

(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)

CDL Fleet Drug Alcohol Policy

This document is intended for general information purposes only. It should not be construed as legal advice or legal opinion regarding any specific or factual situation. Always follow your organization's policies and procedures as presented by your manager or supervisor. For further information regarding this document, contact your Safety Director at 877.398.3046.

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Introduction

This policy outlines the responsibilities of employees, supervisors and managers with regard to drug and alcohol testing of employees in Commercial Drivers License (CDL) positions in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991, which was adopted by New Jersey under provisions of the N.J.S.A. 39:5B-32 and N.J.A.C. 13:60-2.1.

Policy Statement

It is the policy of the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** to comply fully with the regulations mandating pre-employment, random, reasonable suspicion, post-accident, return-to-duty & follow-up drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation. This policy applies to employees whose job requires them to obtain and retain a Commercial Drivers License (CDL) and operate a Commercial Motor Vehicle (CMV). Positions and employees covered by this Policy shall be referred to herein as “CDL positions” and “CDL employees” respectively.

This policy contains the requirements of the regulations, except where indicated that a particular provision is based on the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)**, as follows:

The performance of safety-sensitive functions is prohibited by CDL employees:

- having a breath alcohol concentration of 0.040 percent or greater as indicated by an alcohol breath test;
- using alcohol or within four hours after using alcohol; and
- in the possession of any medication containing alcohol unless the package seal is unbroken.
- using controlled substances prohibited by this Policy and regulations issued by the U.S. Department of Transportation.

A CDL employee is performing a safety-sensitive function at the following times:

- All time on **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** property, public property, or other property waiting to be dispatched to drive,
- All time inspecting, servicing or conditioning any CMV at any time,
- All CMV driving time,
- All time other than driving time in or upon any CMV,
- All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving receipts for shipments loaded or unloaded,
- All time spent performing driver requirements relating to accidents, and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Definitions

Accident: An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene.

Breath Alcohol Technician (BAT): A person who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Commercial Driver's License (CDL): A special license required of drivers who drive Commercial Motor Vehicles which meets the following criteria:

- Meets or exceeds 26,001 lbs. gross vehicle weight; or
- Transports 16 or more passengers, including the driver; or
- Transports hazardous materials as determined by the Hazardous Materials Act, 49 USC 5101, and are required to placard the vehicle under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

Commercial Motor Vehicle (CMV): Any self-propelled or towed vehicle used on a highway, any roadway or passage which may be available to public transportation at any time, whether on private or public property, in interstate or intrastate commerce to transport passengers or property when the vehicle:

- Has a gross vehicle weight rating or gross combination weight (including trailers) rating of 10,001 lbs. or more; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of hazardous materials as determined by the Hazardous Materials Transportation Act, 49 USC 5101, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

Confirmation Test: For alcohol testing, a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration. For controlled substances testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test in order to ensure reliability and accuracy.

Designated Employer Representative (DER): An employee authorized by **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes.

Driver: Any person who operates a commercial motor vehicle. For purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.

Evidential Breath Testing device (EBT): A device approved by the National Highway Traffic Safety Administration ("NHTSA") for the evidential testing of breath at the 0.020 and 0.040 alcohol concentrations,

placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" ("CPL"), and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

Medical Review Officer (MRO): A licensed physician responsible for receiving and reviewing certified laboratory results generated by the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** drug testing and for evaluating medical explanations for certain drug test results.

Screening test:

In alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.

In controlled substance testing it means an immunoassay screen to eliminate negative urine specimens from further consideration.

Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning evaluation, treatment, follow-up testing, and after-care.

Types of Tests: To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. All testing required by this policy will be conducted in accordance with the Omnibus Transportation Employee Testing Act of 1991 and drug testing guidelines and regulations issued by the Department of Transportation. The following tests are required:

Pre-employment. All applicants for employment in CDL positions, or candidates for transfer or promotion to such positions are subject to screening for improper use of alcohol or controlled substances.

Post Accident. Conducted on CDL employees after accidents in **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** vehicles that result in fatalities or whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, which included:

1. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; and/or;
2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(Note: These are the minimum post accident drug and alcohol testing requirements in accordance with U.S. Department of Transportation regulations. This section should be modified to meet your Municipality/Authority's policy.)

Alcohol tests should be conducted as soon as possible, but in no case more than 8 hours, after the accident. CDL employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.

Reasonable Suspicion. Conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or illicit drug misuse.

- If a CDL employee's behavior or appearance suggests alcohol or drug misuse, a reasonable suspicion test must be conducted.
- If a test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours.
- Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties.
- Testing for substance abuse may occur at any time upon suspicion.

Random. Conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for drugs.

- Each year, the number of random alcohol tests conducted by the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** must equal at least 10% of all the safety-sensitive CDL employees.
- Random drug tests conducted by the **(INSERT YOUR MUNICIPALITY/ AUTHORITY HERE)** must equal at least 25% of all CDL employees.

(Note: The percentage of random drug and alcohol tests required by the U.S. Department of Transportation is subject to change and is issued annually. The rates are always effective starting January 1 of the calendar year. To check the current rate, ODAPC's website at <http://www.dot.gov/ost/dapc/rates.html> . This policy should be reviewed annually and updated to reflect the most current requirements. Be sure to use a scientifically valid method to select employees for testing.)

Return to Duty and Follow-up. Conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety-sensitive duties.

- Follow-up tests are unannounced and at least six (6) direct observed tests must be conducted in the first twelve (12) months after a driver returns to duty.
- Follow-up testing may be extended for up to sixty (60) months following the return to duty.

Conducting Tests

Alcohol: DOT rules require breath testing using evidential breath testing (EBT) devices.

- Two breath tests are required to determine if a person has a prohibited alcohol concentration.
- A screening test is conducted first. Any result less than 0.020 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.020 or greater, a second, confirmation test must be conducted.

Drugs: Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility.

- Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised.

- DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to make a request to the Medical Review Officer (MRO) that the split specimen be sent to another DHHS certified laboratory for analysis.
- All urine specimens are currently analyzed for the following drugs:
 - Marijuana (THC metabolite)
 - Cocaine
 - Amphetamines
 - Opiates (including heroin), and
 - Phencyclidine (PCP)
 - MDMA (Ecstasy)
- Testing is conducted using a two-stage process.

First, a screening test is performed.

If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug.

All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)**.

If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen.

For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. The MRO will take into consideration when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

If the MRO determines that the drug use is legitimate, the test will be reported to the Designated Employer Representative, as a negative result.

The **(MUNICIPALITY/AUTHORITY)** will only recognize drug and alcohol testing results that were received from an authorized lab and reviewed and reported by the designated Medical Review Officer (MRO).

Refusal to Submit to an Alcohol or Drug Test and the Consequences

Refusal to submit to an alcohol or controlled substances test means that a CDL employee:

- Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy,
- Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy,
- Refuses to wash his or her hands after being directed to do so during collection of a urine sample,
- Admits to the collector of a urine sample that he or she has adulterated or substituted their specimen,
- An observed collection of a urine sample, fails to follow the observer's instructions to raise his or her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he or she has any type of prosthetic or other device that could be used to interfere with the collection process,
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process, or
- Behaves in a confrontational way that disrupts the collection process or otherwise engages in conduct that clearly obstructs the testing process.

CDL employees who refuse to submit to an alcohol or drug test are not allowed to perform safety-sensitive functions. Pursuant to the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** authority, CDL employees who refuse to submit to a test will be subject to discipline, up to and including discharge.

Consequences of Alcohol/Drug Misuse

CDL employees who have any alcohol concentration, defined as 0.02 or greater, who are tested just before, during or just after performing safety-sensitive functions must be removed from performing such duties for a minimum 24 hours.

The remainder of this section should be modified to reflect your Municipality / Authority policy

Disciplinary action may be imposed upon an employee whose alcohol test reveals any alcohol concentration, between 0.02 and 0.04. CDL employees who engage in prohibited alcohol or drug conduct, CDL employees who test positive for alcohol use greater than 0.04 or drug use, must be immediately removed from safety-sensitive functions and complete return to duty protocols before returning to prior safety-sensitive functions.

Disciplinary action, up to and including termination, may be imposed upon a CDL employee who engages in prohibited alcohol or drug conduct, CDL employees who test positive for alcohol use greater than 0.04 or drug use.

Unless the circumstances warrant more serious discipline, the first time a CDL employee tests positive for alcohol use greater than 0.04 or drug use, he/she shall receive a one (1) day unpaid suspension.

If a CDL employee tests positive for alcohol use greater than 0.04 or drug use for a second time within a five year period following his/her first positive test, he/she will be terminated.

A CDL employee in his/her probationary period who tests positive for any alcohol concentration (defined as 0.04 or greater) or drug use, shall be terminated.

A CDL employee who tests positive for alcohol use greater than 0.04 or drug use, but is not terminated must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with his/her alcohol or drug problem.

The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees may be placed on sick leave or leave without pay status during the treatment period, whichever is appropriate.

CDL employees who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.04, and who are then subject to unannounced follow-up tests, may return to work.

Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.

Recordkeeping

The **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** is required to keep detailed records of its alcohol and drug misuse prevention program.

Alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with any applicable collective bargaining agreement. Any other release of this information may only be made with the driver's consent, or in response to a court order.

Pre-employment References

The **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** is required obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two years:

- Information about a test in which the employee's blood alcohol was 0.04 or greater,
- Information about a positive drug test, and
- Information about any refusal to participate in the alcohol and drug testing program.

The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.

If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be hired unless:

- He/she has already consulted with a substance abuse professional,
- Already received recommended treatment, and

- Subsequently tested negative in a return to duty test for the former employer.

The **(MUNICIPALITY/AUTHORITY)** must provide the same information to subsequent employers of current employees when provided with a written release.

Employee Confirmation of Receipt of the

(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)

Drug and Alcohol Testing Policy

I hereby certify that I was given a copy of the **(INSERT YOUR MUNICIPALITY/AUTHORITY HERE)** CDL Drug and Alcohol Testing Policy, and have been given an opportunity to ask questions of my supervisor about the content of the policy.

Employee's Name _____

Employee's Signature _____

Date _____