

REVISED GUIDELINE – VOL. 25, NO. 2

DRUG AND ALCOHOL TESTING  
PROGRAM FOR CDL LICENSE HOLDERS

The purpose of the CorporationCareer Center's drug-testing program is to institute and maintain a program for achieving the objective of a drug-free work force and to provide a workplace that is free from the illegal and improper manufacture, distribution, dispensing, possession, sale, and use of alcohol and controlled substances.

The program will assist CDL license holders in understanding and avoiding the perils of illegal drug use and controlled substance abuse. The CorporationCareer CenterCareer Center will provide a comprehensive drug-free awareness program as an ongoing educational effort to prevent and eliminate illegal drug use and controlled substance abuse. The drug-free awareness program will inform CDL license holders about:

- A. the dangers of illegal drug use and controlled substance abuse (such materials may be available through a local health care facility);
- B. the Board's policy on drug-free schools, drug testing, and other related to the use of controlled substances;
- C. the availability of treatment and counseling for employees who voluntarily seek such assistance;
- D. the sanctions the CorporationCareer CenterCareer Center will impose for violations of its policies related to this program.

**Definitions**

- A. Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication), containing alcohol.
- B. Controlled substances mean the following substances:
  - 1. marijuana metabolites;
  - 2. cocaine metabolites;

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3. amphetamines;

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4. opiate metabolites;
  5. phencyclidine (PCP).
- C. Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent, or occasional drivers; **leased** drivers and independent owner-operator contractors.
- D. Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which s/he is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- E. Refuse to submit (to an alcohol or controlled substances test) means that a driver:
1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a tests when called by a C/TPA (see **49 CFR** § 40.61(a)-~~of this title~~).
  2. Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see **49 CFR** § 40.63(c)-~~of this title~~) for a pre-employment test is not deemed to have refused to test.
  3. Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because s/he has left the testing site before the testing process commences (see **49 CFR** § 40.63(c)-~~of this title~~) for a pre-employment test is not deemed to have refused to test.
  4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see **49 CFR** § 40.67(1) and 40.69(g)-~~of this title~~).

5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see **49 CFR** § 40.193(d)(2) ~~of this title~~).
  6. Fails or declines to take a second test the employer or collector has directed the driver to take.
  7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under **49 CFR** § 40.193(d) ~~of this title~~. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
  8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
  9. Is reported by the MRO as having a verified adulterated or substituted test result.
- F. Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:
1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
  2. All time inspecting equipment as required by **49 CFR** §§ 392.7 and 392.8 ~~of this subchapter~~ or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
  3. All time spent at the driving controls of a commercial motor vehicle in operation.

4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR §§ 393.76 ~~of this subchapter~~).
5. 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 or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### **PROHIBITED ACTIVITIES**

All CDL license holders are required to abide by Board policies related to drugs and alcohol, including observing the following prohibitions. Any violation will lead to disciplinary action including termination of employment.

#### **A. 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 supervisor, who has 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.

#### **B. On Duty Use**

No driver shall use alcohol while performing safety-sensitive functions. No supervisor, 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.

C. **Pre-Duty Use**

No driver shall perform safety-sensitive functions within four (4) hours of using alcohol. No supervisor, having actual knowledge that a driver has used alcohol within four (4) hours, shall permit the driver to perform or continue to perform safety-sensitive functions.

D. **Use Following an Accident**

No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.

E. **Refusal to Submit**

No driver shall refuse to submit to a **pre-employment controlled substances test**, a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, a **return-to-duty alcohol or controlled substances test**, or a follow-up alcohol or controlled substances tests. No supervisor shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

F. **Controlled Substances Use**

1. 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, who **is familiar with the driver's medical history and** has advised the driver that the substance will not adversely affect the driver's ability to safely operate commercial motor vehicle.
2. No supervisor, 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.
3. A supervisor may require a driver to inform him/her of any therapeutic use drug.

G. **Controlled Substance 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 ~~supervisory~~ **supervisor** 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.

**CONSEQUENCES OF PROHIBITED ACTIVITY**

A driver who participates in any of the prohibited activities enumerated above will be immediately removed from the performance of any safety-sensitive function and will be subject to disciplinary action including termination. Disciplinary action including termination **also** will ~~also~~ be imposed on any CDL license holder who:

- A. fails to enroll, when requested by the ~~Corporation~~ **Career Center**, in **an** alcohol or other drug treatment or counseling program and/or fails to adhere to the requirements of the program;
- B. is ~~indicated~~ **indicted** or convicted under any criminal drug statute or alcohol statute for a violation occurring in the workplace or outside the workplace;
- C. fails to notify the ~~Corporation~~ **Career Center** of any indictment or conviction under any criminal drug statute or alcohol statute within five (5) days of the event; **or**
- D. does not comply with regulations promulgated under any testing program.

~~CHOOSE BOTH OR NEITHER OF THE FOLLOWING TWO (2) PARAGRAPHS~~

- ~~(-) In addition to any disciplinary action, the Corporation may, for a first offense, in its sole discretion, refer the staff member to a treatment or counseling program for alcohol or drug abuse. CDL license holders referred to such a program by the Corporation must immediately cease any use of alcohol, illegal drugs or controlled substances, must consent to unannounced testing, and must comply with all other conditions of the treatment or counseling program and the disciplinary action imposed by the Corporation. Appropriate Corporation representatives shall determine whether a staff member referred for use of alcohol, illegal drugs, or controlled substance shall be reassigned to another available position.~~
- ~~(-) After successful completion of all program requirements, the CDL license holder will again be subject **again** to the Corporation's testing program which applies to CDL license holders who are applying for employment. The Corporation **also** may also require continued testing for a specific period of time for any CDL license holder who has been referred to an alcohol or drug program by the Corporation.~~

TESTING FOR ALCOHOL AND CONTROLLED SUBSTANCES

The ~~Corporation~~Career Center has established a testing program in accordance with approved United States Department of Transportation procedures, for alcohol, illegal drugs, and controlled-substances for all CDL license holders and will, in its sole discretion, determine and may at any time change the requirements, extent, and frequency of staff member testing.

**General Procedure**

- A. The ~~Corporation~~Career Center will afford applicants and CDL license holders the opportunity, prior to testing, to list all prescription and nonprescription drugs and controlled-substances they have used and to explain the circumstances surrounding the use of such drugs and controlled substances. Failure of any applicant or staff member to establish adequately a legal basis for the use of any drug or controlled-substance with respect to which s/he tests positive shall constitute a violation of these rules.

- B. Applicants and CDL license holders subject to testing must, prior to testing, sign an approved form agreeing to the testing, authorizing the release of test results to the CorporationCareer Center's Medical Review Officer (MRO), and authorizing the disclosure of the results by the MRO to the Executive Director \_\_\_\_\_ (Transportation Supervisor), the Superintendent, and/or the School Board. The MRO will obtain the results of the analyses and communicate or disclose such results to the parties named above in accordance with the CorporationCareer Center's policies and procedures and appropriate sections of the negotiated agreement.
- C. The CorporationCareer Center may use such information in connection with CorporationCareer Center business and for purposes of employment and disciplinary actions, and may disclose it when required to Government agencies and to others upon valid legal requests.
- D. The procedures that will be used for the testing for alcohol and drug use shall protect the CDL license holder and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct staff member. The procedures of the entity performing alcohol and drug testing for the CorporationCareer Center are attached to the guideline.
- E. The CorporationCareer Center, prior to taking any action, will give all CDL license holders who test positive the opportunity to explain in writing the test reasons for the results. Failure of any staff member to establish adequately a legal basis for the use of any drug or controlled-substance with respect to which the staff member tests positive shall constitute a violation of these rules.
- F. The CorporationCareer Center will establish and maintain any and all additional testing programs and requirements that may be necessary or appropriate to comply with applicable rules and regulations of all Government agencies.

**PROCEDURE TO BE USED BY TESTING FACILITY**

The procedure used by the ~~Corporation~~Career Center's testing facility are to be provided to CDL license holders along with this guideline and related policy.

**[NOTE: Legal counsel strongly recommends keeping the testing facility procedures with these guidelines but not making them part of the guideline itself.]**

**Pre-Employment Testing**

Prior to employment or upon receipt of a CDL license if already employed, each CDL license holder shall undergo testing for controlled substance and (X ) alcohol. **[NOTE: Testing for alcohol is optional for pre-employment testing.]** (X ) If a pre-employment alcohol test result indicates an alcohol content of 0.02 or greater but less than 0.04, the candidate will be retested after a waiting period of twenty-four (24) hours. **[NOTE: Choose the last sentence only if testing for alcohol was chosen.]**

If the results of a pre-employment controlled substance test ~~proves~~prove negative and diluted, a retest will be given. A second negative and diluted controlled substance test will be the basis for non-employment.

A pre-employment test for controlled substances will not be required if the CDL license holder has participated in a drug-testing program that meets Federal requirements within the previous thirty (30) days and while participating in that program, either was tested for controlled substances within the past six (6) months from the date of application to the ~~Corporation~~Career Center or participated in a random-controlled substances testing program for the previous twelve (12) months from the date of application. The CDL license holder must also verify that s/he has no record of a violation of drug use during the previous six (6) months. The candidate shall sign Form 4162A F3 authorizing the release of the information from the previous testing to the ~~Corporation~~Career Center.

The \_\_\_\_\_ **Transportation Director**\_\_\_\_\_ shall contact the alcohol and/or controlled substances testing program(s) in which the CDL license holder participated and ~~obtained~~obtain the following information:

- A. name and address of the program
- B. verification that the CDL license holder ~~participate~~participated in the program

- C. verification that the program conforms to Federal law
- D. verification that the CDL license holder is qualified as described above and has not refused to be tested for alcohol and controlled substances
- E. the date the CDL license holder was last tested for alcohol and controlled substances
- F. the results of any tests taken within the previous six (6) months and any other use violations

### Post-Accident Testing

As soon as practicable following an accident involving a ~~Corporation~~Career Center vehicle, the ~~Corporation~~Career Center shall test for alcohol and controlled substances each surviving CDL license holder:

- A. who was performing safety-sensitive functions with respect to the vehicle; ~~if the accident involved the loss of human life;~~ **or**
- B. who receives a citation under State or local law **within the time periods defined in C.F.R. 382.303** for a moving traffic violation arising from the ~~accident~~**accident if the accident involved either:**
  - 1. **injury of any person requiring medical treatment away from the accident scene;**
  - 2. **a vehicle had to be towed from the accident scene.**

### Alcohol Tests

If an alcohol test is not administered within two (2) hours following the accident, the \_\_\_\_\_ (Transportation Supervisor) shall file a record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the accident, the test shall not be administered and the record shall indicate the reason why the test was not administered. The record shall be submitted to the FHWA upon request.

## Drug Tests

If a test is not administered within thirty-two (32) hours following the accident, the Transportation Director (Transportation Supervisor) shall cease attempts to administer the test and file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request.

A CDL license holder who is subject to a post-accident testing shall remain readily available for such testing. A CDL license holder who fails to remain readily available for such testing shall be deemed by the Corporation Career Center to have refused to submit to testing. The required testing shall not delay necessary medical attention for injured people following an accident or prohibit a CDL license holder from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

The Corporation Career Center shall provide each CDL license holder with necessary post-accident information, procedures, and instructions, prior to the CDL license holder operating a Corporation Career Center vehicle.

## Random Testing

Each year, ten percent (10%) of the average number of CDL license holders shall be subject to random alcohol testing and fifty percent (50%) shall be subject to random drug testing.

The selection of CDL license holders for random alcohol and controlled substances testing shall be made by a scientifically valid method provided by the Corporation Career Center's drug-testing facility. Under the selection process used, each CDL license holder shall have an equal chance of being tested each time selections are made.

(If the Corporation Career Center conducts random testing for alcohol and/or controlled substances through a consortium, the number of CDL license holders to be tested may be calculated for each individual Corporation Career Center or may be based on the total number of CDL license holders covered by the consortium.)

The Transportation Director (Transportation Supervisor) shall ensure that random alcohol and controlled substances tests are unannounced and that the dates for such tests are spread reasonably throughout the calendar year.

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Each CDL license holder who is notified of selection for random alcohol and/or controlled substances testing shall be relieved of any job responsibilities as soon as possible and proceed ~~to test~~ **to a test** site immediately.

A CDL license holder shall be tested for alcohol only while the CDL license holder is performing safety-sensitive functions, just before the CDL license holder is to perform safety-sensitive functions, or just after the CDL license holder is **reasonably suspected to be** under the influence of alcohol or a controlled substance. Such reasonable suspicion must be based on specific, contemporaneous, articulatable observations concerning the appearance, behavior, speech, or body odors of the CDL license holder.

A CDL license holder may be directed by the **Transportation Director** \_\_\_\_\_ (Transportation Supervisor) to undergo reasonable suspicion testing only while the CDL license holder is performing, just before s/he is to perform, or just after safety-sensitive functions or operating a **Corporation Career Center** vehicle.

The time periods and record-keeping requirements for such testing are the same as those required for post-accident testing.

If the test results indicate that the CDL license holder is under the influence of or impaired by alcohol, the **Corporation Career Center** shall not permit the CDL license holder to continue to operate a **Corporation Career Center** vehicle or perform safety-sensitive functions until an alcohol test is administered and the CDL license holder's alcohol concentration measures less than 0.02 or for twenty-four (24) hours after the test.

The **Transportation Director** \_\_\_\_\_ shall file a signed, written record of the observations leading to a controlled-substance, reasonable-suspicion test within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

### **Return-to-Duty Testing**

The **Transportation Director** \_\_\_\_\_ shall ensure that, before a CDL license holder returns to duty after engaging in prohibited alcohol and/or controlled substance conduct, s/he undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and a verified negative result for illegal drug use.

### Follow-Up Testing

If the CDL license holder is receiving assistance in resolving problems associated with alcohol misuse and/or use of controlled substances from a qualified, substance-abuse professional, s/he shall be subject to unannounced follow-up alcohol and/or controlled substances testing as determined by the substance-abuse professional and consisting of at least six (6) ~~test~~ tests within the first twelve (12) months of his/her return to duty and less frequently during the next four (4) years. All such tests shall be conducted in accordance with Federal rules.

49 C.F.R. 382.101 et seq.  
49 C.F.R. Part 40

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