

New Drug, Alcohol Rules Stress Safety

- **Provisions Give Employees 'Benefit of the Doubt'**

By BILL HEARD, Editor

(March 15, 2002) Recent changes in federal drug and alcohol regulations covering such industries as mass transit include a heightened emphasis on safety, while also giving employees who are tested for controlled substances "the benefit of the doubt" in certain situations.

Changes have been made in provisions covering the requirements for pre-employment testing and background checks, random drug and alcohol testing of employees in "safety sensitive" jobs, post-accident testing, employee leaves of absence, and prescription and over-the-counter drugs, among others.

Although all candidates for employment at the MTA, all volunteers and interns must submit to a pre-employment drug and alcohol test, "the federal regulations are geared toward safety sensitive employees," says Byron Warfield-Graham, manager of the agency's drug and alcohol program.

At the MTA, safety sensitive occupations include bus and rail operators, mechanics, service attendants, armed security officers and any employees who are required to drive or dispatch vehicles that carry paying passengers.

All candidates for safety sensitive jobs now are subject to a background check to determine whether they have failed or refused a drug and alcohol test within the past two years in an industry covered by the federal regulations. This rule would cover a bus mechanic, for example, who previously worked for a municipal operator.

Random drug testing

Under U.S. Department of Transportation and Federal Transit Administration rules, transportation agencies must randomly test 50 percent of all safety sensitive employees for drug use each year. Agencies also must randomly test 10 percent for alcohol use. Between 6,000 and 7,000 MTA employees are considered to be in safety sensitive jobs.

Although previous rules gave safety sensitive employees selected for random drug testing one hour to reach a clinic, the recent change requires employees to proceed immediately to the clinic without stopping along the way. The MTA has contracts with clinics throughout the county that are no more than a 30-minute drive from any of its facilities.

FTA regulations require that transit agencies maintain a level of test failures below 1.5 percent. During a 12-month period beginning in August 2000, the MTA experienced only about 50 cases of drug test violations or test refusals by employees.

"The MTA has a very low ratio of those who fail our random drug and alcohol tests – well below one percent," says Warfield-Graham. "Our annual record is considered to be very good, about the lowest in the industry."

APTA and the California Public Utility Commission audit the drug and alcohol program in conjunction with their inspections of MTA bus and rail operations. "The MTA has passed with flying colors," Warfield-Graham says.

Post-accident testing

The regulations for post-accident testing also have changed. Previously, an employee involved in an accident that resulted in the vehicle being towed, a victim being transported for medical treatment or in a fatality remained off the job until test results were in – perhaps two or three days.

Now, employees may return to work immediately to await test results unless there was a fatality or if there is "reasonable suspicion" that drugs or alcohol were involved.

"Allowing them to come back to work until the tests are verified prevents a lot of speculation about whether the employee passed or failed," says Warfield-Graham. "They get the benefit of the doubt."

Two other regulations changes involve a provision that permits employees to use prescription drugs purchased outside the United States and an extension of the requirement for drug and alcohol testing of employees on long-term leave. The old rule required safety sensitive employees who were on leave for 30 or more days to be tested before returning to work.

The new rule extends that requirement to 90 days before drug testing is mandated. This reduces the MTA's costs and encourages employees to return to work earlier.

The revised policy, HR 4-2 (Alcohol and Drug-Free Work Environment) goes before the MTA Board, March 21, for final approval and adoption.

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