

**SILVER LAKE WATER DISTRICT
SNOHOMISH COUNTY, WASHINGTON
RESOLUTION NO. 459**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SILVER LAKE WATER DISTRICT, SNOHOMISH COUNTY, WASHINGTON, ESTABLISHING A DRUG AND ALCOHOL POLICY AND PROCEDURES FOR TESTING EMPLOYEES IN SAFETY SENSITIVE POSITIONS

WHEREAS, the Federal Highway Administration regulations require drug and alcohol testing for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License, and

WHEREAS, the Silver Lake Water District needs to adopt an alcohol and drug testing program and the testing and reporting requirements as required by Federal regulations; and

WHEREAS, such policy shall apply to all employees of the District who are required to have and maintain a Commercial Driver's License in order to perform the duties of the job. Agents performing functions for the District involving the use of a vehicle requiring a Commercial Driver's License, will be subject to specific alcohol and drug testing as required by federal regulations.

WHEREAS, the District has a significant interest in the health and safety of its employees and the citizens of the state. In furtherance of that interest, it is the policy of the District to take those steps necessary to ensure that its employees who are required to have and maintain a Commercial Driver's License to perform their duties and responsibilities are free of the influence of drugs and alcohol.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Silver Lake Water District, Snohomish County, Washington as follows:

1. The District shall implement drug and alcohol policy and testing procedures to comply with Federal Law. The attached Drug and Alcohol Testing Policy and Drug and Alcohol Testing Procedures Manual are hereby adopted and are the official policy and procedures of the District.

2. The District shall join the Association of Washington Cities Drug Consortium to facilitate compliance with the District Policy and Procedures.

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ADOPTED by the Board of Commissioners at a regular meeting of the Silver Lake Water District, Snohomish County, Washington this 14th day of December, 1995.

W. A. Anderson
President and Commissioner

Don A. Fisher
Secretary and Commissioner

Rod Kuppel
Commissioner

I CERTIFY the above to be a true and correct copy of Resolution No. 459 adopted by the Board of Commissioners of the Silver Lake Water District this 14th day of December, 1995 as said Resolution appears in the records of the Silver Lake Water District.

Don A. Fisher
Secretary of the Silver Lake Water District

SILVER LAKE WATER DISTRICT

**Drug and Alcohol Testing Policy
for Employees who Operate Commercial
Vehicles**

I. PURPOSE

The purpose of this policy is to establish compliance with the Federal Highway Administration regulations requiring drug and alcohol testing for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License. This policy sets forth the Silver Lake Water District's alcohol and drug testing program and the testing and reporting requirements as required by those regulations.

II. APPLICATION

This policy applies to all employees of the District who are required to have and maintain a Commercial Driver's License in order to perform the duties of the job. Contractors performing functions for the District involving the use of a vehicle requiring a Commercial Driver's License, will be subject to specific alcohol and drug testing as required by federal regulations.

III. POLICY

The District has a significant interest in the health and safety of its employees and the citizens of the state. In furtherance of that interest, it is the policy of the District to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of drugs and alcohol. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this policy.

IV. DEFINITIONS

ACCIDENT - Accident means an occurrence involving a commercial vehicle 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 requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

COMMERCIAL VEHICLE - A commercial vehicle is one that either: 1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); 2) is designed to transport 16 or more persons, including the driver; or 3) is used to transport hazardous materials.

DRIVER - This term includes all employees whose positions may involve driving a commercial vehicle and that require the possession of a Commercial Driver's License.

DRUGS - For the purposes of this policy, in accordance with the applicable federal regulations, "drugs" refers to the following five substances:

marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

EMPLOYEE - For the purposes of this policy, employee means driver as defined herein.

MEDICAL REVIEW OFFICER (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

SAFETY SENSITIVE POSITION - For purposes of this policy, these are positions associated with the driving of commercial vehicles.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SAP is responsible for evaluating employees with positive test results.

V. PROHIBITED CONDUCT

The following conduct regarding alcohol and drug use or abuse is prohibited:

- A. **ALCOHOL CONCENTRATION**
An employee may not report for or remain on duty requiring the performance of duties covered under this policy while having an alcohol concentration of 0.04 or greater.
- B. **ALCOHOL POSSESSION AND ON DUTY USE OF ALCOHOL**
An employee may not possess or use alcohol while on duty or while operating a commercial vehicle.
- C. **PRE-DUTY USE OF ALCOHOL**
An employee may not operate a commercial vehicle within four hours after using alcohol. An on-call employee who consumes alcohol within four hours of being called in must acknowledge the use of alcohol and may not report for duty.
- D. **ALCOHOL USE FOLLOWING AN ACCIDENT**
An employee required to take a post-accident alcohol test may not use alcohol for eight hours following the accident, or until a post-accident alcohol test is given, whichever comes first.
- E. **USE OF DRUGS**
An employee may not report for duty or remain on duty which

requires driving a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial vehicle. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively should provide written notice from their physician or pharmacist with respect to the effects of such substances.

F. REFUSAL TO SUBMIT TO A REQUIRED TEST

An employee may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or drug test as directed by this policy.

G. POSITIVE DRUG TEST

An employee may not report for duty or remain on duty requiring the performance of duties covered under this policy if the employee tests positive for drugs or alcohol.

H. TAMPERING WITH A REQUIRED TEST

An employee may not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this policy.

VI. TESTING

A. Pre-employment Drug Testing

All individuals who are covered by this policy must pass a drug test as a post-offer condition of employment.

B. Reasonable Suspicion Testing

Employees subject to this policy shall submit to a drug and/or alcohol test when the District reasonably suspects that this policy (except the prohibitions against possession, transfer or sale of alcohol) may have been or is presently being violated. A referral for testing will be based on contemporaneous, articulable observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use.

Alcohol testing for reasonable suspicion may only be conducted just before, during or after an employee operates a commercial vehicle. If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform covered functions until:

- 1) an alcohol test is administered and the driver's breath alcohol concentration measures less than 0.02; or
- 2) 24 hours have elapsed following the determination that

there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

C. Post-Accident Testing

Following an accident (as defined above) involving a commercial vehicle, the driver is required to submit to alcohol and drug tests when the driver receives a citation under state or local law for a moving traffic violation, or where a fatality occurs as a result of the accident. Testing should occur as soon as possible, but may not exceed eight hours after the accident for alcohol testing and 32 hours after the accident for drug testing.

A driver who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Drivers who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy.

D. Random Testing

Employees covered by this policy will be subject to random, unannounced alcohol and drug testing.

E. Return to Duty Testing

Employees who have violated this policy, including those who have tested positive on a drug or alcohol test, and who under the discipline policy are allowed to return to work, must test negative prior to being released for duty. A return to duty test following alcohol misuse may not exceed an alcohol concentration of 0.02.

F. Follow-up Testing

An employee who is referred for assistance related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a Substance Abuse Professional and the District. The number and frequency of follow-up testing will be determined by the Substance Abuse Professional and the District, but will not be less than six tests in the first 12 months following the employee's return to duty.

G. Re-tests

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the Medical Review Officer.

VII. REFUSAL TO TAKE AN ALCOHOL OR DRUG TEST

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include, but is not limited to:

- a. a failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
- b. failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
- c. engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered the same as a positive test result.

VIII. SECURING INFORMATION FROM PREVIOUS EMPLOYERS

If a person is to be hired into a position subject to this policy and during the previous two years has worked as a driver of a commercial vehicle, that person must authorize a request of all employers of the driver within the past two years to release information on the following:

- a. Positive alcohol or drug tests
- b. Refusal to be tested

This information must be obtained before the person is employed by the District. However, if the information has not arrived by the anticipated start date, and if the person has passed the pre-employment drug test, the person may be hired and the requested information must be obtained from the previous employers within 14 calendar days of the date of hire. If the information has not been received within the 14 calendar days, the person will not be permitted to drive commercial vehicles until the information has arrived. If the information obtained from previous employer indicates either a positive test or that a refusal to be tested occurred within the past two years, that person will not be permitted to drive commercial vehicles unless subsequent information indicates that an evaluation by a Substance Abuse Professional was made and return to duty testing was administered.

IX. CONFIDENTIALITY AND RECORD RETENTION

All records related to drug and alcohol testing will be maintained in a secure location with controlled access. These records will be kept separate from records pertaining to all other employees.

X. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT OR POSITIVE DRUG OR ALCOHOL TESTS

A. Discipline

An employee will be subject to appropriate disciplinary action up to and including termination from employment if:

- a. the employee tests positive for a drug or drugs;
- b. results from an alcohol test indicate a blood alcohol level of 0.02 or greater; and/or,
- c. the employee has engaged in prohibited conduct as outlined in Section V.

All employees regardless of disciplinary action taken will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

The following provisions apply to those employees who are not terminated for their policy violations:

B. Positive Test Result and/or Engaging in Prohibited Conduct.

If an employee tests positive for drugs or has an alcohol test that indicates a blood alcohol level of .04 or greater from a random, reasonable suspicion or post-accident test, or engages in prohibited conduct as outlined in Section V, the employee will be immediately removed from duties requiring the driving of a commercial vehicle. The employee will not be permitted to return to work unless he/she:

1. has been evaluated by a qualified Substance Abuse Professional; and,
2. if recommended by a Substance Abuse Professional, has properly followed any rehabilitation prescribed; and,
3. has a verified negative result on a return-to-duty alcohol (<0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as recommended by the Substance Abuse Professional and the District, with a minimum of six such unscheduled tests within the first twelve months of returning to duty.

C. Alcohol Concentration of 0.02 but less than 0.04

Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours.

SILVER LAKE WATER DISTRICT
DRUG AND ALCOHOL TESTING PROCEDURES MANUAL

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I. INTRODUCTION

A. Requirement to Participate in Drug and Alcohol Testing Program

The Silver Lake Water District is required by Federal regulation to administer a testing program for drug and alcohol use for employees who are required to have and maintain a Commercial Driver's License to perform their job duties.

B. Covered Employees

The following groups of employees are required by law to participate in the drug and alcohol testing program:

1. Regular employees who are required to operate a commercial vehicle as part of their routine job duties;
2. Temporary employees who are required to operate a commercial vehicle as part of their routine job duties;
3. Any employee who possesses a Commercial Driver's License who may at any time operate a commercial vehicle on an on-call, emergency or unscheduled bases (including supervisory employees who may be called upon at any time to operate a commercial motor vehicle);
4. Current employees who transfer or promote to a position requiring operation of a commercial vehicle and possession of a Commercial Driver's License;
5. A pre-employment drug test is required of all persons given a conditional job offer for a position that meets the description outlined above.

C. Designated Contact

The following individual(s) have been designated by the District to answer questions about the program and program materials:

Patrick Curran	General Manager
Bruce Nelson	Operations Manager
Mary Eastman	Office Manager

D. Testing, Evaluation and Referral Services

The District has joined the Association of Washington Cities (AWC) Drug and Alcohol Testing Consortium for much of the administration of this program. The AWC consortium has contracted with Virginia Mason to conduct the random testing services, provide the testing laboratory facilities, arrange the testing collection sites, and provide the Medical

Review Officer (MRO) functions. The services of a Substance Abuse Professional (SAP) are also available for employees with positive test results.

Drug and Alcohol Testing Collection Site:

Everett Clinic
3901 Hoyt
Everett, Wa. 98201

Testing Laboratory:

Drug Proof
Nordstrom Medical Tower
P.O. Box 14950
Seattle WA 98114
(206) 386-2454

Medical Review Officers

Robert D. Petrie, M.D.
or
Samuel Strauss, DO, MPH, FACPM
Virginia Mason Occupational Medicine
6720 Southcenter Blvd.
Suite 110
Tukwila WA 98188
(206) 242-3651

Substance Abuse Professional

Olympic Resources
18720 33rd Ave West, Suite 200
Lynnwood WA 98037
1-800-624-5357

Olympic Resources will refer caller to a Substance Abuse Professional in the local area.

II. TESTING PROCEDURES

A. Pre-Employment Testing

Following a conditional offer of employment, prospective employees will be tested for the presence of drugs as part of the pre-employment physical examination.

Current employees who are transferring from a position that does not require a Commercial Driver's License to a position that does require one, will be tested for the presence of drugs prior to performing duties

that require driving or operating a commercial vehicle.

A positive drug test result for an employment candidate will result in rescinding the conditional offer of employment by Silver Lake Water District. The individual will only be eligible to re-apply for a position covered by these procedures after six months. Employees seeking to transfer to a position requiring the driving of a commercial vehicle will be denied the transfer and are subject to discipline as described in the Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles.

B. Random Testing

The names and social security numbers for employees covered by these procedures at the District have been included in the AWC Drug and Alcohol Testing Consortium pool. This pool contains all eligible individuals from all of the consortium members. The pool database is managed by Virginia Mason and is updated monthly as changes in personnel occur.

The annual random testing rate required under federal regulations is 50% of the pool for drug testing and 25% of the pool for alcohol testing. This means that if the pool contains 1,000 members, there will be at least 500 random drug tests and at least 250 random alcohol tests conducted throughout the year.

Virginia Mason uses a software program called HEIDI to randomly select individuals for random testing on a monthly basis. Some individuals will be selected for drug testing and others will be selected for both drug and alcohol testing.

Each month, Virginia Mason will send the names of individuals selected for random testing to the appropriate consortium member contacts. If Silver Lake Water District has any employees selected for testing, the names will be sent to the designated contact.

Employees selected for random testing will be scheduled for a test by the designated contact at some time during the month that the name was selected. Employees selected for alcohol testing may only be tested just before, during or after driving a commercial vehicle. Employees will not be notified until just prior to the testing.

Upon notification of selection for random testing, the employee will receive an Employee Notification of Scheduled Drug and/or Alcohol Test letter from the designated contact. The employee will be asked to sign this letter and a Testing Consent form. The employee must present the Employee Notification of Scheduled Drug and/or Alcohol Test letter at the collection site along with picture identification at the time of testing. A copy of all of the forms will be retained by the District.

After notification, the employee must proceed directly to the collection site for testing accompanied by a supervisor or other designee.

The collection and testing procedures are outlined in Attachment B .

If an employee scheduled for an alcohol test receives a confirmed test result with a blood alcohol level of 0.02 or above and is unaccompanied at the collection site, a supervisor will be called to the site to transport the employee.

Refusing to submit to a test will be considered the same as a positive test result and will subject the employee to the same consequences as receiving a positive test result.

C. Reasonable Suspicion Testing

According to the federal regulations, reasonable suspicion testing is to be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee." Only supervisors who have been trained in detecting the symptoms of alcohol misuse or drug use and who have directly observed behaviors, appearance or physical symptoms can subject an employee to reasonable suspicion testing. Supervisors should complete a Reasonable Suspicion Observation Form and if possible have the form signed by a witness.

If a supervisor has reasonable suspicion to believe that an employee who is on duty, about to go on duty or just completed duty is under any influence of drugs or alcohol, the supervisor will remove the employee from duty immediately. The employee will be advised of the reasons for reasonable suspicion and will be transported to the collection site by the supervisor for testing.

Reasonable suspicion alcohol testing may only occur just before, during or after an employee drives a commercial vehicle. If a reasonable suspicion alcohol test is not conducted within two hours of determination that it is necessary, the supervisor will prepare and maintain documentation of the reasons why it did not occur.

D. Post-Accident Testing

All employees covered by these procedures will be subject to post-accident testing if they are involved in an accident with a commercial vehicle on a public road which results in:

1. A fatality OR
2. The driver receives a citation under state or local law for a moving violation AND
 - a. there is bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from

the scene OR

- b. one or more motor vehicles incurs disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

After an accident, employees are responsible for contacting the immediate supervisor or other management personnel. If the above conditions are met, the employee must make themselves available for post-accident testing as soon as possible. Post-accident testing for alcohol should occur within two hours if possible, but may not exceed eight hours. Testing for drugs should occur within 32 hours.

Employees subject to post-accident testing are prohibited from consuming alcohol for eight hours following the accident, or until the employee has completed the alcohol test, whichever comes first. An employee who does not comply with the post-accident testing will be considered to have refused testing and will be subject to disciplinary action. An employee in a post-accident situation should cooperate with law enforcement personnel investigating the scene.

Supervisors are responsible for determining if the accident qualifies the driver for post-accident testing and should escort the employee to the collection site if possible. If an employee is unable to provide consent to testing due to their medical condition, the supervisor will document the reasons why the employee was not tested. If testing is not completed within the required time following an accident, the supervisor will document in writing why the tests were not administered.

E. Return to Duty and Follow-Up Testing

All employees who have engaged in prohibited conduct as defined in the Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles, including those who have tested positive for drugs or alcohol, are subject to return to duty and may be subject to follow-up testing.

1. Return to Duty Testing

After engaging in prohibited conduct regarding alcohol or drug use, an employee is required to undergo a return to duty alcohol and/or drug test prior to returning to a duty which requires driving a commercial vehicle. A return to duty alcohol test must result in a breath alcohol concentration of 0.02 or less. A return to duty drug test must result in a verified negative result.

2. Follow Up Testing

An employee who returns to work after evaluation by a Substance Abuse Professional (SAP) determining that the employee is in need of assistance in resolving problems associated with alcohol misuse or drug abuse is subject to unannounced follow up alcohol

and/or drug testing as directed by the SAP and the District, but no less frequent than six times in the first year following the return to work. The follow up testing period may not exceed 60 months for each incident.

F. After Hours Testing

If the need for testing occurs outside of the normal hours of operation of the designated collection site, a supervisor or manager will be responsible for following the procedures established by Virginia Mason for such occurrences.

III. TESTING COSTS AND COMPENSATION

A. Testing Costs

1. The District will pay for the following alcohol and or initial drug tests:

- a. Random testing
- b. Reasonable suspicion testing
- c. Post-accident testing
- d. Pre-employment
- e. Follow-up testing
- f. Return to duty testing

2. Employees are responsible for the costs associated with the following tests:

- a. Split sample re-tests made at the employee's request

If a split sample re-test returns a negative result, the District will reimburse the employee for the cost of the test.

3. Substance Abuse Professional and rehabilitation costs will be the responsibility of the employee.

B. Pay Status

1. For Time Spent Testing

Employees will be compensated for time spent to report to the testing facility and be tested for the following alcohol and/or initial drug tests:

- a. Random testing
- b. Reasonable suspicion testing
- c. Post-accident testing
- d. Return to duty testing

e. Follow-up testing

Employees are responsible for taking the following tests on their own time:

a. Split-sample re-tests made at the employee's request

2. Waiting for Results

Employees who have been asked to submit to a reasonable suspicion drug test will be placed on unpaid leave pending the outcome of the test results. Such employees are eligible to use accrued vacation or sick leave during this time. If the test result is negative, the time will be paid and any sick or vacation leave used will be credited.

3. Alcohol Concentration of 0.02 but less than 0.04

If an employee receives an alcohol test result of at least 0.02 but less than 0.04, the employee must be removed from duty which requires driving a commercial motor vehicle for at least 24 hours following the administration of the test. The employee may use accrued vacation or sick leave during this absence.

4. Positive Drug Test or Alcohol Test Result of 0.04 or Higher

An employee who receives a positive drug test or who tests 0.04 or greater on an alcohol test is not allowed to return to work until all of the applicable requirements are met as outlined in the Policy (see Consequences of Engaging in Prohibited Conduct and Positive Drug or Alcohol Test). Such employees may use accrued vacation or sick leave during this absence.

IV. TESTING METHODS

A. Drug Testing

The drug testing requires candidates to provide a urine specimen of at least 45 ml to be tested for the presence of amphetamines, cocaine, marijuana (THC), opiates, and phencyclidine (PCP). The specimen will be sent to Drug Proof, a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMSHA) to conduct screening and confirmation tests according to the protocols identified in the Department of Transportation Rules. All test results will be reviewed by the Medical Review Officer (MRO). Specific collection procedures and analytical procedures are covered in Attachment B.

B. Alcohol Testing

Alcohol testing will be conducted using an approved evidential breath testing (EBT) device operated by a trained breath alcohol technician (BAT) at the collection site. The first test performed will be a screening test. If the screening test results in an alcohol concentration of less than 0.02, it will be considered a negative test. If the screening test results in an alcohol concentration of 0.02 or greater, a second, or confirmation test is performed within 15 to 20 minutes. Specific alcohol testing procedures are covered in Attachment B.

V. TRAINING AND EDUCATION

The District will provide all affected employees with copies of these procedures and the Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles and other information as may be required by the federal regulations. Each driver must sign a receipt upon having been provided the above referenced information.

Managers and supervisors designated to determine whether reasonable suspicion exists to require a driver to undergo alcohol or drug testing will receive at least 60 minutes of training on alcohol and 60 additional minutes of training on drug abuse. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.