

STATE OF DELAWARE DRUG TESTING PROGRAM

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects

Presenter: Wendy B. Henry

Agenda

- ✓History/Background
- ✓Minimum Standards
- ✓Public Works Projects
- ✓Program Requirements
- ✓Bid Requirements
- ✓Disciplinary Action
- ✓Penalties



History/Background

- Initial regs published in January 2015- public comment was January – March 2015
- Final regs published in September 2015
- Effective January 1, 2016 (all Large Public Works projects advertised on that date or later)

Minimum Standards

- Testing procedures according to Mandatory Guidelines for Federal Workplace Drug Testing Programs published by SAMSHA
- Testing must be performed by federal Health and Human Services certified laboratory
- Minimum 7-panel protocol testing PLUS alcohol screening



7 PANEL PROTOCOL + ALCOHOL

SUBSTANCE	COMMON NAME	CUTOFF
MARIJUANA METABOLITE		50 ng/ml
COCAINE METABOLITE		150 ng/ml
OPIATE METABOLITE		2000 ng/ml
ACETYLMORPHINE	HEROIN METABOLITE	10ng/ml
PHENCYCLIDINE	PCP	25 ng/ml
AMPHETAMINES (INCLUDING METHAMPHETAMINES)	METH	500 ng/ml
MDMA	ECSTASY	250 ng/ml
ALCOHOL		0.04% BAC

Public Works Projects

- Large Public Works Awarded pursuant to 29 Del C. § 6962
- General Contractors and *listed* Subcontractors
- Mandatory Drug Testing Program



Program Requirements

- Initial testing- Performed prior to working on jobsite; unless a random or scheduled drug test within past 60 days
- Random Testing- Scientifically valid method of selection.
 - 10% of contractors anticipated workforce tested monthly; (No less than 1 employee monthly)
 - Selected employees must report within 4 hours
 - Failure to report or not cooperate is considered a positive result

Program Requirements (contin..)

- Reasonable Suspicion Testing- Contractor and/or Owner directed
- Accident Triggered Testing- any jobsite accident with loss or significant property damage, any injury/loss of life
 - Drug testing and may be subject to onsite alcohol testing
 - Tested as soon as possible not longer than 4 hours following accident

Bid/Contract Requirements

- Signed Affidavit(s) at bid submission from the Contractor and listed subcontractors
 - Certifying that the Contractor has in place or will implement during the entire term of the contract a Mandatory Drug Testing Program
- Contractor's program due two business days prior to contract execution - Contractor may submit any Subcontractor's Program for approval
- No Contractor or Subcontractors may work on the jobsite until program has been concluded by DeIDOT

■ DOT-SPECIAL@state.de.us

CONSEQUENCES OF POSITIVE RESULT

- Immediate suspension from any public works Jobsite
- Not eligible until 30 days after a negative test result
- Subject to 1 year of unscheduled random testing or term of contract whichever is less
 - If employee test positive for more than ONE drug test in a 3-year period they are permanently banned
- ❖ Marijuana positive results- if employee has a medical exemption they are not subject to above unless impaired on the jobsite

Monthly Testing Report Forms

- Employee Drug Testing Report Form
 - Project Information (Project No., Project Name)
 - Contractor/Subcontractor Info
 - No. of employees on the jobsite
 - No. of employees randomly tested
 - # Results (i.e. number of negative/positive results)
 - Any action taken in response to failed/positive test results (no names)
- Positive Test Report:
 - Email to DOT-SPECIAL MAILBOX ONLY
 - Information kept confidential
 - Include employee name and action taken

Contractor Penalties

- Failure to implement Drug Testing Program or falsifying results are subject to the following sanctions:

- 1st Offense- Written warning
- 2nd Offense- Prohibition from bidding on any new public works jobs for a period not to exceed 3 months
- 3rd offense- No bidding for ONE year
- ❖ Subsequent offenses= Debarment or bond revocation

Questions?



Thank you!!

Wendy B. Henry, CPPB, CPPO
Contracts Coordinator
302-760-2531
Wendy.henry@state.de.us

