

DRUG AND ALCOHOL POLICY

This company's policy is to balance respect for individual privacy with the need to keep a safe, productive, drug-free environment. It is our desire to prevent alcohol and substance abuse and encourage those who abuse drugs or alcohol to seek assistance. This company adheres to the following policy:

POLICY AND WORK RULES

It is the company policy to employ those individuals who do not use illegal drugs or abuse alcohol or abuse prescription drugs, on or off the job. This policy affects all drivers, mechanics, dispatchers, and any other employee involved in safety sensitive functions and their supervisors during the time of employment with this company. Anyone who violates this policy is subject to disciplinary action, up to and including termination of employment. Any employee who is subject to D.O.T. testing is subject to testing for drugs and/or alcohol in accordance with the D.O.T. regulations, and to all provisions.

The person who will serve as the **Designated Employer Representative (DER)** and will be responsible for implementing the drug and alcohol program for this company is as follows:

To uphold this standard, the company adheres to the following drug and alcohol testing requirements:

1. **PRE-EMPLOYMENT TESTING (49 CFR 382.301)**

The company uses a pre-employment drug-screening test as a pre-qualification condition of employing any person whose functions are subject to D.O.T. regulations. All drivers must pass the required drug test prior to employment. All such persons must agree to submit, when requested, to a breath test for alcohol and urine test for drugs. Anyone refusing to submit to an alcohol or controlled substance test as required in this policy will be immediately disqualified. (Refusal means failing to submit to the required test without a valid medical reason.) No driver will use alcohol or have any measured alcohol concentration or detected presence of alcohol while on duty, or operating or in physical control of a commercial motor vehicle. Anyone violating this policy will be subject to disqualification and dismissal. The rule regulating Pre-Employment testing is 49 CFR 382.301.

2. **POST ACCIDENT ALCOHOL TESTING (49 CFR 382.303)**

An employee is required to submit to a post-accident alcohol test and the employer is required to conduct this test under the following conditions.

- Any person involved in the accident dies
- The driver receives a citation within 8 hours of the accident for a moving traffic violation arising from the accident and the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident
- The driver receives a citation within 8 hours of the accident for a moving traffic violation arising from the accident and as a result of the accident; one or more of the vehicles incur disabling damage requiring the vehicle to be transported from the scene by a tow truck or other motor vehicle.

When a required post-accident alcohol test has not been administered within the times frames stipulated by the regulation, the following actions must be taken:

- If the driver has not submitted to an alcohol test within 2 hours, the employer must prepare and maintain on file a record stating the reason a test was not promptly administered.
- If the driver has not submitted to alcohol test within 8 hours, cease attempts to administer the test and prepare and maintain the record described above.

3. **POST ACCIDENT DRUG TESTING (49 CFR 382.303)**

An employee is required to submit to a post-accident drug test when the driver is involved in an accident and the following has occurred:

- Any person involved in the accident dies
- The driver receives a citation within 32 hours of the accident for a moving traffic violation arising from the accident and the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment taken away from the scene of the accident
- The driver receives a citation within 32 hours of the accident for a moving traffic violation arising from the accident and as a result of the accident, one or more of the vehicles incur disabling damage requiring the vehicle to be transported from the scene by a tow truck or other motor vehicle.

If a driver has not submitted to a drug test within 32 hours, the employer must cease attempts to administer the test, and prepare and maintain a record stating the reasons why.

Note: Nothing in the regulations should be construed as to require the delay of necessary medical attention for injured people following the accident. Also, the driver is not prohibited from leaving the scene of an accident, or to obtain emergency medical care.

Employers are required to provide the necessary information, procedures, and instructions to their drivers to allow them to be tested after the accident, or to obtain emergency medical care.

Any driver who does not require transportation to a medical facility by emergency personnel will be driven to the collection site and/or hospital for drug and alcohol collection services by company personnel.

§382.209 Use following an accident.

No driver required to take a post-accident alcohol test under §382.303 shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

4. **RANDOM TESTING (49 CFR 382.305)**

This company will conduct random drug tests during the year equal to 50% of the employees subject to testing. The company will conduct random alcohol tests during the year equal to 10% of the employees subject to testing. The company will use a computerized random selection process using social security numbers, license numbers, and/or dates of birth as a pool list.

5. **REASONABLE SUSPICION TESTING (49 CFR 382.307)**

This company policy requires an employee to submit to testing for reasonable cause. The decision will be based on the belief that the employee is under the influence of prohibited drugs or alcohol. When requested by the employee's supervisor, the employee is to submit to an evaluation. **The driver will be taken to the collection site and upon completion of the collection; arrangements will be made by the supervisor for the employee to be taken home instead of driving their own vehicle.**

In regard to all aforementioned testing, this company will ensure that all persons tested are protected to the extent possible within the regulations. The integrity of the testing procedures will be maintained to safeguard the validity of the test and to ensure that the results are attributed to the proper person.

SUBPART B----PROHIBITIONS

§382.201 Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

§382.205 On-duty use.

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

§382.207 Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

§382.211 Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under §382.303, a random alcohol or controlled substances test required under §382.305, a reasonable suspicion alcohol or controlled substances test required under §382.307, or a follow up alcohol or controlled substances test required under §382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Refusal occurs when:

- Driver fails to appear for any test within a reasonable time
- Driver fails to remain at the testing site until the testing process is complete
- Drivers fails to provide a urine specimen for drug testing or saliva or breath specimen for alcohol testing
- Driver fails to provide enough urine for drug testing or an adequate amount of saliva or breathe for alcohol testing and there is no medical explanation for the failure.
- In the case of a directly observed or monitored drug test collection, the driver fails to permit the observation or monitoring of your provision of the specimen.

- The driver fails or declines to a second drug test when directed by an employer or collector.
- Driver fails to undergo a medical examination or evaluation as part of:
 - The verification process for drug testing or as directed by the designated employer representative (DER)
 - “Shy bladder” procedures for drug testing or
 - Insufficient breath procedures for alcohol testing
- The driver fails to cooperate with any part of the testing process.
- A verified adulterated or substituted drug test is also considered a refusal to test.

§382.213 Controlled substances use.

- (a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle.
- (b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.
- (c) An employer may require a driver to inform the employer of any therapeutic drug use.

§382.215 Controlled substances testing.

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

§382.411 Employer Notifications

- (a) An employer shall notify a driver of the results of a pre-employment controlled substances test conducted under this part, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application. An employer shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this part if the test results are verified positive. The employer shall also inform the driver

which controlled substance or substances were verified as positive.

- (b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.
- (c) The designated employer representative shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 72 hours.

ACTION TO BE TAKEN FOR A POSITIVE DRUG TEST

§40.129 MRO's functions in reviewing laboratory confirmed positive, adulterated, substituted, or invalid drug test results.

The MRO, except in the circumstances spelled out in §40.133, is to conduct a verification interview. This interview must include direct contact in person or by telephone between the MRO and the employee. The MRO may initiate the verification process based on the laboratory results report.

§40.23 Actions for employers to take after receiving verified test results.

- a) As an employer who receives a verified positive drug test result, you must immediately remove the employee from performing safety-sensitive functions. You must take this action upon receiving the initial report of the verified positive test result. Do not wait to receive the written report or the result of a split specimen test.
- b) As an employer who receives a verified adulterated or substituted drug test result, you must consider this a refusal to test and immediately remove the employee involved from performing safety-sensitive functions. You must take this action on receiving the initial report of the verified adulterated or substituted test result. Do not wait to receive the written report or the result of a split specimen test.
- c) As an employer who receives an alcohol test result of 0.04 or higher, you must immediately remove the employee involved from performing safety-sensitive functions. If an alcohol test result of 0.02—0.039 is received, you must temporarily remove the employee involved from performing safety-sensitive functions, as provided in applicable DOT agency regulations. Do not wait to receive the written report of the result of the test.

- d) As an employer, when an employee has a verified positive, adulterated, or substituted test result, or has otherwise violated a DOT agency drug and alcohol regulation, you must not return the employee to the performance of safety-sensitive functions until or unless the employee successfully completes the return-to-duty process of Subpart O of this part.
- e) As an employer who receives a drug test result indicating that the employee's specimen was dilute, take action as provided in §40.197.
- f) As an employer who receives a drug test result indicating that the employee's specimen was invalid and that a second collection must take place under direct observation----
 1. You must immediately direct the employee to provide a new specimen under direct observation.
 2. You must not attach consequences to the finding that the test was invalid other than collecting a new specimen under direct observation.
 3. You must not give any advance notice of this test requirement to the employee.
 4. You must instruct the collector to note on the CCF the same reason (e.g. random test, post-accident test) as for the original collection.
 - g) As an employer who receives a cancelled test result when a negative result is required (e.g., pre-employment, return to duty, or follow up test), you must direct the employee to provide another specimen immediately.
 - h) As an employer, you may also be required to take additional actions required by DOT agency regulations.

§40.197 Actions by employer upon receiving a report of a diluted specimen.

- (a) As the employer, if the MRO informs you that a positive drug test was dilute, you simply treat the test as a verified positive test. You must not direct the employee to take another test based on the fact that the specimen was dilute.
- (b) As an employer, if the MRO informs you that a negative test was dilute, take the following action:
 1. If the MRO directs you to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL (see §40.155(c)), you must do so immediately.
 2. Otherwise (i.e., if the creatinine concentration of the dilute specimen is greater than 5 mg/dl), you may, but are not required to, direct the employee to take another test immediately.

- (i) Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see§40.67 (b) and (c)).
 - (ii) You must treat all employees the same for this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment situations, but not in random test situations). You must inform your employees in advance of your decisions on these matters.
- (c) The following provisions apply to all tests you direct an employee to take under paragraph (b) of this section:
1. You must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site:
 2. You must treat the result of the test you directed the employee to take under paragraph (b) of this section---- and
 3. not a prior test—as the test result of record, on which you rely for purposes of this part;
 4. If the result of the test you directed the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs you to conduct a recollection under direct observation under paragraph (b)(1) of this section, you must immediately do so.
 5. If the employee declines to take a test you directed him or her to take under paragraph (b) of this section, the employee has refused the test for purposes of this part and DOT agency regulations.

Each employee that has a positive test must be evaluated by a Substance Abuse Professional who will determine how many tests must be administered over the next 60 months. There is a required minimum of six tests to be completed within the 12 months following the evaluation.

The employer is only required to give the name and phone number of a Substance Abuse Professional and is not required to pay for the evaluation.

Any driver who has had an evaluation from a Substance Abuse Professional has to complete the required number of tests even if he changes employers.

All positive tests will be reported to the State of Texas for entry into the state drug and alcohol database.

Self-admission of Alcohol and Drug Use

The regulations include a provision that allows an employer to establish a program that lets a driver voluntarily admit to alcohol abuse or drug use without DOT consequences. If an employer has a self-identification program, it must be in writing. The self-identification program must meet certain regulatory requirements:

- 1. An employer may not take disciplinary action against a driver who makes a voluntary admission of alcohol mis-use or drug use if:**
 - a. The driver's admission is in accordance with the employer's voluntary self-identification program
 - b. The driver does not admit to a substance abuse problem in order to avoid required testing.
 - c. The driver admits to a substance abuse problem before performing a safety-sensitive function
 - d. The driver does not perform a safety-sensitive function until the employer is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program or policy guidelines.

- 2. A qualified voluntary self-identification program must:**
 - a. Prohibit an employer from taking adverse action against a driver voluntarily admits to alcohol misuse or drug use
 - b. Allow the driver to seek evaluation, education, or treatment to Establish control over his or her problem
 - c. Permit the driver to return to safety-sensitive duties upon successful completion of an educational or treatment program as determined by a drug and alcohol abuse evaluation expert.

- 3. Before returning to a safety-sensitive function, the driver must undergo:**
 - a. A return-to-duty alcohol test with a result of less than 0.2; and/or
 - b. A return-to-duty drug test with a verified negative test result.

SUMMARY

It is well recognized that drug and/or alcohol abuse is detrimental to the health, well being, and stability of the individual employee, and being under the influence of drugs and/or alcohol while attempting to perform one's job task creates unacceptable health and safety risks to the employee, fellow employees, customers, and general public. Therefore, it is the policy of this company to confront, test, and refer drivers to an employee assistance program whenever a drug and/or alcohol test is positive.

This company does not pay for an Employee Assistance Program. However, upon the discovery that an employee has engaged in conduct prohibited by the regulations governing drug and alcohol abuse it is the policy of this company to provide that employee with names, addresses, and telephone numbers of Substance Abuse Professionals and counseling and treatment programs.

ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS POLICY OR THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS PERTAINING TO DRUG OR ALCOHOL ABUSE OR REFUSES TO SUBMIT TO ANY OF THE ABOVE TESTS ARE SUBJECT TO DISCHARGE BY THIS COMPANY.

DRUG AND ALCOHOL ABUSE POLICY

I, _____, certify that I have read the
(Print employees name)

actual policy or attended a company safety meeting discussing the Drug and Alcohol Policy used by this company and do understand and agree to abide by this company's statement of policy concerning drug and alcohol abuse, which follow the Federal Motor Carrier Safety Association guidelines.

(Driver's signature)

(Date)