

## Drug and Alcohol Testing for CDL Drivers

Drivers who operate a district motor vehicle requiring a commercial driver's license are subject to a drug and alcohol testing program that fulfills the requirements of the federal regulations.

These district regulations reflect several requirements of the federal drug testing regulations but are not intended in any way to modify or limit the procedures for drug and alcohol testing specifically addressed in federal regulation. District personnel will adhere to the detailed provisions of federal regulation in administering the district's drug and alcohol program.

References to *tests* in these regulations include both drug and alcohol tests unless the context specifies otherwise. The terms *drugs* and *controlled substances* are interchangeable and have the same meaning and refer to marijuana (THC), cocaine, opioids, phencyclidine (PCP) and amphetamines (including methamphetamines). The term "opioids" includes hydrocodone, hydromorphone, oxycodone, oxymorphone, opium, opiate, or an opium derivative such as morphine, codeine or heroin.

### Pre-employment tests

A drug test will be administered before a driver performs any safety sensitive functions for the district.

Drug tests will be required of an applicant only after the position has been offered. Employment with the district is conditional upon the applicant receiving a negative drug test result.

An employee may be exempt from the pre-employment drug test if the employee has participated in a drug testing program within 30 days prior to the application for employment and while participating in that program either was tested for drugs within the last six (6) months (from the date of application) or participated in a random drug testing program in the previous 12 months, provided that the district has been able to make all verifications required by law.

### Post-accident tests

Alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any driver who:

1. Was performing safety sensitive functions with respect to the vehicle if the accident involved loss of human life; or
2. Received a citation under state or local law for a moving traffic violation arising from the accident; or
  - a. Any party in the accident required immediate medical attention away from the scene.
  - b. There was disabling damage to any motor vehicle requiring tow-away.

No driver involved in an accident may use alcohol for eight hours after the accident or until after undergoing a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the district will prepare and maintain records explaining why the test was not conducted.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Before any driver operates a commercial motor vehicle, the district will provide post-accident procedures that will make it possible to comply with post-accident testing requirements.

### **Random tests**

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during or just after the performance of safety sensitive functions. Random tests for drugs do not have to be conducted in immediate time proximity to performing safety sensitive functions. Once notified of selection for drug testing, a driver must proceed to a collection site to provide a urine specimen.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time selections are made. The number of drivers selected for random testing will be in accordance with federal regulations.

### **Reasonable suspicion tests**

Tests must be conducted when a properly trained supervisor or district official has reasonable suspicion that the driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of chronic and withdrawal effects of controlled substances.

Alcohol tests will be authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the workday when the driver must comply with alcohol prohibitions. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight (8) hours.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or district official who makes a finding of reasonable suspicion also must make a written record of his or her observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### **Return-to-duty tests**

A drug or alcohol test will be conducted when a driver who has violated the district's drug or alcohol prohibition returns to performing safety sensitive duties.

Employees whose conduct involved misuse of drugs may not return to duty in a safety sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol may not return to duty in a safety sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards.

### **Records**

Employee drug and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver will receive copies of any records pertaining to the driver's use of drugs or alcohol, including any records pertaining to personal drug or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

### **Notifications**

Each driver will receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements. Representatives of employee organizations will be notified of the availability of this information. The information will identify:

1. The person designated by the district to answer driver questions about the materials.
2. Categories of drivers who are subject to the drug and alcohol testing requirements.
3. Sufficient information about the safety sensitive functions performed by drivers to make clear for what period of the work day driver compliance is required.
4. Specific information concerning driver conduct that is prohibited.
5. Circumstances under which a driver will be tested for drugs and/or alcohol.
6. Procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver.
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with federal regulations.
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.

9. Consequences for drivers found to have violated the drug and alcohol prohibitions including the requirement that the driver be removed immediately from safety sensitive functions.
10. Consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problem; and available methods of intervening when a drug or alcohol problem is suspected including confrontation, referral to an employee assistance program and/or referral to administrative officials.

Each driver must sign a statement certifying receipt of a copy of the above materials.

The district will inform drivers before drug and alcohol tests are performed.

The district will notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his employment application.

The district will notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district will also tell the driver which controlled substances were verified as positive.

Drivers will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his ability to safely operate a commercial motor vehicle.

### **Disciplinary procedure and enforcement**

1. Drivers subject to the requirements of this regulation who come forward voluntarily for assistance with controlled substance use or alcohol misuse prior to being asked to take a controlled substance or alcohol test pursuant to this regulation, shall not be subject to termination from their employment with the district merely for disclosing their need for assistance. However, the driver will be removed from performing safety sensitive functions immediately, and will not be allowed to return to a safety sensitive function until the driver has been evaluated by a substance abuse professional, has complied with any treatment plan recommended by a substance abuse professional, and a determination has been made by the substance abuse professional that the driver may return to the safety sensitive function. Drivers who voluntarily come forward for assistance will be subject to return-to-duty and follow-up testing in accordance with applicable federal regulations.
2. When a driver has an alcohol test result of greater than 0.02, but less than 0.04, the driver will be removed from the performance of a safety sensitive function for 24 hours, but no further action will be taken against the driver based upon this information alone. Absences due to test results as described becomes a performance issue and will be treated as follows:
  - 1st Absence: Employee may use annual leave or vacation.
  - 2nd Absence: Personal leave (unpaid).

3rd Absence: Recommended termination.

3. When a driver has a confirmed alcohol test result of greater than 0.04, or has a verified positive test result for controlled substance use, the driver shall be removed from the safety sensitive position immediately. All drivers who test positive for controlled substances or have an alcohol test result of greater than 0.04 must be evaluated by a substance abuse professional to determine whether the driver is in need of rehabilitation services.
4. Drivers who test positive for controlled substances or have an alcohol test result of greater than 0.04 will also be terminated from employment with the district.
5. A driver who refuses to be tested for alcohol or controlled substances will be terminated from employment with the district.
6. The following are additional grounds for immediate termination from employment with the district, but are not connected to the Federal Highway Administration Rule:
  - a. drivers convicted of selling alcohol or controlled substances on district-owned or leased property;
  - b. drivers convicted of a felony involving off-site sale or distribution of controlled substances while employed by the district.
7. Penalty provisions of the Federal Highway Administration Rule (Rule) provide that fines may be assessed against a driver for conduct in violation of the Rule. Civil penalty fines may be imposed where the driver's conduct is found to be grossly negligent or with reckless disregard for safety. Criminal penalties may be imposed against a driver where the driver's actions while operating a commercial motor vehicle led or could have led to death or serious bodily injury.

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