

# ALCOHOL & DRUG POLICY



## PURPOSE

Pembina Pipeline Corporation (the "Corporation") and all entities controlled by the Corporation (collectively, "Pembina") is committed to the health, safety and wellness of its Employees, Contractors and the public. Employees have the responsibility to report to work capable of performing their tasks productively and safely and remain Fit for Work throughout their workday or shift and when on scheduled call. The use of illegal drugs and/or the inappropriate use of alcohol and medications can have serious adverse impacts in the workplace. This Policy supports the Health, Safety and Environment Policy and is only one facet of an overall approach to risk mitigation and safety.

This Policy applies to all Employees while they are engaged in Pembina business, working on or off Pembina premises, and driving Pembina vehicles. In addition to the obligations set out in this Policy, all Employees must comply with any additional Site Specific Standards. Pembina's Contractors are required to develop and enforce alcohol and drug policies and practices that are consistent with this Policy and its related practices.

## DEFINITIONS

In this Policy:

**"Alcohol"** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

**"Company Worksite"** means any place where Pembina conducts business, including, without limitation, property, buildings, equipment, road systems, facilities, work camps and vehicles, whether owned, leased or rented.

**"Contractor"** means any individual that is not a Pembina employee, or a business entity, that is engaged by Pembina to perform services at a Company Worksite.

**"Drug"** means any drug, chemical or agent that may be used to alter the way the body or mind functions. Employees will ensure that the consumption of Medications will not result in impairment whether that manifests as fatigue, drowsiness, or loss of mental capacity.

**"Drug Paraphernalia"** means any equipment, product or material intended or designed for use in manufacturing, compounding, converting, concealing, processing, preparing or introducing an illicit Drug or Alcohol into the human body. This also refers to any product or device that may be used to attempt to mask, tamper with or adulterate an Alcohol and Drug testing sample.

**"Employee(s)"** means all regular full time, part time, temporary, casual, coop, summer and seasonal employees on the Pembina payroll.

**"Failure to Test"** includes the failure to report directly for a test, refusal to submit to a test, or refusal to agree to disclosure of a test result to Human Resources. A failure to test will also include inability to provide sufficient quantities of breath or urine fluid to be tested without a valid medical explanation acceptable to Pembina.

**"Fitness for Work"** or **"Fit for Work"** in the context of this Policy means being able to safely and acceptably perform assigned duties without any limitations due to the use or after-effects of Alcohol or Drugs.

**"Medication"** means a Drug obtained (i) over-the-counter, or (ii) by the Employee through a physician's prescription, or (iii) through a Health Canada authorization.

**"Negative Test Result"** means a report from a certified lab showing that an individual who provided a specimen for Alcohol or Drug testing did not have an Alcohol or Drug concentration equal to or in excess of the limits set out in this Policy.

**"Positive Test Result"** means a report from a certified lab showing that an individual who provided a specimen for Alcohol or Drug testing had an Alcohol or Drug concentration equal to or in excess of the limits set out in this Policy.

**"Reasonable Cause"** means that testing will take place whenever a Pembina representative has reasonable grounds to believe that the actions, appearance or conduct of an Employee while on duty are indicative of the use of Drugs or Alcohol. The decision to test shall be made by a supervisor, with concurrence of a second person whenever possible (for example, another supervisor, manager or human resources). The basis for the decision will be documented as soon as possible after action has taken place. The referral for a test will be based on circumstances surrounding an incident or specific, personal observations resulting from, but not limited to such indicators as:

- observed use or evidence of use of a substance (for example, smell of Alcohol);
- observed signs of Drug or Alcohol impairment;
- erratic, disruptive or atypical behaviour or changes in behaviour of the Employee;
- illogical responses to questions or instructions;
- changes in the physical appearance or speech patterns of the Employee;
- the presence of Alcohol, Drugs or Drug Paraphernalia in the vicinity of the Employee or the Company Worksite where the Employee was present; or
- any other observations that suggest Alcohol or Drug use may be a factor (for example, sleeping on the job).

**"Safety-Sensitive Position"** means a position in Pembina designated as such, and includes all Employees who perform management, operations, maintenance, emergency response functions on a facility or system, and/or are provided a Pembina vehicle.

**"Site Specific Standards"** means those standards described in Section IV of the Alcohol & Drug Work Rule.

## ALCOHOL & DRUG WORK RULE

### I. Responsibilities

Employees will perform their job safely and responsibly, and in all ways consistent with established Pembina practices. In addition, Employees will:

1. report Fit for Work for all scheduled or unscheduled duty and remain Fit for Duty while on Pembina business and Company Worksites;

2. read, understand and abide by this Policy, as well as their responsibilities under it;
3. seek advice and follow appropriate treatment if they have a current or emerging problem, and follow recommended monitoring programs after attending treatment;
4. cooperate with any work modification related to safety concerns;
5. notify their supervisor if they believe an Employee, Contractor or visitor is not Fit for Duty on the job; and
6. cooperate as required with an investigation into a violation of this Policy, including any request to participate in a testing program as and when required to do so under this Policy.

Pembina is responsible for:

1. ongoing leadership and supervision to ensure safe operations and effectiveness of the safety program;
2. determining and providing appropriate levels of training for Employees;
3. guiding Employees who voluntarily seek assistance for a personal problem to appropriate resources while maintaining confidentiality in accordance with this Policy;
4. making arrangements for an assessment through human resources if, in the course of any performance-related discussion, an Employee states that they have a problem with Alcohol or Drugs;
5. taking appropriate steps to investigate any possible violation of the requirements set out in this Policy; and
6. implementing the requirements of this Policy.

## **II. Requirements and Prohibitions**

1. The following are prohibited while on a Company Worksite or on duty:
  - a. the use, possession, cultivation, manufacture, storage, distribution, offering or sale of Alcohol, Drugs or Drug Paraphernalia, unless otherwise permitted in accordance with Section III below;
  - b. any product or device that could tamper with any sample for an Alcohol or Drug test;
  - c. the possession, storage or use of prescription Medications prescribed for another individual or the possession, storage or use of prescription Medications without being able to produce a legally, medically obtained prescription;
  - d. the distribution, offering or sale of Medications;
  - e. reporting to work or being at work while not Fit for Duty; and

- f. the consumption of Alcohol or Drugs (other than approved Medications in accordance with Section 2(c) below) or the consumption of any product containing Alcohol while on duty including during meals or breaks unless otherwise permitted in accordance with Section III below.

2. Employees must comply with the following requirements:

- a. report Fit for Duty and remain Fit for Duty while at work, which for the purposes of this Policy means that the Employee shall not report for work or work:
  - i. with an Alcohol level to or in excess of 0.04 grams per 210 liters of breath;
  - ii. with a Drug level equal to or in excess of the concentration cut-off levels stipulated by the Construction Owners Association of Alberta, noting that Pembina does not condone the use of illegal Drugs; or
  - iii. while the Employee's ability to safely perform his or her duties is adversely affected because of the use of Medication.
- b. report for testing and participate in testing as required and promote the integrity of the testing process without tampering, adulterating or interfering with testing (for example, masking agents, diluting);
- c. use Medications responsibly and seek appropriate guidance regarding Medications that may impact safe work performance. Medications of concern are those that inhibit or may inhibit an Employee's ability to perform their job safely. For clarity, the possession or use of Medication is permitted where the following conditions are satisfied:
  - i. any prescription Medication in the Employee's possession or used by the Employee is prescribed to the Employee;
  - ii. the Employee is using the Medication for its intended purpose, and in the manner directed by the Employee's physician or pharmacist or the manufacturer of the Medication;
  - iii. the use of the Medication does not adversely affect the Employee's ability to safely perform his or her duties; and
  - iv. in Safety-Sensitive Positions, the Employee has notified his or her supervisor or manager before starting work of any potentially unsafe side effects associated with the use of the Medication.;
- d. when designated "on call", Employees must remain Fit for Duty to respond to a call and be in compliance with this Policy;

- e. if an Employee is under the influence of Alcohol or Drugs and is contacted by Pembina to perform unscheduled services, Employees must decline the work request. There will not be any adverse consequences to the Employee;
- f. Employees must advise a supervisor if a person may not be Fit for Duty, may be under the influence of Alcohol or Drugs, or may otherwise be in violation of this Policy. Reports must be made as soon as possible;
- g. subject always to an obligation to be Fit for Duty, an Employee must also refrain from the use of Alcohol or Drugs (other than Medications used in accordance with Section 2(c) above) after being involved in or observing an incident until the earlier of (i) the Employee has been tested, or (ii) the Employee has been advised by Pembina that they will not be tested, or (iii) 32 hours have elapsed since the incident; and
- h. Employees must, when requested, participate fully in any investigation under this Policy.

### **III. Social Situations**

In the case of a Pembina social event, appropriate regard will be taken for the safety and well-being of the individuals present and the community. Subject to any site specific limitations, responsible Alcohol use may be permitted at Pembina sponsored social functions with appropriate prior approval. Pembina reminds its Employees that the Code of Ethics is still in effect at Pembina sponsored events and any Alcohol consumption is expected to be done responsibly and in moderation. If an Employee is no longer Fit for Work following a Pembina social event, that Employee shall not report back to work or work. Pembina has a zero tolerance policy with respect to the use of vehicles while an Employee is legally intoxicated and Pembina will arrange for alternate transportation for employees in such circumstances.

Consistent with the above, if Alcohol is made available to Pembina guests in the course of conducting Pembina business (for example, restaurant meetings), Employees are expected to use reasonable judgment and be responsible in hosting others, and remain in compliance with the Policy. If an Employee suspects that a Pembina guest has consumed Alcohol in excess of the limits provided for in this Policy, the Employee will arrange for alternate transportation for that Pembina guest in such circumstances.

### **IV. Site Specific Standards**

This Policy sets out requirements which may be enhanced or modified by any facility, site, work camp or business unit where justified. Any enhancements or modifications must be in the form of a site specific work rule that is supported by justification and brought forward for approval by Pembina's safety and security, legal and human resources departments in consultation with the applicable business unit leader.

## **INVESTIGATION**

Pembina will investigate any violations or suspected violations of this Policy including, but not limited to, the following situations:

1. **Unfit for Duty** – In all situations when an Employee may be unfit to be at a Company Worksite or to perform their duties, the Employee will be escorted by a supervisor to a private place, interviewed, and given an opportunity to explain why they do not appear Fit for Duty. The Employee will be given an opportunity to provide a reasonable explanation for their behavior or condition, and the supervisor will take action appropriate to the situation.

If the explanation is not reasonable, and/or the supervisor conducting the interview still believes the Employee is not Fit for Duty, the supervisor may take any of the following actions:

- a. referral for medical attention if there are immediate medical concerns (for example, a health center, local hospital or clinic); and/or
- b. referral for an Alcohol and/or Drug test if there is Reasonable Cause.

The Employee will be provided with transportation and escorted to the collection site or hospital/clinic depending on the circumstances, and then transported to their local place of residence or the care of another adult person. At no time is the Employee to operate equipment until the matter has been resolved. The Employee may be temporarily removed from their duties or reassigned pending completion of any investigation.

2. **Suspected Presence of Alcohol, Drugs or Drug Paraphernalia** – Pembina reserves the right to investigate any situation when there are reasonable grounds to believe that Alcohol, Drugs or Drug Paraphernalia are present on any Company Worksite in violation of this Policy. Supervisors are responsible for identifying situations where an investigation is justified based on a combination of indicators which could include behaviour, odour, or presence of Alcohol, Drugs or Drug Paraphernalia. Supervisors will be responsible for advising their manager of the situation, who, after consultation, will make the final decision as to whether and how to initiate an investigation. The investigation may include a search of Pembina property including the use of sniffer dogs where deemed appropriate in the circumstances, following consultation with Pembina's safety and security, legal and human resources departments.

## TESTING

Alcohol and Drug testing will be conducted for Safety-Sensitive Positions in the following circumstances:

1. **Pre-employment Testing** – Drug testing shall be conducted when hiring persons for Safety-Sensitive Positions or transferring Employees to a Safety-Sensitive Position from a position that did not have this requirement. Any offer of employment for such a position is deemed to be conditional upon a Negative Test Result.
2. **Maintenance Testing for Existing Employees** – all existing Employees are required to re-test a minimum of once every three (3) years.
3. **Summer and Co-op Students** – summer students and co-op students will be required to test before the commencement of a work term. Returning summer and co-op students will be required to re-test before the commencement of each new work term where there has been a break in service of two (2) months or greater.
4. **Post-incident and Near Miss Testing** – a supervisor or a manager of an Employee must request that an Employee submit to Alcohol and/or Drug testing if the supervisor or manager and the next level of management, where possible, have reasonable grounds to believe that impairment contributed to the cause of a serious or potentially serious work-related incident. A serious incident would be one that resulted in:

- a. a fatality;
- b. a serious personal injury to a worker (medical treatment or worse), a member of the public or any other individual;
- c. an incident with a potential for serious injury to a worker (medical treatment or worse), a member of the public or any other individual;
- d. an environmental incident or a potential environmental incident with significant consequences;
- e. a significant or a potential significant loss or damage to property or equipment; or
- f. a significant or a potential significant loss of Pembina revenues or the payment of damages.

In addition to the incidents listed above, at their discretion and as part of a complete investigation, a supervisor may require a post-incident test after any other serious work incident or an incident without loss considered to have had potential for more serious consequences.

Testing will also be required as part of an investigation into a less serious incident if, as a result of the preliminary review, it is reasonably believed that Alcohol or Drug use may have been a factor.

- 5. **Reasonable Cause Testing** – a supervisor or a manager of an Employee must request that an Employee submit to Alcohol and/or Drug testing if the supervisor or manager and the next level of management, where possible, have Reasonable Cause to believe that the Employee is or may be unable to work in a safe manner due to impairment.
- 6. **Return to Work Testing (Post Violation)** – Drug and/or Alcohol testing shall be conducted before an Employee who has been absent following a Positive Test Result may return to work.
- 7. **Return to Work Testing (Post Treatment)** – any Employee may be required to submit to Alcohol and/or Drug testing, following suspension, as part of an accommodation for a substance abuse-related disability and return to work plan, as determined in the substance abuse assessment for that Employee.

## TESTING PROCEDURES

### Testing Procedures

Any person who requires an Employee to be tested for Alcohol or Drugs under the terms of this Policy must tell the Employee beforehand why the test is being requested. Any Employee who refuses a request to be tested made under the terms of this Policy is in breach of the Policy and may be subject to disciplinary action that may include termination of employment with cause.

When testing for either Alcohol or Drugs is to occur, Pembina will direct the Employee to a sample collection site designated by a certified lab. At Pembina's discretion, a qualified technician may be brought to the Company Worksite to conduct testing. All testing shall be conducted following procedures:

- 1. A certified lab will conduct all testing in accordance with DOT standards (see Appendix "B").
- 2. All tests will be reviewed by a physician to ensure that there are no other factors that could influence the test results.
- 3. If an Employee has a known substance abuse issue and is not already part of a rehabilitation



program, the Employee will be accommodated as disabled, and is expected to work in partnership with Pembina and a substance abuse expert to create and engage in a rehabilitation program.

### **Internal Communication of Results**

The procedure for internal communication of the results of any Alcohol or Drug testing under this Policy shall be as follows:

- a. **Positive Test Results** – Human Resources will receive and act upon confidential reports of Positive Test Results.
- b. **Negative Test Results** – Human Resources will receive confidential reports of Negative Test Results.

### **Confidentiality**

All testing will be performed in accordance with specific procedures designed to ensure privacy, confidentiality, and integrity of the test results. Test results will be stored in a secure facility and will only be disclosed to authorized Pembina Employees, medical and legal professionals and as required by law, without the explicit written consent of the Employee.

## **COMPLIANCE**

### **Failure to comply with this Policy**

Pembina will discipline an Employee who fails to comply with this Policy. Discipline may include a variety of reasonable measures, up to and including termination for cause. Determination of the appropriate disciplinary measure will depend on the facts surrounding each case, including the nature of the violation, prior violations, response to corrective programs and the gravity of the violation.

### **Refusal to Test**

The refusal to be tested or refusal to comply with any aspect of this Policy will be considered insubordination. Pembina will discipline an Employee who fails to comply with this Policy. Discipline may include a variety of reasonable measures, up to and including termination for cause.

### **Positive Test Results**

A conditional offer made to an applicant who receives a Positive Test Result will be immediately revoked. The applicant is encouraged to apply for future opportunities, and will again be asked to complete a pre-employment Drug and Alcohol test.

Any Employee who receives a Positive Test Result will be immediately suspended from work with pay, until further investigations can be conducted. Pembina will make all reasonable efforts to accommodate any Employee with a dependence or substance abuse problem to the point of undue hardship, including substance abuse assessments, substance abuse counseling, employee and family assistance programs and residential treatment facilities, as determined by a substance abuse expert. Each case will be reviewed on a case by case basis. A verified Positive Test Result or failure to participate in a rehabilitation or treatment program may be just cause for termination.

## **ASSISTANCE AND ACCOMMODATION**

### **Assistance**



Employees who believe that they may have developed a substance abuse problem are fully encouraged to seek assistance from their supervisor, any member of the Human Resources staff or, Pembina's confidential employee assistance program (EAP) Janus. Employees may contact Janus at 1-877-269-9600 and speak directly with a substance abuse expert.

## **CONTRACTOR PERFORMANCE**

### **Compliance Requirements**

Pembina shall require Contractors, and their subcontractors who provide services to Pembina, to have in place and enforce a drug and alcohol policy which meets or exceeds Pembina's Alcohol and Drug Policy. Any Contractor that does not have such policy in place shall be required to comply with Pembina's Alcohol and Drug Policy. Pembina shall also require the Contractor to maintain statistics of testing dates and results (without identifying the individuals tested), which may be reviewed by Pembina at any time. Pembina may also review Contractors' policies and performance for compliance with this Policy.

Pembina may, at the discretion of management, require a Contractor to certify that all of its representatives performing safety-sensitive functions at a Company Worksite or project have been tested for Alcohol or Drugs prior to their first entry to the Company Worksite. Pembina reserves the right to refuse access to a Company Worksite by any representative of a Contractor where that representative, in the sole opinion of Pembina, may in any way present a risk to the safety of any person or property at the Company Worksite.

### **Incident Management**

Where an Employee or Pembina's representative at a Company Worksite (for example, a contracted project management or safety supervisor) who is responsible for supervising the work of a Contractor's representative has reasonable grounds for believing the representative is unable to work in a safe manner due to the use of Alcohol or Drugs, the Employee or Pembina's representative shall instruct the Contractor's representative immediately to stand down and notify the Contractor manager and the relevant Pembina manager of this action.

Where such an incident results in a positive Alcohol or Drug test facilitated by the Contractor, the Contractor shall respond to the situation in accordance with the Contractor's drug and alcohol policy. In addition, the Pembina Employee or representative supervising the Contractor's performance may require the Contractor to attend a meeting for the purpose of reporting on the action taken by the Contractor in response to the incident.

Any costs incurred in connection with a Policy violation by a representative of a Contractor shall be the responsibility of such Contractor.

This Policy was last approved by the Board of Directors on May 9, 2013.

## APPENDIX A

### ACKNOWLEDGEMENT OF DRUG & ALCOHOL POLICY AGREEMENT TO SUBMIT TO REASONABLE CAUSE SUBSTANCE TESTING AND AGREEMENT TO RELEASE TEST RESULTS

I, \_\_\_\_\_, understand that Pembina Pipeline Corporation maintains a Drug & Alcohol Policy requiring all Employees to report to work in a substance-free condition.

I have received and read a copy of this Policy. If I did not understand the Policy, I have asked for and have received an explanation. I understand that any breach of the Policy may result in administrative and/or disciplinary measures, up to and including dismissal for cause.

I also understand that as a condition of my continued employment, where the circumstances requiring testing outlined in the Policy exist, Pembina Pipeline Corporation will require me to undergo substance screening by urinalysis, blood testing, or breathalyser and I hereby agree to submit to such testing.

I further consent to the collection, use and disclosure of my Personal Information by Pembina Pipeline Corporation as part of the Policy, and consistent with Alberta's *Personal Information Protection Act*, British Columbia's *Personal Information Protection Act* and the federal *Personal Information Protection and Electronic Documents Act*. I understand that "Personal Information" when used in this agreement refers to information about me as an identifiable individual. I expressly understand that my Personal Information will contain my personal health information collected by Pembina Pipeline Corporation for the purposes of enforcing this Policy, including the results of any substance screenings being released to Pembina Pipeline Corporation's authorized representative.

I also understand and agree that I am responsible for reporting any drug or alcohol addiction to my supervisor and/or manager. In the event I suffer from a drug or alcohol addiction, I agree to participate in either the Employee Assistance Program or applicable provincial Alcohol and Drug Abuse Commission counseling program as recommended by those programs. I further consent to the disclosure of such Personal Information of mine by the Employee Assistance Program or applicable provincial Alcohol and Drug Abuse Commission counseling or program officials as is necessary for Pembina Pipeline Corporation to confirm my ongoing participation in, and successful completion of, such counseling programs.

THIS AGREEMENT SIGNED this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_, at

\_\_\_\_\_, Alberta.

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_

## APPENDIX B

### DEPARTMENT OF TRANSPORTATION (DOT) STANDARDS Subpart E - Urine Specimen Collections

#### § 40.61 What are the preliminary steps in the collection process?

As the collector, you must take the following steps before actually beginning a collection:

(a) When a specific time for an employee's test has been scheduled, or the collection site is at the employee's work site, and the employee does not appear at the collection site at the scheduled time, contact the DER (designated employer representative) to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, you must notify the DER that the employee has not reported for testing. In a situation where a C/TPA (consortium/third party administrator) has notified an owner/operator or other individual employee to report for testing and the employee does not appear, the C/TPA must notify the employee that he or she has refused to test (see §40.191(a)(1)).

(b) Ensure that, when the employee enters the collection site, you begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving.

(1) If the employee is also going to take a DOT alcohol test, you must, to the greatest extent practicable, ensure that the alcohol test is completed before the urine collection process begins.

Example to Paragraph (b)(1): An employee enters the test site for both a drug and an alcohol test. Normally, the collector would wait until the BAT (breath alcohol technician) had completed the alcohol test process before beginning the drug test process. However, there are some situations in which an exception to this normal practice would be reasonable. One such situation might be if several people were waiting for the BAT to conduct alcohol tests, but a drug testing collector in the same facility were free. Someone waiting might be able to complete a drug test without unduly delaying his or her alcohol test. Collectors and BATs should work together, however, to ensure that post-accident and reasonable suspicion alcohol tests happen as soon as possible (for example, by moving the employee to the head of the line for alcohol tests).

(2) If the employee needs medical attention (for example, an injured employee in an emergency medical facility who is required to have a post-accident test), do not delay this treatment to collect a specimen.

(3) You must not collect, by catheterization or other means, urine from an unconscious employee to conduct a drug test under this part. Nor may you catheterize a conscious employee. However, you must inform an employee who normally voids through self-catheterization that the employee is required to provide a specimen in that manner.

(4) If, as an employee, you normally void through self-catheterization, and decline to do so, this constitutes a refusal to test.

(c) Require the employee to provide positive identification. You must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employed individual) or a Federal, state, or local government (for example, a driver's license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you

must contact a DER to verify the identity of the employee.

(d) If the employee asks, provide your identification to the employee. Your identification must include your name and your employer's name, but does not have to include your picture, address, or telephone number.

(e) Explain the basic collection procedure to the employee, including showing the employee the instructions on the back of the CCF (custody and Control Form).

(f) Direct the employee to remove outer clothing (for example, coveralls, jacket, coat, hat) that could be used to conceal items or substances that could be used to tamper with a specimen. You must also direct the employee to leave these garments and any briefcase, purse, or other personal belongings with you or in a mutually agreeable location. You must advise the employee that failure to comply with your directions constitutes a refusal to test.

(1) If the employee asks for a receipt for any belongings left with you, you must provide one.

(2) You must allow the employee to keep his or her wallet.

(3) You must not ask the employee to remove other clothing (for example, shirts, pants, dresses, underwear), to remove all clothing, or to change into a hospital or examination gown (unless the urine collection is being accomplished simultaneously with a DOT agency-authorized medical examination).

(4) You must direct the employee to empty his or her pockets and display the items in them to ensure that no items are present which could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee can place the items back into his or her pockets. As the employee, you must allow the collector to make this observation.

(5) If, in your duties under paragraph (f)(4) of this section, you find any material that could be used to tamper with a specimen, you must:

(i) Determine if the material appears to be brought to the collection site with the intent to alter the specimen, and, if it is, conduct a directly observed collection using direct observation procedures (see §40.67); or

(ii) Determine if the material appears to be inadvertently brought to the collection site (for example, eye drops), secure and maintain it until the collection process is completed and conduct a normal (i.e., unobserved) collection.

(g) You must instruct the employee not to list medications that he or she is currently taking on the CCF. (The employee may make notes of medications on the back of the employee copy of the form for his or her own convenience, but these notes must not be transmitted to anyone else.)

§ 40.63 What steps does the collector take in the collection process before the employee provides a urine specimen?

As the collector, you must take the following steps before the employee provides the urine specimen:

(a) Complete Step 1 of the CCF.

(b) Instruct the employee to wash and dry his or her hands at this time. You must tell the employee not to wash his or her hands again until after delivering the specimen to you. You must not give the

employee any further access to water or other materials that could be used to adulterate or dilute a specimen.

(c) Select, or allow the employee to select, an individually wrapped or sealed collection container from collection kit materials. Either you or the employee, with both of you present, must unwrap or break the seal of the collection container. You must not unwrap or break the seal on any specimen bottle at this time. You must not allow the employee to take anything from the collection kit into the room used for urination except the collection container.

(d) Direct the employee to go into the room used for urination, provide a specimen of at least 45 mL, not flush the toilet, and return to you with the specimen as soon as the employee has completed the void.

(1) Except in the case of an observed or a monitored collection (see §§40.67 and 40.69), neither you nor anyone else may go into the room with the employee.

(2) As the collector, you may set a reasonable time limit for voiding.

(e) You must pay careful attention to the employee during the entire collection process to note any conduct that clearly indicates an attempt to tamper with a specimen (for example, substitute urine in plain view or an attempt to bring into the collection site an adulterant or urine substitute). If you detect such conduct, you must require that a collection take place immediately under direct observation (see §40.67) and note the conduct and the fact that the collection was observed in the "Remarks" line of the CCF (Step 2). You must also, as soon as possible, inform the DER and collection site supervisor that a collection took place under direct observation and the reason for doing so.

§ 40.65 What does the collector check for when the employee presents a specimen?

As a collector, you must check the following when the employee gives the collection container to you:

(a) Sufficiency of specimen. You must check to ensure that the specimen contains at least 45 mL of urine.

(1) If it does not, you must follow "shy bladder" procedures (see §40.193(b)).

(2) When you follow "shy bladder" procedures, you must discard the original specimen, unless another problem (i.e., temperature out of range, signs of tampering) also exists.

(3) You are never permitted to combine urine collected from separate voids to create a specimen. (4) You must discard any excess urine.

(b) Temperature. You must check the temperature of the specimen no later than four minutes after the employee has given you the specimen.

(1) The acceptable temperature range is 32–38 °C/90–100 °F.

(2) You must determine the temperature of the specimen by reading the temperature strip attached to the collection container.

(3) If the specimen temperature is within the acceptable range, you must mark the "Yes" box on the CCF (Step 2).

(4) If the specimen temperature is outside the acceptable range, you must mark the "No" box

and enter in the "Remarks" line (Step 2) your findings about the temperature.

(5) If the specimen temperature is outside the acceptable range, you must immediately conduct a new collection using direct observation procedures (see §40.67).

(6) In a case where a specimen is collected under direct observation because of the temperature being out of range, you must process both the original specimen and the specimen collected using direct observation and send the two sets of specimens to the laboratory. This is true even in a case in which the original specimen has insufficient volume but the temperature is out of range. You must also, as soon as possible, inform the DER and collection site supervisor that a collection took place under direct observation and the reason for doing so.

(7) In a case where the employee refuses to provide another specimen (see §40.191(a)(3)) or refuses to provide another specimen under direct observation (see §40.191(a)(4)), you must notify the DER. As soon as you have notified the DER, you must discard any specimen the employee has provided previously during the collection procedure.

(c) Signs of tampering. You must inspect the specimen for unusual color, presence of foreign objects or material, or other signs of tampering (for example, if you notice any unusual odor).

(1) If it is apparent from this inspection that the employee has tampered with the specimen (for example, blue dye in the specimen, excessive foaming when shaken, smell of bleach), you must immediately conduct a new collection using direct observation procedures (see §40.67 ).

(2) In a case where a specimen is collected under direct observation because of showing signs of tampering, you must process both the original specimen and the specimen collected using direct observation and send the two sets of specimens to the laboratory. This is true even in a case in which the original specimen has insufficient volume but it shows signs of tampering. You must also, as soon as possible, inform the DER and collection site supervisor that a collection took place under direct observation and the reason for doing so.

(3) In a case where the employee refuses to provide a specimen under direct observation (see §40.191(a)(4)), you must discard any specimen the employee provided previously during the collection procedure. Then you must notify the DER as soon as practicable. [65 FR 79526, Dec.19, 2000, as amended at 66 FR 41950, Aug. 9, 2001]

#### § 40.71 How does the collector prepare the specimens?

(a) All collections under DOT agency drug testing regulations must be split specimen collections.

(b) As the collector, you must take the following steps, in order, after the employee brings the urine specimen to you. You must take these steps in the presence of the employee.

(1) Check the box on the CCF (Step 2) indicating that this was a split specimen collection.

(2) You, not the employee, must first pour at least 30 mL of urine from the collection container into one specimen bottle, to be used for the primary specimen.

(3) You, not the employee, must then pour at least 15 mL of urine from the collection container into the second specimen bottle to be used for the split specimen.

(4) You, not the employee, must place and secure (i.e., tighten or snap) the lids/caps on the bottles.

(5) You, not the employee, must seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids and down the sides of the bottles.

(6) You, not the employee, must then write the date on the tamper-evident bottle seals.

(7) You must then ensure that the employee initials the tamper-evident bottle seals for the purpose of certifying that the bottles contain the specimens he or she provided. If the employee fails or refuses to do so, you must note this in the "Remarks" line of the CCF (Step 2) and complete the collection process.

(8) You must discard any urine left over in the collection container after both specimen bottles have been appropriately filled and sealed. There is one exception to this requirement: you may use excess urine to conduct clinical tests (for example, protein, glucose) if the collection was conducted in conjunction with a physical examination required by a DOT agency regulation. Neither you nor anyone else may conduct further testing (such as adulteration testing) on this excess urine and the employee has no legal right to demand that the excess urine be turned over to the employee. [65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41951, Aug. 9, 2001]

#### § 40.73 How is the collection process completed?

(a) As the collector, you must do the following things to complete the collection process. You must complete the steps called for in paragraphs (a)(1) through (a)(7) of this section in the employee's presence.

(1) Direct the employee to read and sign the certification statement on Copy 2 (Step 5) of the CCF and provide date of birth, printed name, and day and evening contact telephone numbers. If the employee refuses to sign the CCF or to provide date of birth, printed name, or telephone numbers, you must note this in the "Remarks" line (Step 2) of the CCF, and complete the collection. If the employee refuses to fill out any information, you must, as a minimum, print the employee's name in the appropriate place.

(2) Complete the chain of custody on the CCF (Step 4) by printing your name (note: you may pre- print your name), recording the time and date of the collection, signing the statement, and entering the name of the delivery service transferring the specimen to the laboratory.

(3) Ensure that all copies of the CCF are legible and complete.

(4) Remove Copy 5 of the CCF and give it to the employee.

(5) Place the specimen bottles and Copy 1 of the CCF in the appropriate pouches of the plastic bag.

(6) Secure both pouches of the plastic bag.

(7) Advise the employee that he or she may leave the collection site.

(8) To prepare the sealed plastic bag containing the specimens and CCF for shipment you must:

(i) Place the sealed plastic bag in a shipping container (for example, standard courier box) designed to minimize the possibility of damage during shipment. (More than one sealed plastic bag can be placed into a single shipping container if you are doing multiple collections.)



(ii) Seal the container as appropriate.

(iii) If a laboratory courier hand-delivers the specimens from the collection site to the laboratory, prepare the sealed plastic bag for shipment as directed by the courier service.

(9) Send Copy 2 of the CCF to the MRO (medical review officer) and Copy 4 to the DER. You must fax or otherwise transmit these copies to the MRO and DER within 24 hours or during the next business day. Keep Copy 3 for at least 30 days, unless otherwise specified by applicable DOT agency regulations.

(b) As a collector or collection site, you must ensure that each specimen you collect is shipped to a laboratory as quickly as possible, but in any case within 24 hours or during the next business day. [65 FR 79526, Dec.19, 2000, as amended at 71 FR 49384, Aug.23, 2006]