Table of Contents

DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

Title 40
Labor and Employment
Part I. Workers' Compensation Administration

RULE

DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

Title 40
Labor and Employment
Part I. Workers' Compensation Administration

Chapter 15. Drug Testing Programs in Job Related Accident Cases

§1501. Introduction

A. The following represents the text of the Office of Workers' Compensation Administration's scientific and technical guidelines for accident-related drug testing programs, as directed by Act 454 of the Regular Session of 1989. These guidelines address the mandatory scientific and technical requirements of drug testing protocols, including: collection of specimens, chain of custody and laboratory analysis.

1. Laboratories may not deviate from the provisions of these guidelines without the written approval of the Director of the Office of Workers' Compensation Administration, or his designee.

2. These guidelines are to be effective immediately upon promulgation; Laboratories currently operating drug testing programs are to bring their programs into compliance within 180 days of promulgation.

3. The Director of the Office of Workers' Compensation Administration or his designee may routinely update these guidelines for the purpose of conforming them to advances in technology or providing additional guidance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:773 (August 1991).

§1503. Scientific and Technical Requirements

A. Compensation shall not be allowed to the employee who receives personal injury from a job-related accident if the injury was caused by the employee's intoxication; Compensation will not be precluded, however, where the intoxication resulted from activities which were in pursuit of the employer's interest or in which the employer procured the intoxicating beverage or substance and encouraged its use during the employee's work hours. When an employee receives personal injury from an accident arising out of and in the course of his

employment, his employer may test the employee for alcohol, and for any drug identified in Schedules I, II, III, IV or V of 21 U.S.C. 812.

B. DEFINITIONS

1. INTRALABORATORY CHAIN OF CUSTODY: Procedures used by the laboratory to maintain control and accountability from the receipt of specimens until testing is completed, results reported, and while specimens are in storage.

2. INITIAL TEST: A sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

3. CONFIRMATORY TEST: A second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmatory test must be different in technique and chemical principle from that of the initial test procedure to ensure reliability and accuracy. (At this time gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method. Gas chromatography is authorized for confirmation of alcohol (ethanol) concentrations in specimens.)

4. ALIQUOT: A portion of a specimen used for testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:773 (August 1991).

§1505. Specimen Collection Procedures

A. COLLECTION SITE

1. The collection site is a place where individuals present themselves for the purpose of providing urine, blood, breath or other specimens to be analyzed for abuse of drugs, including alcohol. The site must possess all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation (shipping) of specimens to a drug testing laboratory.

2. Procedures must provide for the collection site to be secure. Proper chain of custody procedures must be executed by collectors when handling specimens. The handling and transportation of specimens from one authorized individual or place to another must always be accomplished through the use of chain of custody procedures.

B. COLLECTION PROCEDURES

1. Procedures for providing specimens must allow reasonable privacy but may require a witness to prevent substitutions, contamination or adulteration of the specimen to be provided. Employers must take precautions to ensure that a specimen has not been adulterated, contaminated, or substituted during the collection procedure and that all information on the collection container and in the chain of custody form can be identified as belonging to a given individual.

To ensure that unadulterated specimens are obtained, the following procedures outline the minimum precautions that shall be taken during the collection of specimens, in noncritical, ambulatory accident related testing.

a. At the collection site, if the specimen to be collected is urine, toilet bluing agents shall be placed in the toilet tanks, wherever possible, so that the reservoir of water in the toilet bowl always remain blue. The possibility of adulteration, substitution or contamination from other sources of water (e.g. shower, sink, etc.) in the enclosure where urination occurs should be prevented whenever possible.

b. Upon arrival at the collection site, the collector shall request the individual to present some type of photo identification. If the individual does not have proper identification, this shall be noted on the chain of custody form.

c. The collector shall ask the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate his/her specimen. Also, all personal belongings (e.g. purse, briefcase) must remain with the outer garments; the individual may, however, retain his/her wallet. The collector shall note any unusual behavior or appearance.

d. After washing his/her hands, the individual shall remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, or cleaning agents.

e. In a non-witnessed collection, the individual may provide his/her specimen in the privacy of a stall, or otherwise partitioned area that allows for individual privacy. The collector shall note any unusual behavior by the individual.

f. After the specimen has been provided and submitted to the collector, the individual should be allowed to wash his/her hands.

g. If the collection is non-witnessed, immediately after collection, the collector shall measure the temperature of the specimen and conduct an inspection to determine the specimen's color and signs of contaminants. Any unusual findings resulting from the inspection must be included on the chain of custody form. If the temperature of the specimen is outside the range of 32.5 - 37.7E C / 90.5 - 99.8E F, this gives rise to reasonable suspicion of adulteration/ substitution, and another specimen should be collected, and both specimens shall be properly labeled and forwarded to the laboratory.

h. Both the individual being tested and the collector should keep the specimen in view at all times prior to its being sealed and labeled. If the specimen is transferred to a second container, the collector shall request the individual to observe the transfer of the specimen and the placement of a tamper proof seal over the container cap and down the sides of the container. The collector will place the identification label securely on the container.

i. The identification label should contain the date, employee's name, and any other identifying information provided/required by the employer. The tested individual shall initial the label on the specimen container. If the individual refuses to initial the label, this fact must be noted by the collector on the chain of custody form.

j. The collector shall complete the appropriate chain of custody form. The individual shall be asked to read and sign a certification statement regarding his/her specimen and be given an opportunity to provide notification of any information which the individual considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant medical information.

k. After the above procedures, the specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, it must be appropriately secured during temporary storage.

l. In the event blood is required, it should be collected in a tube containing sodium fluoride as a preservative. To insure no adulteration of the blood specimen, alcohol shall not be used as a disinfectant, but betadine, or its nonalcoholic equivalent, shall be used.

2. NOTE: During the performance of any part of the chain of custody procedures, it is essential that the specimen and custody documents be under the control of the involved collector.

a. If the collector must leave his/her work station momentarily, the specimen and custody form must be taken with him/her, or must be secured. After the collector returns to the work station, the custody process will continue. If the collector is leaving for an extended period of time, he/she should package the specimen for mailing prior to leaving the site.

b. If the specimen is to be collected from a critical, nonambulatory or unconscious employee, the collection procedures shall be left to the discretion of the treating medical provider, and shall reasonably preclude adulteration, contamination or substitution. After the patient's condition is stabilized and the patient is conscious, he/she shall be asked to read and sign a certification statement regarding his/her specimen, and be given an opportunity to provide notification of any information which the individual considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant medical information.

C. COLLECTION CONTROL

Collectors shall always attempt to have the specimen or specimen container within sight before and after the collection. The containers shall be tightly capped, properly sealed, and labeled. A chain of custody form shall be utilized for maintaining control and accountability from point of collection to final disposition of specimens. With each transfer of possession, the chain of custody form shall be dated, signed by the individual releasing the specimen, signed by the individual accepting the specimen, and shall note the purpose for

transferring possession. Every effort should be made to minimize the number of persons handling specimens.

D. TRANSPORTATION TO LABORATORY

After collection of specimens, collectors shall arrange to ship the specimens to the drug testing laboratory. The specimens shall be placed in appropriate containers (specimen boxes or padded mailers) that are securely sealed to eliminate the possibility or tampering. Collectors shall sign and date across the tape sealing the containers and ensure that the chain of custody documentation is attached to each sealed container. An outer mailing wrapper shall be placed around each sealed container. Specimens may be delivered to the drug testing laboratory using either the United States Postal Service, commercial air freight, air express, or may be hand carried. It is unnecessary to send specimens by registered mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:773 (August 1991).

§1507. Laboratory Analysis Procedures

A. RECEIVING/PREPARATION

1. The laboratory must be secure at all times; procedures to control access by unauthorized personnel shall be in place. Upon receipt of specimens, accession personnel shall inspect packages for evidence of possible tampering and compare information on specimen containers with that on chain of custody forms. Any discrepancies shall be properly noted and described. Any direct evidence of tampering shall be reported immediately to the employer and shall also be noted on the chain-of-custody form which must accompany all specimens during laboratory possession.

2. Specimen containers and original chain of custody forms will normally be retained within the accession area until all analyses have been completed. Aliquots and intralaboratory chain of custody forms shall be used by laboratory personnel for conducting the initial and confirmatory tests.

B. INITIAL TEST

If the initial drug test is negative, there shall be no confirmation test. The initial testing shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine usage of these drugs or classes of drugs:

	Initial Test Level (ng/ml)
Marijuana metabolite	50
Cocaine metabolites	300
Morphine/codeine	300

Phencyclidine	25
Amphetamines/Methamphetamines	1000
Alcohol/ethanol	.05 gram %/ml

1. These test levels are subject to change by the Office of Workers' Compensation, as advances in technology or other consideration may permit identification and quantification of these substances at lower concentrations.

2. The laboratory will use scientifically accepted initial cutoff levels when screening specimens for other drugs in 21 U.S.C. 812, Schedules I, II, III, IV and V.

3. Some specimens may be subjected to initial testing by methods other than immunoassays, where the latter are unavailable for the detection of specific drugs of special concern. These methods are thin layer, high pressure liquid, and/or gas chromatography. Alternate initial test methods and testing levels shall be submitted for written approval to the Director of the Office of Workers' Compensation, or his designee.

C. CONFIRMARY TEST

All specimens identified as positive on the initial test shall be confirmed using gas chromatography for alcohol (ethanol) and gas chromatography/mass spectrometry (GC/MS) techniques for drugs in 21 U.S.C. 812, Schedules I, II, III, IV and V at the following cutoff values:

	Confirmatory Test Level (ng/ml)
Marijuana metabolite*	10
Cocaine metabolites**	150
Morphine/Codeine	150
Phencyclidine	25
Amphetamines	300

* Delta-9-tetrahydrocannabinol-9-carboxylic acid

** Benzoylecgonine

1. These test levels are subject to change by the Office of Workers' Compensation as advances in technology or other considerations may permit identification and quantification of these substances at lower concentrations.

2. Confirmation methods and levels for other drugs tested shall be submitted by the employer to the Director of the Office of Workers' Compensation, or his designee, for approval. In the absence of an accepted quantitative GC/MS assay procedure, preference will be given to a confirmation of qualitative identification by means of full-scan GC/MS analysis and quantification by an alternate chromatographic method. All methods shall meet commonly accepted analytical standards.

3. Proper chain of custody controls shall always be enforced during confirmation testing. Authorized confirmation technicians shall sign the chain of custody forms and be responsible for each specimen to be tested. The laboratory shall include sufficient safeguards to ensure that unauthorized personnel are prevented from gaining access to the confirmation laboratory.

D. REPORTING RESULTS

1. Test results shall be reported to the employer within an average of five (5) working days of receipt of the specimens. The report should contain the specimen number assigned by the submitting employer, the drug testing laboratory accession number, and results of the drug tests. All specimens negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific drug. Results may be transmitted to the employer by various electronic means (e.g., teleprinter, facsimile, or computer) in a manner consistent with maintaining confidentiality. It is impermissible to provide results verbally by telephone. A certified copy of the original chain of custody form, signed by the laboratory director or laboratory certifying official, shall be sent to the employer. Certified copies of all analytical results shall be available from the laboratory when requested by appropriate authority.

2. All records pertaining to a given specimen shall be retained by the drug testing laboratory for a minimum of two years.

E. LONG-TERM STORAGE

Specimens confirmed positive shall be retained and placed in properly secured long-term frozen storage for at least 365 days. Within this 365 day period, an employer, employee, or the Director of the Office of Workers' Compensation Administration may request the laboratory to retain the specimen for additional periods of time. This ensures that the specimen will be available for a possible retest during any administrative or legal proceeding. If the laboratory does not receive a request to retain the specimen during the initial 365 day period, the specimen may be discarded.

F. RETESTING SPECIMENS

Should specimen reanalysis be required as a result of challenge or litigation, the quantitation of a drug or metabolite in a specimen may not be subject to the same testing level criteria that were used during the original analysis; some analytes deteriorate or are lost during freezing and/or storage.

G. SUBCONTRACTORS

The drug testing laboratory shall perform all work with its own personnel and equipment, unless otherwise authorized by the employer or Director of the Office of Workers' Compensation Administration. Subcontractors shall follow all procedures and regulations as set out in these Rules.

H. LABORATORY FACILITIES

Laboratories must comply with applicable provisions of any State licensure requirements. Laboratories must be able to perform, at the same facility, screening and/or confirmation tests for each drug or metabolite for which service is offered.

I. LABORATORY PERSONNEL

1. The scientific director of the drug testing laboratory shall meet the following criteria. He or she must hold a B.S. in pharmacology, toxicology, or analytical chemistry and have at least two years experience in analytic toxicology (the analysis of biological materials for drugs of abuse) and

appropriate training and/or forensic applications of analytic toxicology (court testimony, research and publications in analytic toxicology of drug abuse, etc.). The director is responsible for ensuring that there are sufficient personnel with adequate training and experience to supervise and conduct the work of the drug testing laboratory.

2. A key individual in the laboratory is the certifying scientist; (who may also be the Laboratory Scientific Director); this individual reviews the standards, control specimens, and quality control of the data, together with the screening and confirmation test results. After having assured that all results are acceptable, this individual certifies the test result. The certifying scientist must have sound training in the sciences, specific training in the theory and practice of the procedures used, including the recognition of aberrant results, and familiarity with quality control procedures.

3. Supervisors of analysts must possess a B.S. degree in chemistry, or at least the education and experience comparable to a Medical Technologist certified by the American Society of Clinical Pathologists, MT(ASCP), or its equivalent. These individuals, also, must have training in the theory and practice of the procedures used, and understanding of quality control concepts. Periodic verification of their skills must be documented. Other technicians or nontechnical staff must possess the necessary training and skills for the task assigned. Inservice continuing education programs to meet the needs of all laboratory personnel are desirable. Personnel files must include: resume of training and experience, certification or license, if any; references; job descriptions; health records; records of performance evaluation and advancement; incident reports; and results of tests for color blindness.

4. Laboratory screening personnel performing initial tests shall comply with personnel requirements to provide reasonable assurance of accuracy of test results.

J. QUALITY ASSURANCE AND QUALITY CONTROL

Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process: specimen acquisition, chain of custody, security, and reporting of results, in addition to the screening and confirmation of analytical procedures. Quality control procedures will be designed, implemented, and reviewed to monitor the conduct of each step of the process.

K. DOCUMENTATION

Documentation of all aspects of the testing process must be available. This documentation will be maintained for at least two years and shall include: personnel files on analysts, supervisors, directors, and all individuals authorized to have access to specimens; chain of custody documents; quality assurance/quality control records; all test data; reports; performance records on proficiency testing; performance records on accreditation inspections; and hard copies of computer-generated data.

L. REPORTS

All positive test results, including screening, confirmation, and quality control data must be reviewed by the certifying scientist or laboratory director before a test result is certified as accurate. The report shall identify the drugs/metabolites tested for, whether positive or negative, and the threshold concentration for each.

M. JUDICIAL PROCEEDINGS

The laboratory must have qualified personnel available to testify in an administrative or legal proceeding against an employee which is based on a positive drug or alcohol result reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:773 (August 1991).

§1509. Reporting and Review of Results

A. An essential part of the drug testing program is the final review of results. A positive testing result does not automatically identify an employee as a drug abuser. A Medical Review Officer (MRO) with a detailed knowledge of possible alternate medical explanations must be involved in the review process.

1. "Medical Review Officer" means a licensed physician responsible for receiving laboratory results generated by employer or testing entities drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information. The role of the MRO is to review and interpret positive test results obtained through the Office's testing program. In the conduct of this responsibility, the MRO should undertake the examination of alternate medical explanations for a positive test result. This action could include conducting of employee medical interviews, review of employee medical history, or the review of any other relevant biomedical factors.

2. The MRO is required to review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. After the MRO has reviewed the pertinent information and the laboratory assessment is verified, the results are to be forwarded to the employer and the Office of Workers' Compensation. Should any question arise as to the veracity of a positive test result, the MRO is authorized to order a reanalysis of the original sample. If the MRO determines there is a legitimate medical explanation for the positive test result, MRO may deem that the result is consistent with legal drug use, and take no further action.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:773 (August 1991).