personnel, or appropriate designee, and Executive Director, or appropriate designee, prior to making the final decision to test. Refusal to test in any of the above circumstances may result in disciplinary action, up to and including dismissal.

E. Results Interpretation

All D.O.T. required drug test results and all other positive non-D.O.T. drug test results are reviewed and interpreted by a Medical Review Officer (MRO) before they are reported to the NTMWD. Note: For all drugs except Phencyclidine, there are some limited, legitimate medical uses which may explain a positive test result. For this reason, any positive results are discussed by the MRO with the employee. If use is legitimate, the result will be reported to the NTMWD as negative.

F. Violations

Any employee charged with violating any part of Section 3 shall be afforded an opportunity to be heard. A detailed documentation of this hearing should be signed by both the employee and the supervisor, or appropriate designee. If, after such hearing, the employee is found to have violated any part of Section 3, the employee may be subject to disciplinary action, up to and including dismissal.

SECTION 6. RANDOM DRUG AND ALCOHOL TESTING OF NTMWD EMPLOYEES

A. Individuals will be selected via a computer program for statistically random validity as provided by an independent vendor service approved by NTMWD.

B. For safety-sensitive drivers, testing will be conducted on a random, unannounced basis just before, during, or just after performance of safety-sensitive functions. All employees will be selected via computer program for statistically random validity as provided by an independent vendor service approved by NTMWD. Each year, the number of random alcohol and drug tests must comply with all appropriate D.O.T. standards and may be subject to

change based on D.O.T. program experience over time. Testing percentages could increase, decrease, or remain the same. The NTMWD will comply with testing standards required by D.O.T. for safety-sensitive drivers at all times..

- C. All other NTMWD employees whose jobs are not governed by testing standards required of D.O.T. for safety-sensitive drivers, will be tested according to percentages for alcohol and drugs based on standards of NTMWD, which are subject to change over time. The testing percentages may be identical, less, or greater than D.O.T. standards, which are in effect for any given testing year.

SECTION 7. EMPLOYEE AMNESTY PROGRAM

- A. It is the desire of the NTMWD to extend a program of amnesty to those employees who voluntarily seek assistance for substance abuse problems. Accordingly, any employee, prior to being notified at random for testing under the NTMWD Substance Abuse Policy, or behavioral selection under Reasonable Suspicion, Section 5 of Substance Abuse Policy, may be eligible to avail himself or herself of the Employee Amnesty Program. In order to do so, the employee must:
1. Communicate in writing to the Director of Finance, Accounting & Personnel, or appropriate designee, that he or she is or may be suffering from drug, illegal inhalant, or alcohol abuse or addiction;
 2. Agree and commit in writing to undergo or participate in an NTMWD-approved program of counseling, treatment, or therapy, (such program of counseling, treatment, or therapy to be referred to hereafter as the "Program"); the duration of the approved Program shall be less than six weeks. If the employee is not released for work within the six-week period, the job position may be filled, and the employee shall be returned to work only if a position exists for which the employee is qualified.
 3. Execute a Release which will authorize any and all doctors, counselors, therapists, or other care providers to provide to the Director of Finance, Accounting & Personnel, or appropriate designee, upon written request, a statement as to whether the employee is meeting and fulfilling all the requirements or obligations of his/her Program, whether the Program has been successfully completed, and whether the employee is released and cleared to continue work with the NTMWD; and,
 4. Agree in writing, upon successful completion of the Program, to submit and be subject to random or regularly scheduled drug testing, blood alcohol testing, or both, for a period of six (6) months following completion of the Program, such agreement to be a condition of continued employment.
- B. So long as the employee is meeting and fulfilling all requirements and obligations of the Program, such employee will not be considered in violation of the Substance Abuse Policy.

SECTION 8. TREATMENT PROGRAM AVAILABILITY

An employee who seeks services by a treatment program is encouraged to check with his/her medical carrier to determine the availability and level of coverage for such services. There are a

number of drug/alcohol treatment programs available in the area, with cost dependent upon both the type and amount of care necessary.

SECTION 9. INTERDEPARTMENTAL PROMOTIONS AND TRANSFERS

No employee selected for another job within the NTMWD shall be required to submit to a job qualification (See Section 4), drug and alcohol test, except as follows:

- A. When moving into a position that requires a state or higher authority mandated commercial driver's license, from a position that did not require one.

SECTION 10. SUBSTANCE ABUSE AMONG CURRENT EMPLOYEES

This section shall set forth the procedures to be utilized in enforcing the provisions of the NTMWD Substance Abuse Policy.

- A. Drug testing pursuant to Section 5, Paragraph A, (Reasonable Suspicion) will be conducted only upon written authorization by the Executive Director, or appropriate designee.
- B. Breath alcohol testing pursuant to Section 5, Paragraph B, (Reasonable Suspicion) will be conducted only upon written authorization by the NTMWD Executive Director or appropriate designee.
- C. Observable facts which may provide a basis for "reasonable suspicion" as defined in Section 2 Paragraph F of the Policy include, but are not limited to, the odor of alcoholic beverages or other intoxicants, significant confusion or disorientation, slurred speech, erratic behavior, excessive or unexplained tardiness or absenteeism, or occurrence of an on-the-job accident.
- D. Any employee having knowledge that another employee is in violation of the NTMWD Substance Abuse Policy should report such information to his/her supervisor, Department Head, System Manager, Human Resources Manager, Director of Finance, Accounting & Personnel, or the Executive Director.
- E. If drug testing is authorized, the employee in question will be asked to sign a consent form promulgated by the NTMWD. An employee who consents to drug testing will be transported immediately to a designated medical facility and required to provide a urine specimen. A refusal to test will be treated as a positive result and shall be grounds for disciplinary action, up to and including dismissal.
- F. All urine specimens will be analyzed at a licensed toxicology laboratory, or other appropriate facility as may be designated by the NTMWD. If such analysis yields a positive result, a confirmatory analysis will be performed utilizing gas chromatography/mass spectrometry or such other confirmation methodology as would be admissible as evidence in legal proceedings in this state.
- G. If a breath alcohol test is authorized, the employee in question will be asked to sign a consent form promulgated by the NTMWD. An employee who consents to such testing will be transported to an appropriate facility as designed by the NTMWD and required to provide a sample of breath. A refusal to test will be treated as a positive result and shall be grounds for disciplinary action, up to and including dismissal.

- H. Nothing contained herein shall be construed to limit, restrict, modify or condition the investigation by appropriate law enforcement officers of any alleged criminal activity.
- I. Upon providing the urine specimen or breath sample as required hereunder, the employee in question by reasonable suspicion may be placed on Administrative Leave, pending receipt by the NTMWD of written results of the drug testing or breath alcohol testing. In the event such results indicate violation of any part of Section 3 (Prohibited Conduct) of the Policy, disciplinary action, up to and including dismissal will be initiated in accordance with NTMWD Personnel Policy.
- J. If an employee refuses to sign the consent form or refuses to provide the urine specimen/breath sample, test results will be listed as positive, and disciplinary action will be initiated in accordance with NTMWD Personnel Policy.
- K. Violation of any part of Section 3 will result in initiation of disciplinary action, normally dismissal in accordance with NTMWD Personnel Policy.
- L. If convicted of a criminal drug or alcohol offense, an employee is required to report that conviction to his/her supervisor within five (5) calendar days of conviction. Employee non-compliance of this reporting rule will be grounds for disciplinary action, up to and including dismissal.

SECTION 11. RECORDS RELATING TO DRUG AND ALCOHOL TESTING

All records relating to drug and alcohol testing results shall be maintained separately from the general personnel files of the NTMWD. Such records shall be accessible only with prior approval of the Director of Finance, Accounting & Personnel, Executive Director, or appropriate designees. In the event a representative of any other governmental entity, or any member of the public, requests access to such records, whether pursuant to the Texas Open Records Act or otherwise, such request shall be referred or forwarded to the Executive Director or appropriate designee for further handling.

SECTION 12. RECORDS FOR POSITIONS REQUIRING COMMERCIAL DRIVER'S LICENSES

Test results may only be released to the driver, employer, substance abuse professional, laboratory officials and medical review officer. They cannot be released to others without the written consent of the driver. All test results will be kept in a confidential file under the driver's name.

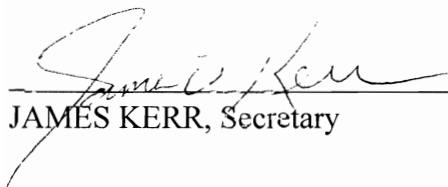
Note: On new employees, the NTMWD is required, with the driver's written consent, to obtain information regarding alcohol test results of 0.04 or greater, positive drug test results and refusals to test within the preceding two (2) years from previous employers. Refusal to give consent will make individuals ineligible for employment consideration.

Violations will not be placed on the commercial driver's license records of safety-sensitive drivers.

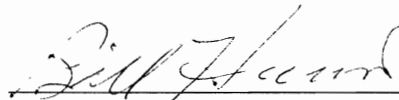
SECTION 13. CONDITION OF EMPLOYMENT

Each employee of the NTMWD will be informed of the Substance Abuse Policy set forth in Sections 1 through 13 above, and will be required to sign a statement acknowledging that acceptance of the requirements and terms thereof shall be a condition of continued employment with the NTMWD.

This Policy passed and approved, as amended by the North Texas Municipal Water District Board of Directors in a regular meeting on this the 27th day of March 2008.



JAMES KERR, Secretary



BILL HARRISON, President

(SEAL)