

**U.S. Department of Transportation
Federal Motor Carrier Safety Administration
(FMCSA)
Drug-Free Workplace Policy**

**Effective
October 22, 2009**



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Table of Contents

	<u>Page</u>
Purpose and Coverage	2
Non-Discrimination	2
Criteria for Employees Subject to Testing	2
Definition of Safety-Sensitive	3
Definitions	3
Tests Required.....	5
Pre-Employment/Pre-Placement.....	5
Post-Accident.....	7
Random	8
Reasonable Suspicion	9
Return-to-Duty	10
Post-Rehabilitation/Follow-Up.....	10
Policy Prohibitions.....	10
Consequences for Policy Violations.....	11
Voluntary Admission of Drug/Alcohol Use.....	13
Summary of Alcohol Testing Procedures	13
Summary of Drug Testing Procedures	14
Education and Training	17
Acknowledgement.....	17
Reservation of Rights.....	17
Signs and Symptoms of a Drug-Alcohol Problem	19
Effects of Alcohol and Drugs.....	19
Acknowledgement of Receipt of Policy	22

PURPOSE AND COVERAGE

The U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA), an agency within the DOT, have issued regulations (49 CFR, Parts 40 & 382, hereinafter referred to as "DOT regulations") which govern the use of drugs and alcohol by employees who hold a Commercial Driver's License (CDL) and drive a Commercial Motor Vehicle (CMV). The FMCSA requires an employer conduct drug and alcohol testing of its drivers at the times and under the conditions described in this Policy. The regulations apply to every person who operates a CMV in interstate, foreign, or intrastate commerce, to all employers of such persons and to all states. Please direct all questions regarding this Policy to Marilyn Zolanek, the Company's Designated Employer Representative (DER).

It is the Company's intention to comply fully with DOT regulations. In the event DOT regulations are amended or revised, the Policy and the applicable terms, conditions, and/or requirements shall be deemed to have been amended automatically. Redrafting will not be necessary in order to reflect and be in compliance with DOT regulations. The Company reserves the right to apply the amended or revised requirements immediately, without giving prior notice to drivers and/or applicants or other employees covered by the Company Policy, unless DOT regulations or other applicable law requires such notice.

The goal of the Company's Policy and the testing of drivers is to ensure a drug and alcohol free transportation and work environment, to reduce and eliminate drug and alcohol related accidents, injuries, fatalities, and damage to Company property. For the purpose of this Policy, any employee performing under the definitions described below will be referred to as "driver."

NON-DISCRIMINATION

In accordance with the requirements of the Americans with Disabilities Act, the Company does not discriminate against employees or applicants who are qualified individuals with a disability who are not currently engaged in the use of illegal drugs and who do not otherwise violate the provisions of this Policy, including but not limited to individuals who: 1) have successfully completed or who are currently participating in a supervised rehabilitation program and are no longer engaging in such use; or 2) have otherwise been rehabilitated successfully and are no longer engaging in such use.

CRITERIA FOR EMPLOYEES SUBJECT TO TESTING

Under the Company's Policy and DOT Federal Motor Carrier Safety Administration (FMCSA) regulations, drivers who hold a CDL and drive a CMV are subject to the drug and alcohol testing in accordance with federal regulations. CMV means a motor vehicle or a combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- ⇒ Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds), inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- ⇒ Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- ⇒ Is designed to transport 16 or more passengers, including the driver; or
- ⇒ Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to have a placard under the Hazardous Materials Regulations.

All applicants for positions as a driver or for a safety-sensitive position, which includes driving, will be notified of the Company's Drug-Free Workplace Program (DFWP) at the time they apply for the position.

DEFINITION OF "SAFETY-SENSITIVE"

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 he or she is relieved from work and all responsibility for performing work.

For the purpose of this Policy and the Company's drug and alcohol testing program, employees are considered to be performing a safety-sensitive function and subject to drug and/or alcohol testing at the following times:

- ⇒ 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;
- ⇒ All time inspecting equipment as required by 49 CFR §§ 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- ⇒ All time spent at the driving controls of a commercial motor vehicle in operation;
- ⇒ All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- ⇒ 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; and
- ⇒ All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

DEFINITIONS

Definitions as used under this Policy are set forth below and in greater detail in 49 CFR §§ 40.3 and 382.107.

Drug:

For purposes of this Policy, "drug" means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC § 812. The term includes prescribed drugs not legally obtained, prescribed drugs not being used for prescribed purposes, and any prescribed drugs not taken in accordance with a prescription. In other words, medications prescribed for someone other than the driver will be considered unlawfully used under any circumstances. Pursuant to DOT regulations, all DOT-required drug tests must test for the following substances identified in 49 CFR § 40.85: marijuana, cocaine, amphetamines, opiates (e.g., opium, heroin, morphine or codeine) and phencyclidine (i.e. PCP or "angel dust"). The Company reserves its independent authority and discretion to prohibit and test for other drugs, as defined above, within the limits of applicable state law.

Confirmation Test:

Alcohol: A second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

Drugs: A second analytical procedure to identify and quantify the presence of a specific drug or metabolite that is independent of the screening test.

Disabling Damage:

Damage, which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Included: 1. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Excluded: 1. Damage, which can be remedied temporarily at the scene of the accident without special tools or parts.
2. Tire disablement without other damage even if no spare tire is available.
3. Headlight or taillight damage.
4. Damage to turn signals, horn, or windshield wipers, which makes them inoperative.

Driver:

Any person who holds a CDL and operates a CMV, which falls under the specific DOT criteria. This includes, but is not limited to, full-time or part-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Refuse to Submit:

A refusal to submit to a required drug and/or alcohol test (also "refusal to test") means any circumstance outlined in 49 CFR §§ 40.191 or 40.261, including circumstances in which a driver:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Company, consistent with applicable DOT agency regulations, after being directed to do so by the Company. This includes the failure of an employee (including an owner-operator) to appear for a test when called by the Company's Consortium/Third-Party Administrator (C/TPA).
2. Fails to remain at the testing site until the testing process is complete (excluding a pre-employment test prior to commencement of the test).
3. Fails to provide a urine specimen for any drug test, or fails to provide an adequate amount of saliva or breath for any alcohol test required by Part 382 or other DOT

agency regulations (excluding a pre-employment test prior to commencement of the 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.
5. Fails to provide a sufficient amount of urine, saliva or breath when directed, and/or, with respect to urine or breath, it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure.
6. Fails or declines to take a second test the Company or collector has directed the driver to take (see, for instance, 49 CFR § 40.197(b)).
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 pursuant to 49 CFR § 40.193 or 49 CFR § 40.265(c).
8. Fails to sign the certification at Step 2 of the ATF.
9. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector).
10. For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process.
11. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
12. Admits to the collector or MRO that you adulterated or substituted the specimen.
13. Is reported by the MRO as having a verified adulterated or substituted test result.

Any driver who refuses to submit to a required drug and/or alcohol test or otherwise fails to cooperate with any part of the testing process is in violation of this Policy. Any driver who refuses such a test will be subject to the consequences described in the "Consequences for Policy Violations" section, including removal from safety-sensitive functions.

TESTS REQUIRED

In general, DOT regulations require the Company conduct, and a driver submit to, drug and/or alcohol tests at the following times and under the following conditions:

PRE-EMPLOYMENT/PRE-PLACEMENT

A drug test is required before any driver-applicant will be hired to perform a safety-sensitive function. A drug test will also be required before any current employee in a non-regulated position will be assigned, transferred or otherwise permitted to operate a commercial motor vehicle on behalf of the Company for the first time. All offers by the Company to hire an applicant for, or to assign or transfer an applicant to, a driver position are conditioned upon the applicant:

- ⇒ Taking and providing a negative drug test as directed by the Company;
- ⇒ Authorizing the Company to obtain past drug and alcohol test results. The Request/Consent for Information from Previous Employers on Alcohol & Controlled Substances Testing & History Form permits the Company to obtain past drug and alcohol test results, including any refusals to test, from each DOT-regulated employer for whom the driver either worked, took, or refused to take, a drug and/or alcohol test during the past three (3) years per §391.23 (e);
- ⇒ Providing the company with information regarding whether they have tested positive or refused to test on any DOT required pre-employment drug or alcohol test in which the applicant applied for, but did not obtain a safety-sensitive position in the preceding two (2) years using the Pre-Employment Testing History Form;
- ⇒ Passing DOT-required physical exam required for driver positions; and
- ⇒ Complying with any other conditions or requirements of which the Company advises the applicant at the time of the offer.

Pursuant to DOT regulations, the Company must make a “good faith effort” to obtain a driver’s previous testing information from the driver’s prior DOT-regulated employers, and such prior employers are required to provide the previous testing information to the Company. This information should be obtained before the driver first performs safety-sensitive functions, unless this is not feasible, in which case the information should be obtained as soon as possible. In any event, a driver will not be allowed to perform a safety-sensitive function after 30 days from the date he or she first performed a safety-sensitive function, unless the Company has obtained or made and documented a good faith effort to obtain the previous testing information. **A separate release for each prior employer must be signed by the applicant for the prospective employer to legally receive and utilize information.** In addition, applicants must also complete a separate form indicating whether they have tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the applicant applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol rules during the past two (2) years.

Prior to the first time a current employee performs a safety-sensitive function for the Company, the employee will undergo a drug test. The Company will not allow an employee to perform a safety-sensitive function unless and until the Company has received a negative test result for the employee.

A verified positive drug test will disqualify an applicant/employee from a safety-sensitive position and the conditional offer of employment in such a position will be withdrawn. Before an applicant/employee with a verified positive pre-employment drug test may be reconsidered for a safety-sensitive position with the Company or any other DOT-regulated employer, the applicant/employee must complete, and provide proof of having successfully completed, the DOT-required Post-Violation/Return-to-Duty process as described herein and set forth in the DOT regulations.

POST-ACCIDENT

A driver who is performing a safety-sensitive function must submit to a post-accident drug and alcohol test as soon as possible after any occurrence that meets the description of a “DOT

Accident." For purposes of this Policy and the Company's drug and alcohol testing program, a "DOT Accident" is defined as an occurrence involving a commercial motor vehicle operating on a public road in commerce which results in:

- ⇒ A loss of human life; or
- ⇒ The driver receiving a citation under state or local law for a moving traffic violation arising from the accident if the accident involved:
 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.

A driver may be directed to submit to a drug and/or alcohol test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the driver is required to immediately contact his/her supervisor or other Company official to report the drug and/or alcohol test result and to provide the Company with the name, badge number, and telephone number of the law enforcement officer who conducted the test.

Whenever a driver is involved in a DOT Accident and is not tested for drugs and/or alcohol by a law enforcement official, the driver is required to immediately contact his/her supervisor or other Company official and remain available to be tested. A driver who is subject to post-accident testing must remain available for testing or the Company may consider the driver to have refused to submit to testing. **(Note to Company: You must provide a Driver's Post-Accident Checklist to all drivers)**. The standard LexisNexis Master Form MF114 should be used for this purpose. However, nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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 procedures should be followed as detailed on the Driver's Post-Accident Checklist.

As permitted by DOT guidance and based on the Company's independent authority, drivers involved in a DOT Accident and required to take a Post-Accident drug and/or alcohol test will be removed from safety-sensitive duties until the Post-Accident test results are reported to the Company. While awaiting the Post-Accident test results, the driver will be placed on non-disciplinary suspension. Hourly (non-exempt) employees will not be compensated for time missed from work if the test result is positive, adulterated or substituted, but will be compensated if the test result is negative.

Alcohol:

Tests should be administered within two (2) hours of an accident. If unable to test within the two (2) hour time period, the employer must document the reason(s) for the time delay. If the test was not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted.

The driver must refrain from consuming alcohol for eight (8) hours after an accident and/or until the test has been completed. A driver who is subject to post-accident testing must remain available or the employer may consider the driver to have refused to submit to testing.

Drugs:

Tests should be administered within thirty-two (32) hours after an accident. If the test was not performed within thirty-two (32) hours, the employer will cease attempts and prepare and maintain a record stating the reason(s) why the test was not conducted.

In the event of a DOT Accident that involves a traffic citation, the citation must have been issued within the foregoing prescribed time periods (8 hours for alcohol and 32 hours for drugs from the time of the accident) to trigger a referral for a DOT post-accident test. In the event a traffic citation is not issued within the prescribed time periods and no DOT post-accident test is performed, the Company reserves the right, as recognized by the DOT, to require a non-DOT post-accident test based on its independent authority and discretion, and within the limits, if any, of applicable law. Drivers may refer to the Company's non-DOT policy, if any, concerning non-DOT testing.

RANDOM

Every driver shall submit to random testing as directed by the Company pursuant to DOT regulations. All such tests will be unannounced and performed at reasonable intervals throughout the workday, workweek and year. Whenever a driver is randomly selected to be tested, he/she will be notified of their selection and instructed to immediately report to the collection site. A driver who tests positive or refuses to submit to a test is medically unqualified to drive and/or perform any other safety-sensitive function.

Each driver selected for random testing shall be tested during the selection period. If a driver selected for random testing is on vacation, temporary layoff, medical leave or otherwise not at work, the driver must be referred for a random test upon his/her return to work. The Company will not skip or select an alternate in the event a selected driver is unavailable for testing on any particular day during the random selection period. If a driver selected for random testing does not return to work before the beginning of a new random selection period (i.e., the next random draw), the Company will ensure that a sufficient number of drivers are subsequently selected so the annual testing rate is not less than the minimum annual percentage rates established by the FMCSA for random drug and alcohol testing.

Alcohol:

The annual rate for random alcohol testing is set by the FMCSA. Drivers may be tested just before, during, or just after performing a safety-sensitive function.

Drugs:

The annual rate for random drug testing is set by the FMCSA. Drivers may be tested at any time while the employee is at work for the employer.

REASONABLE SUSPICION

Each driver is required to submit to a drug and/or alcohol test whenever the Company has reasonable suspicion (also referred to as "reasonable cause") to believe that a driver has used drugs/alcohol in violation of DOT regulations. Reasonable suspicion will exist when a driver's appearance, behavior, speech, and/or body odors indicate drug/alcohol use, or the chronic and withdrawal effects of drugs/alcohol. Whenever a driver is notified that there is reasonable suspicion to be tested, the driver is expected to report to the test/collection site immediately and will be escorted. Documentation of the employee's conduct and/or appearance leading to a reasonable suspicion drug/alcohol test must be prepared and signed by the supervisor or Company official who made the observations within twenty-four (24) hours of the observed behavior, or before the results of the drug/alcohol test are released, whichever is earlier. The standard LexisNexis Master Form MF111 should be used for this purpose.

As permitted by DOT guidance and based on the Company's independent authority, following a reasonable suspicion determination that leads to a Reasonable Suspicion drug and/or alcohol test, a driver will be removed from safety-sensitive duties until the Reasonable Suspicion test results are reported to the Company. While awaiting the Reasonable Suspicion test results, the driver will be placed on non-disciplinary suspension. Hourly (non-exempt) employees will not be compensated for time missed from work if the test result is positive, adulterated or substituted, but will be compensated if the test result is negative.

Alcohol:

Observations must be made just before, during, or just after the driver performs a safety-sensitive function. The person who makes the reasonable suspicion determination cannot conduct the alcohol test.

Alcohol tests should be administered within two (2) hours of observation. If unable to test within the two (2) hour period, the employer must document the reasons for the time delay. If the test is not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted.

If reasonable suspicion is observed and a test has not yet been performed, a driver will not perform a safety-sensitive function until:

- ⇒ An alcohol test has been performed and the result is less than 0.02; or
- ⇒ Twenty-four (24) hours have passed following the reasonable suspicion determination.

Drugs:

Drug testing should be administered as soon as possible after making a reasonable suspicion determination. If unable to drug test within thirty-two (32) hours, the employer must cease attempts and document the reason(s) why the test was not conducted.

RETURN-TO-DUTY

A driver who has been removed from his/her safety-sensitive function due to a DOT drug or alcohol regulation violation (e.g., a positive test, refusal to test, etc.) must provide a negative drug and/or alcohol test before being allowed to return to a safety-sensitive function. This test must be completed after an initial and follow-up evaluation by a Substance Abuse Professional (SAP), after the SAP's determination that the driver has successfully complied with prescribed education and/or treatment, and before resuming performance of a safety-sensitive function. The result of the alcohol test must be less than 0.02.

The return-to-duty drug test is not limited to a specific substance (i.e. the particular drug for which the driver tested positive). Additionally, if the SAP determines that a multiple-substance abuse problem exists, a drug test may be performed in conjunction with an alcohol test. As required by DOT drug testing procedures, specimen collection for all return-to-duty drug tests will be conducted under direct observation (See 49 CFR § 40.67(b)).

POST-REHABILITATION/FOLLOW-UP

A driver who has violated a DOT drug and/or alcohol regulation (e.g., a positive test, refusal to test, etc.) must be evaluated by a SAP and follow the prescribed rehabilitation/treatment program. Following the determination that an employee needs to resolve problems associated with drug abuse and/or alcohol misuse, each employer will ensure that the employee is subject to

unannounced, follow-up drug and/or alcohol testing as determined by the SAP. At a minimum, such testing must consist of at least six unannounced follow-up tests in the first 12-months following the driver's return to safety-sensitive functions. The choice of the SAP and the assignment of costs shall be made in accordance with employer/driver agreements and employer policies. Follow-up alcohol testing must only be conducted just before, during, or just after a driver performs a safety-sensitive function. As required by DOT drug testing procedures, specimen collection for all follow-up drug tests will be conducted under direct observation (See 49 CFR § 40.67(b)).

POLICY PROHIBITIONS

Employee involvement with drugs and/or alcohol can adversely affect the work environment, job performance, and safety of all employees. Violation of the prohibitions of this Policy will be considered to be serious misconduct and may result in termination.

Drug Prohibitions:

The DOT regulations prohibit any drug use that could affect performance of a safety-sensitive function. Listed below are the prohibitions with respect to drug use.

- ⇒ No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drugs, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the drug will not adversely affect the driver's ability to safely operate a CMV.
- ⇒ 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.
- ⇒ An employer may require a driver to inform the employer of any therapeutic drug use.
- ⇒ No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for controlled substances. No employer having actual knowledge that a driver has tested positive for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions unless and until the required Post-Violation/Return-to-Duty procedures are followed.
- ⇒ No driver shall refuse to submit to a drug test required pursuant to DOT regulations.

Alcohol Prohibitions:

The DOT regulations prohibit any alcohol use that could affect performance of a safety-sensitive function. Listed below are the prohibitions with respect to alcohol use.

- ⇒ 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.
- ⇒ No driver shall use alcohol while performing safety-sensitive functions or perform such functions within four (4) hours after using alcohol. No employer having actual knowledge that a driver has used alcohol while performing safety-sensitive functions, or used alcohol within four (4) hours immediately preceding the performance of such functions, shall permit a driver to perform or continue to perform safety-sensitive functions.

- ⇒ No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- ⇒ No driver shall refuse to submit to an alcohol test required pursuant to DOT regulations.

NOTE: A regulated employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions for at least twenty-four (24) hours.

CONSEQUENCES FOR POLICY VIOLATIONS

Removal from Safety-Sensitive Function:

Employees and applicants shall not perform, nor be permitted to perform, a safety-sensitive function, including driving a commercial motor vehicle as previously defined in this Policy, if any of the above prohibitions, or the drug and/or alcohol rule of another DOT agency, are violated. Employees and applicants who violate a DOT drug and alcohol regulation will be advised by the Company of the resources available in evaluating and resolving drug and/or alcohol problems, including the names, addresses, and telephone numbers of Substance Abuse Professionals (SAPs) and counseling and treatment programs.

Additionally, employees subject to Post-Accident or Reasonable Suspicion testing will be removed from safety-sensitive functions and receive a non-disciplinary suspension until the Company receives the test results. Hourly (non-exempt) employees will not be compensated for time missed from work if the test is positive, adulterated or substituted, but will be compensated if the test is negative.

Post-Violation/Return-to-Duty Procedures:

An employee who has violated a DOT drug and/or alcohol regulation cannot again perform any DOT safety-sensitive duties for the Company or any DOT-regulated employer until and unless the employee has completed the SAP evaluation, referral and education/treatment process. For purposes of this Policy, a DOT drug and/or alcohol regulation violation includes a verified positive DOT drug test, a DOT alcohol test with a result indicating an alcohol concentration of .04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation.

Before a driver who has violated a DOT drug and/or alcohol regulation can return to a safety-sensitive position (whether for this Company or any DOT-regulated employer), he or she must:

- ⇒ Meet with a Substance Abuse Professional (SAP) for an initial evaluation;
- ⇒ Properly follow all SAP evaluation recommendations for assistance and referrals, to an education and/or treatment program;
- ⇒ Meet with the SAP for a follow-up evaluation to determine whether the individual has successfully complied with the SAP's education and/or treatment recommendations;
- ⇒ Take and provide a negative return-to-duty drug and/or alcohol test; and

- ⇒ Be subject to post-rehabilitation/follow-up testing as determined by the SAP for up to sixty (60) months, to include a minimum of six (6) follow-up tests in the first twelve (12) months after the return-to-duty test with an alcohol concentration of less than 0.02 and a negative drug test. The SAP may terminate the requirement for the follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.

Employee Discipline:

Employees who engage in any of the prohibited conduct listed above are in violation of this Policy and are subject to discipline, up to and including termination, at the Company's sole discretion pursuant to the Company's authority independent of federal requirements.

Any employee who refuses to submit to testing or attempts to adulterate or substitute a specimen will be terminated.

A driver found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall not perform nor be permitted to work for at least twenty-four (24) hours.

VOLUNTARY ADMISSION OF DRUG/ALCOHOL USE

The Company encourages all employees who need assistance in dealing with alcohol abuse or drug dependency problems to seek appropriate counseling and/or treatment through various private and public organizations that are available. Accordingly, employees who voluntarily come forward and admit to alcohol misuse or drug use will not be subject to disciplinary action or the Post-Violation/Return-to-Duty Procedures described above (i.e. the SAP evaluation, referral and treatment requirements set forth in Parts 40 and 382). Rather, employees who self-identify their need for assistance will be allowed sufficient opportunity to seek evaluation, education or treatment to establish control over their drug or alcohol problem.

Employees must make any such admission or self-identification of a drug and/or alcohol problem prior to performing a safety-sensitive function (i.e. prior to reporting for duty). Employees may not self-identify a drug or alcohol problem to avoid testing required under DOT regulations. Employees also may not escape discipline or the Post-Violation/Return-to-Duty Procedures by self-identifying a drug or alcohol problem after being referred for testing or after a DOT drug and alcohol regulation violation has occurred. Costs associated with any counseling or treatment program may be covered by the employee's medical insurance plan (if any); however, any costs not covered by the employee's medical insurance plan and which are not otherwise required to be paid by any applicable plan are entirely the employee's sole responsibility. The Company will comply with any applicable medical leave law, disability discrimination law or applicable leave law in the event a leave is requested.

Employees who admit to a drug or alcohol problem will be referred to a drug and alcohol abuse evaluation expert (i.e. employee assistance professional, SAP, or qualified drug and alcohol counselor) for evaluation and recommendations for an appropriate education or treatment program. Such employees will not be permitted to return to a safety-sensitive function until the Company is satisfied that the employee has been evaluated by a drug and alcohol abuse evaluation expert and successfully completed the expert's recommendations for an educational or treatment program. Before the employee's return to a safety-sensitive function, the employee must also undergo a return-to-duty test with a result indicating an alcohol concentration of less than .02 and/or a verified negative drug test result. Except as otherwise required by applicable law or policy, the Company cannot guarantee that the employee will return to the same or a comparable position upon return to duty. The Company reserves the right, as recognized by the DOT, to require employee monitoring and/or non-DOT follow-up testing based on its independent authority and discretion, and within the

limits, if any, of applicable law. All returning employees are required to comply with the Company's normal standards with respect to work performance and conduct.

SUMMARY OF ALCOHOL TESTING PROCEDURES

The DOT regulations discuss alcohol testing procedures in greater detail in 49 CFR Part 40, as amended, which is incorporated herein by reference.

1. Alcohol testing is done at locations determined by the Company in a private setting. The testing technician, who has been trained, will ask test subjects to verify their identity. Drivers must cooperate with that request. Drivers may ask the technician for identification also. The driver's identity will be recorded on a DOT alcohol testing form.
2. A breath or saliva testing device approved by the federal government will be used for all alcohol tests. A screening test will be done first. If a breath-testing device is used, drivers will be instructed to exhale forcefully into the mouthpiece of the screening device. If a saliva-testing device is used, a swab will be placed in the driver's mouth and saturated with saliva. After the saliva is collected, the swab will be inserted into the saliva-testing device.
3. The technician will show the result displayed on the screening device to the driver. If the reading is less than 0.02, the driver has passed the alcohol test and the DOT alcohol testing form will be completed.
4. If the screen test result is more than 0.02, a confirmation breath test, using a federally approved evidential breath-testing device, will be performed after at least a 15-minute waiting period from the completion of the screening test. During that time, for their own protection, drivers should not eat or drink anything.
5. For the confirmation test, the driver will have to exhale into the evidential breath-testing device until the technician tells the driver to stop. The driver will be shown the printed and displayed results.
6. A confirmation test result under 0.02 means the driver has passed. A confirmation alcohol concentration level of 0.02 or higher will result in the driver's removal from safety-sensitive functions. The DOT prohibits any driver whose confirmation test registers 0.02 or greater but less than 0.04 from performing or from continuing to perform a safety-sensitive function until the driver's next regularly-scheduled duty period, but for no less than twenty-four (24) hours. If the confirmation level is 0.04 or more, or if the driver refuses to cooperate, the driver is in violation of DOT alcohol regulations and subject to the Consequences for Policy Violations and Post-Violation/Return-to-Duty Procedures described above.
7. If a driver tries, but fails to provide a breath specimen adequate for testing, the driver will be asked to try again. If the driver still does not provide an adequate specimen, the driver's failure will be noted on the DOT alcohol testing form and the Company's DER will be informed. The driver will be removed from performing "safety-sensitive" functions for a 24 hour time period and required to see a doctor, acceptable to the Company, within five days for an evaluation. If the doctor provides a written statement to the employer concluding that it is highly probable a medical condition prevented the driver from providing an adequate breath specimen, the driver will not be disciplined for refusing to cooperate.

SUMMARY OF DRUG TESTING PROCEDURES

The DOT regulations discuss drug testing procedures in greater detail in 49 CFR Part 40, as amended, which is incorporated herein by reference.

1. Drivers subject to drug testing will be directed to provide a urine specimen at a Company designated facility. The driver will be driven or sent to the facility and required to verify his or her identity. In return, a driver may ask collection site personnel to disclose their identity.
2. The driver's urine specimen will be collected by a trained collection site person (the Collector) in accordance with DOT rules, using a DOT Custody and Control Form (CCF), also known as chain-of-custody form. To protect themselves, drivers should ensure that the entries on the form are accurate, that their collected urine specimens have been sealed, and that their specimens are labeled with the same number as appears on the CCF and are placed in a container with copies of the correct CCF.
3. The Collector shall require drivers to remove unnecessary outer garments that might conceal items used to tamper with the collection process. The Collector shall also retain personal belongings like briefcases and purses during the collection process. Drivers may keep their wallets and ask for a receipt for any belongings they surrender. The Collector will direct the driver to empty his or her pockets and display the items in them and the driver must allow the Collector to make this observation.
4. Drivers will be given a collection container and allowed to provide a urine specimen in private unless: the laboratory reports a specimen was invalid and the MRO reports there was no adequate medical explanation for the result; the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; the laboratory reports a specimen was negative-dilute with a low creatinine concentration (i.e., a creatinine concentration greater than or equal to 2 mg/dL and less than or equal to 5 mg/dL) and the MRO reports the specimen as negative-dilute; the drug test is a return-to-duty test or follow-up test, all of which must be performed under direct observation; the Collector observes materials brought to the collection site or the driver's conduct clearly indicates an attempt to tamper with a specimen; the temperature on the original specimen was out-of-range; or the original specimen appeared to have been tampered with. In such circumstances, the DER will be notified and drivers will be required to undergo a directly observed collection in accordance with 49 CFR § 40.67.
5. If the driver does not provide a sufficient amount of urine for testing (at least 45 ml), the Collector will discard the specimen, tell the driver to drink additional fluids, wait up to three (3) hours and try again to provide a specimen. If the driver refuses to drink those fluids or provide another specimen, the Collector shall notify the Company's DER of the driver's refusal to cooperate. If the driver cooperates, but still does not provide an adequate specimen, testing will stop and the driver will be sent to a doctor acceptable to the Company's MRO within five working days for an evaluation. If that doctor states in writing to the Company's MRO that it is highly probable that a medical condition prevented the driver from providing an adequate specimen, the driver will not be disciplined on grounds of refusing to provide a specimen.
6. If the driver provides a sufficient amount of urine for testing, it will be inspected by the Collector and its temperature will be measured. If there is a reason to believe an altered or substituted specimen has been provided, the DER will be notified and a second, observed specimen will be collected. Collected specimens will be poured into two containers (i.e. a split-specimen collection). The collector will seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids. The collector will date the seals and instruct the donor

to initial the tamper-evident bottle seals for the purpose of certifying the bottles contain the specimens he or she provided.

7. Both specimen containers will be sent to a federally certified laboratory designated by the Company. The lab will review the CCF and check the specimens for apparent tampering. Any apparent tampering or CCF problems will be reported to the DER.
8. If the specimens appear to be in order, the lab will run an initial screening test on the primary specimen. If the screening test is negative, the lab will report the result as negative and the driver has passed the drug test. If the screening test is at or above the established cutoff concentration, the lab will conduct a confirmation test and analyze the specimen using Gas Chromatography/Mass Spectrometry (GC/MS). The laboratory will send the test results to the Company's Medical Review Officer (MRO).
9. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.
10. The MRO is a trained doctor the Company has retained to review test results and to evaluate any explanation a driver may have for a positive, adulterated, substituted (because of a creatinine concentration of less than 2 mg/dL), or invalid drug test result. The MRO will telephone drivers at the numbers given on the CCF. If a driver believes a mistake was made at the collection site or lab, or on a CCF, or that the drug test result is caused by lawful substance use, the driver should tell the MRO. Drivers should cooperate with the MRO. If a driver does not cooperate, the Company will be notified and the driver may be removed from duty and disciplined or discharged pursuant to the Company's independent authority (or not hired, if the driver is an applicant).
11. If a driver wants his or her split specimen to be tested by another certified laboratory at the driver's expense, the driver should tell the MRO within 72 hours of notice of a positive, adulterated or substituted drug test result (drivers do not have access to a test of their split specimen following an invalid result). **The driver will not have the opportunity to provide another specimen.** The retest will be conducted on the secondary container of the **original** specimen. The driver's secondary specimen will then be sent to a different Company-approved, certified laboratory for re-analysis. If the second laboratory finds evidence of the drugs, adulteration or substitution that the first laboratory found, the MRO will tell the DER the split specimen was reconfirmed positive, adulterated or substituted. If the second laboratory fails to reconfirm the primary specimen results or the split specimen cannot be tested, the MRO will cancel the test and may direct the DER to require that the driver undergo an immediate recollection under direct observation or take other action as provided by the DOT regulations (See 49 CFR §§ 40.187 and 40.201).
12. If the MRO informs the Company that a negative drug test was dilute, the following will apply.
 - **Dilute Negative with Low Creatinine:** If the MRO indicates that a recollection under direct observation is required because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL, the Company must immediately instruct the driver to undergo a recollection under direct observation. The DOT's stated purpose for this requirement is so that people who may naturally produce low creatinine levels will not be reported to employers as having substituted their specimens.

- **Other Dilute Negative** : Otherwise, if the creatinine concentration of the dilute specimen is greater than 5 mg/dL but less than 20 mg/dL, the Company will direct the driver to take another test immediately in all DOT Test Types. Such recollections will unobserved, unless there is another basis for use of direct observation (see for instance 49 CFR §40.67(b) and (c)). The requirement to undergo a recollection/retest because of a dilute negative will uniformly apply to all individuals subject to a particular test type; in other words, the Company will treat all drivers subject to the particular test type the same with respect to a recollection/retest. A refusal to submit to the second test as directed by the Company will be deemed a test refusal and a violation of DOT drug regulations. The result of the second test – not the original dilute result – will be the test of record upon which the Company will rely. If the second test is also a dilute negative, the Company will not make the driver take a third test because the second test was dilute, unless the MRO directs a recollection under direct observation.

The DOT prohibits any driver who has a verified positive, adulterated or substituted drug test result, from performing or from continuing to perform a safety-sensitive function until he/she has met the proper DOT requirements as described in the "Post-Violation/Return-to-Duty Procedures" section above under Consequences for Policy Violations.

Medications prescribed for someone other than the driver, will be considered unlawfully used under any circumstance. The DOT also indicates that a driver's purported use of marijuana for medical purposes (even if pursuant to state "medical marijuana" law) or use of hemp or marijuana-related products does not constitute a legitimate medical explanation for a positive test result and these are insufficient grounds for the MRO to verify the test result as negative.

EDUCATION AND TRAINING

The Company has available information, education and training regarding problems associated with drug and alcohol abuse in the workplace and otherwise. We also provide training for supervisors and managers through, among other things, the "Supervisor Training Manual."

The Company's educational and training materials include information on available methods of intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management. If there are concerns regarding a suspected substance abuse problem, the Company encourages employees to contact the DER or other Company designee to obtain referrals to any employee assistance program and/or appropriate counseling or treatment programs through various private or public organizations. Contact the Company's Designated Employer Representative, Marilyn Zolanek for more information.

ACKNOWLEDGEMENT

Drivers must sign an acknowledgement form after receiving a copy of this Policy and prior to testing.

RESERVATION OF RIGHTS

This Policy supersedes and revokes any other Company practice or policy relating to the use of drugs and alcohol in the workplace and drug and/or alcohol testing. The Company reserves the right to interpret and administer this Policy, and at any time and at its sole discretion, amend or change this Policy, in whole or in part, with or without notice. This Policy automatically incorporates any changes to DOT or FMCSA regulations (49 CFR, Parts 40 and 382) or related regulations or statutes that govern the use of drugs and alcohol by employees who hold a CDL and drive a CMV. This Policy is not an express or implied contract of employment nor is it to be interpreted as such. Additionally, this Policy does not in any way affect or change the status of any at-will employee. Nothing in this Policy is a promise or guarantee or should be construed as a promise or guarantee that the Company will follow in any particular circumstances any particular course of action, disciplinary, rehabilitative or otherwise.

Attachment to FMCSA Drug-Free Workplace Policy

SIGNS AND SYMPTOMS OF A DRUG-ALCOHOL PROBLEM

Drugs and alcohol can result in such work-related problems as absenteeism and tardiness, lower productivity, missed deadlines, poor work quality, unsafe driving, and increased injuries and accidents. Problems relating to or communicating with supervisors, co-workers or customers, following directions, concentrating or remembering things may also indicate a drug or alcohol problem.

Drugs and alcohol slow reaction times, cause confusion, harm coordination and motor skills and can impair decision-making and memory. People misusing alcohol and using illegal drugs may be withdrawn, lethargic, depressed, erratic, "hyper" or unusually anxious, hostile or paranoid.

Drugs and alcohol misuse can also result in health problems like chronic gastritis, headaches, chronic respiratory infections and liver problems. They may also show up as poor hygiene, a sloppy appearance, financial problems, DUIs or family problems.

Evidence of use can include paraphernalia such as pipes, syringes, foil packets, pills, powders and empty alcohol containers. Physical symptoms of use can include:

- ⇒ Marijuana and alcohol odors
- ⇒ Puffy or droopy eyelids, bloodshot eyes, dilated or pinpoint pupils
- ⇒ Nosebleeds, excessive sniffing, chronic sinus problems, nasal sores
- ⇒ Needle tracks or blood spots on clothing
- ⇒ Tremors, racing or irregular heartbeats
- ⇒ Slurred or incoherent speech
- ⇒ Confusion, anxiety, paranoia
- ⇒ Coordination problems
- ⇒ Lethargy and sleepiness

EFFECTS OF ALCOHOL AND DRUGS

Drugs and alcohol can harm health and the workplace in a variety of ways.

Alcohol

Alcohol is a central nervous system depressant that acts like a poison if used in large quantities. Each year the lives of tens of thousands of Americans are shortened or ended by alcohol misuse.

Alcohol quickly reaches the brain after drinking. It impairs self-control and other learned behaviors. This loss of self-control can lead to aggressive driving (or overly cautious driving), as well as the other kinds of aggressive behaviors associated with drinking. Even small doses of alcohol, i.e. a single drink, can harm driving performance. In large doses, alcohol significantly impairs coordination, memory and judgment.

Over time, alcohol misuse damages the liver, the heart, the digestive system and can cause permanent brain damage. On average, alcoholics shorten their life span by about 10 years.

Alcohol misuse harms the ability to think clearly, harms judgment and can affect the ability to get along with and work constructively with co-workers and customers. Alcoholics often have attendance and work performance problems and get fired because of the consequences of alcohol misuse. Because of its adverse effects on coordination, reflex time, vision, driving ability, judgment and the ability to evaluate and quickly process information, alcohol is especially dangerous for drivers of commercial motor vehicles.

A small glass of wine, a can of beer and a one and one-half ounce shot of liquor all contain about the same amount of alcohol. It takes the body about one hour to metabolize and eliminate each "drink" of alcohol. Coffee, exercise and cold showers do not speed up this process or magically produce sobriety. While individuals differ greatly, each drink on an empty stomach by an average-sized adult male may lead to an alcohol concentration of about .02. Thus, drinking more than two drinks raises a serious risk of having an alcohol concentration in excess of DOT rules, especially for people with low body weights. Any drinking while on duty or during the 4 hours before working violates DOT rules.

Cocaine

Cocaine is a powerful stimulant that can be inhaled up the nose, injected or smoked. It greatly increases heart rate and blood pressure. Partly because of its effects on the circulatory system, cocaine use can lead to seizures. Every time cocaine is used, there is some unquantifiable risk of a fatal stroke or heart attack. Cocaine can also cause tremors, convulsions, vomiting and raises body temperature to dangerous levels. Repeated snorting damages nasal tissues, sometimes permanently. Needle use carries risks of infection and overdose.

Initially, cocaine use brings a rush of euphoria and exaggerated overconfidence. Sometimes these effects are so strong that safe driving is impossible. Cocaine wears off in about an hour after it is snorted and in just a few minutes after it is smoked. When it wears off, the user may become depressed, anxious, paranoid and exhausted.

Cocaine users may exhibit rapid mood swings and changes in activity level. They may grind their teeth, repeatedly wash their hands or engage in other compulsive behaviors.

Amphetamines

Amphetamines, also known as "speed," are powerful stimulants that are often abused by truck drivers because they make it easy to stay awake. Amphetamines, however, are dangerous drugs with a high potential for abuse. Amphetamines may also be known as uppers, black beauties, white crosses or dexies.

Use brings feelings of alertness and a loss in appetite. The user may also become very talkative or physically active or feel very strong after ingesting amphetamines. In a few hours however, the amphetamines wear off and restlessness, anxiety, paranoia and headaches set in.

In large doses, amphetamines can produce serious toxic effects. The user's blood pressure can rise to the point where strokes or heart attacks occur. Long-term users often have acne, tooth problems and may exhibit symptoms of permanent brain damage.

Marijuana

Marijuana is a hallucinogen that alters the user's sense of time and reduces the user's ability to perform tasks requiring coordination, swift reactions and concentration. Taken in large quantities, marijuana can act like a depressant.

While some people may regard marijuana as harmless, there is evidence its use is unhealthy and dangerous for the driver. Marijuana causes significant increases in blood pressure and pulse rate and, thus, can aggravate or cause heart disease. Marijuana smoke also contains a number of known carcinogens. Many experts believe that marijuana is actually healthier to smoke than tobacco.

Studies have shown that smoking marijuana affects the ability to perform tasks like driving, which require both thinking and motor skills, for at least 24 hours. Users, however, often believe that all the impairing effects of smoking have worn off after 4 to 6 hours. Marijuana significantly impairs

short-term memory and can harm the user's ability to concentrate or plan for and achieve long-term goals. There is also significant evidence that marijuana harms the reproductive systems of men and women and is dangerous for children and non-smokers who live with the user.

Opiates

Opiates are a class of narcotics and sedatives derived from the opium poppy plant. Heroin is the strongest opiate. Heroin use has been increasing in recent years because of the availability of cheap, strong heroin from Asia. This new stronger heroin can be smoked or snorted. Heroin can also be injected using needles.

Morphine and codeine are opiates that are often used to relieve pain or induce sleep. However, they can be stolen from hospitals or pharmacies and abused.

Opiate misuse causes a number of health problems. Because of variations in dosages and strength, heroin use carries a risk of overdose and death. Addicts who use needles also risk contracting AIDS or hepatitis. Heroin is often contaminated with other drugs or toxins or combined with other narcotics.

Opiate use slows down and depresses a number of body functions, including brain functioning. Heroin users may act sleepy or euphoric for a while and then become anxious or irritated after the heroin wears off. Heroin users tend to have a number of related health problems and tend to also abuse alcohol and tobacco. Together, these drugs and the unhealthy lifestyles of heroin users result in decreased life expectancy.

PCP

Phencyclidine, or PCP, is also called angel dust or dust. PCP is an extremely dangerous hallucinogen that has unusual and unpredictable side effects. It was developed as an anesthetic in the late 1950's and used for a while as a tranquilizer both for humans and animals. Because of its dangers, it now has no legal uses and is no longer legally manufactured. Rather, PCP is manufactured in underground laboratories. It often contains dangerous adulterants but is very dangerous all by itself.

PCP can produce violence and bizarre behavior in anyone who uses it. Occasionally, PCP users attack nurses and policemen or jump out of windows because they believe they can fly. PCP somehow scrambles the brain's internal stimuli and seriously changes how users feel, see and deal with their environment.

In low doses, PCP produces a feeling of numbness. Increased doses produce excitement, confusion and delirium. The user's body may become rigid or go into convulsions. Routine activities like driving become dangerous and unpredictable.

Users may walk with strange uncoordinated steps. PCP users may have a blank stare, sweat heavily, have thick slurred speech or engage in some of the violent and bizarre behaviors mentioned above.