

Drug, Alcohol, and (Private) Contraband Policy For CDL Drivers Employed By

I. Purpose of the Policy

Because of the detrimental effects of alcohol and drugs in the home, in the workplace, and on the human body, this "Drug, Alcohol, and Contraband Policy" (hereafter referred to as the "**Policy**") has been established by _____ hereafter referred to as "**The Company**") to assist in providing a safe and healthy work environment for all employees, to protect the general public, to protect **The Company's** property and all the property of **The Company's** clients and customers, and to cooperate with **The Company's** clients and customers in their efforts to provide safe and efficient operations.

II. Prohibited Conduct

A. Prohibited Items and Substances

The possession, concealment, transportation, promotion, purchases, and/or sale of the following items or substances is strictly prohibited on all Company premises:

1. Any and all illegal drugs and other illegal substances;
2. Any non-prescription drug, substance or other item defined or listed as a "controlled substance" in 21 U.S.C. § 812;
3. "Synthetic drugs", "designer drugs" or "look-alike drugs";
4. Alcoholic beverages;
5. Firearms, weapons, explosives and ammunition;
6. Drug paraphernalia;
7. Stolen property;
8. Prescription drugs, which are unauthorized (see Section II-D below).

B. Alcohol

Drivers are prohibited from performing safety-sensitive work, as defined in this policy, while under the influence of alcohol or drugs.

A driver will be considered as being under the influence of alcohol if his/her breath (when performed under the guidelines specified in CFR 49, §40.241-40.247) alcohol concentration is 0.02% or higher. If the driver is found to be "medically disqualified" because of a breath alcohol test level above .02%, the driver will be given a confirmatory breath analysis test. This "re-test" will be performed immediately. It should be noted that this confirmatory test is mandatory. However, if the driver refuses to submit to a confirmatory test, **The Company** will take disciplinary action based upon the breath test result.

In the case where the breath alcohol analysis indicates an intoxication level between 0.02% and .039%, the driver will be placed "out of service" until the start of his/her next "regularly scheduled" duty period or 24 hours, whichever is greater, (CFR 49, §382.505).

No driver shall be allowed to remain on duty requiring the performance of safety-sensitive

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functions, as defined in this policy, while having an alcohol concentration of 0.02 or greater.

If a driver tests positive for alcohol with an alcohol concentration of 0.04% or greater, that driver must be evaluated by a qualified health professional, as defined in this policy, before he/she will be allowed to "return to duty" with **The Company**.

To be allowed to perform safety-sensitive functions for **The Company**, you must not report to work with blood alcohol content greater than 0.02%.

You, as a driver for **The Company**, should also pay close attention to Section XIV for additional information, which will apply to our drivers.

C. Drugs

Drivers are prohibited from using, possessing, concealing, transporting, promoting, purchasing, or selling illegal drugs and non-prescribed controlled substances on **The Company's** premises. Further, drivers are prohibited from working, reporting for work or being on Company premises with *any* detectable amount of illegal drug or non-prescription controlled substance in their system, (CFR 49, §382.213 and 215).

D. Prescription Drugs and Medicine

Any driver who is using any prescription drug or medication under doctor's orders is prohibited from working until he/she first notifies his supervisor of the identity and dosage of such drug or medication. **The Company** reserves the right to have its Company physician determine whether it is advisable for a driver to work while taking such drug or medication on Company premises, and may restrict a driver's work activities or prohibit him from working entirely while he is taking such drug or medication.

E. Definitions

1. The term "**Company premises**" includes:
 - a. All premises and locations owned by, leased by, or under the control of **The Company** including all parking lots, lockers, and storage areas;
 - b. All premises and locations at which work is performed by **The Company** or any of its employees by any client or customer including all parking lots, lockers, and storage areas;
 - c. All automobiles, aircraft, trucks, or other vehicles owned by, leased by, used by, or otherwise under the control of **The Company** or any of **The Company's** clients or customers;
2. "**Safety-sensitive function**" means any of those on-duty functions set forth in §395.2 "On-Duty time", paragraphs (1) through (6) of CFR 49.
3. "**Performing**", a safety-sensitive function, means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
4. "**Refuse to submit**" (to alcohol or controlled substances test) means that a driver:
 - a. Fails to provide adequate breath for alcohol testing as required by §40 of CFR 49, without a valid medical explanation, after he/she has received notice of the requirement for breath testing in accordance with the provisions of this part,
 - b. Fails to provide an adequate urine sample for controlled substances testing as required by §40 of CFR 49, without a genuine inability to provide a specimen (as determined by a

medical evaluation), after he/she has received notice of the requirement for urine testing in accordance with the provisions of CFR 49 §382, or

- c. Engages in conduct that clearly obstructs the testing process.
5. The term "**illegal drug**" includes any and all drugs and other similar substances the use, possession, concealment, transportation, promotion, purchase, and/or sale of which is made illegal by any law of the United States or any law of the state in which the driver is working.
6. The term "**controlled substance**" includes any and all drugs, substances and items which are defined or listed as a controlled substance in 21 U.S.C. §812 or by the law of the state in which **The Company** premises are located.
7. **Confirmation test** for alcohol testing means a second test following a screening test with a result of 0.02% or greater, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry [GC/MS] is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine).
8. A **Breath Alcohol Technician** ("BAT") is a person who has been trained to proficiency in the operation of the EBT or non-evidential alcohol-screening device he/she uses.
 - a. Proficiency shall be demonstrated by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required in this part for obtaining a breath sample, and interpreting and recording EBT results.
 - b. Only courses of instruction for operation of EBT's that are equivalent to the Department of Transportation model course, as determined by the National Highway Traffic Safety Administration (NHTSA), may be used to train BAT's to proficiency.
9. **Qualified Health or Substance Abuse Professional** means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

F. Client or Customer Rules

In addition to the rules and requirements set forth herein, all drivers shall be required to comply with all rules and requirements of **The Company's** clients and customers.

III. Searches and Inspections

The Company may, at any time and without advance notification, conduct searches and inspections of drivers and their lockers, lunch boxes, personal effects, clothing, work areas and vehicles for the purpose of determining if such drivers are in possession, use, transportation or concealment of any prohibited items or substances. Supervisors or other agents may conduct such searches and inspections. Trained dogs may be used.

IV. Alcohol and Drug Testing of Drivers

The Company may utilize urine, breath and/or saliva tests (when performed under the guidelines specified in CFR 49, §40.241-40.247) for the detection of alcohol or drugs or metabolites circumstances including, but not limited to, the following:

A. Pre-employment physical examinations.

Prior to the first time a driver applicant performs safety-sensitive functions, (as defined within this policy), for **The Company**, the driver shall undergo testing for controlled substances. **The Company** will not allow a driver applicant to perform safety-sensitive functions, (as defined within this policy), unless the driver has been administered a controlled substance test in accordance with CFR 49, §40 and the result of that controlled substance screen has been received from the Medical Review Officer, or their agent, indicating a verified negative test result, (CFR 49, §383.301).

B. Re-employment or return-to-work physical examinations.

Prior to the first time a driver applicant performs safety-sensitive functions, (as defined within this policy), as a re-hire, for **The Company**, the driver applicant shall undergo testing for controlled substances. **The Company** will not allow a driver to perform safety-sensitive functions, (as defined within this policy), unless the driver has been administered a controlled substance test in accordance with CFR 49, §40 and the result of that controlled substance screen has been received from the Medical Review Officer or their agent indicating a verified negative test result, (CFR 49, §383.301).

C. Part of an overall search and inspection of **The Company's** premises.

D. When a supervisor has a reasonable suspicion that the driver is in the possession of, is using, or has used drugs or alcohol.

The Company will require a driver to submit to an alcohol and/or controlled substance test when the company officials and/or the driver's supervisor has reasonable suspicion to believe that the driver has violated the prohibitions of CFR 49, §40 and §382.307. **The Company's** determination that reasonable suspicion exists to require the driver to undergo an alcohol/controlled substance test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. In the case of reasonable suspicion controlled substance testing, these observations may also include indications of the chronic and withdrawal effects of controlled substances.

The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor and/or company official who has been trained in accordance with CFR 49, §382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol/controlled substance test shall not personally conduct the test of the driver.

Alcohol testing has been authorized by **The Company** only if the observations required by this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with CFR 49, §382.307. A driver may be directed by **The Company's** qualified employees, as defined above, to undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver performs safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

E. When a driver is found in the possession of any suspected prohibited item or substance.

F. Following an accident or potential accident.

As soon as practical following an accident involving a vehicle, which, by definition, requires the driver to have and maintain a CDL, **The Company** will test for alcohol and/or controlled substances each surviving driver:

1. Who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life, or
2. Who receives a citation under appropriate State or local law for a moving traffic violation arising from the accident.

The Company, or their agent, will test the above-mentioned driver for alcohol as soon as possible but no later than eight (8) hours following the accident.

The Company, or their agent, will test the above-mentioned driver for controlled substances no later than thirty-two (32) hours following the accident.

G. When required or requested by any client or customer of **The Company**.

H. Random sampling of all currently employed drivers or groups of currently employed drivers.

In accordance with CFR 49, §382.305, **The Company** will randomly test a minimum of 10% of their total annual CDL driver population annually for alcohol.

In accordance with CFR 49, §382.305, **The Company** will randomly test a minimum of 50% of their total annual CDL driver population annually for controlled substances.

Those drivers who are to be randomly tested for alcohol and/or controlled substances will be chosen by agents of **The Company**. These drivers will be chosen by their Social Security Number to ensure a "true" random selection process.

V. **Drug Testing Procedures**

The Company, their agents and N.I.D.A. certified laboratory have developed and are maintaining a clear and well-documented procedure for collection, shipment and accessioning of urine specimens. This procedure includes, at a minimum, the following:

- A. The use of the D.O.T. prescribed from as set forth in CFR 49, §382, Part 40.
- B. The use of a clean, single-use specimen bottle which has been securely wrapped until driver either receives it or it is unwrapped in the presence of the driver immediately prior to providing a urine specimen. If a separate collection container is used for urination, the collection container shall be provided to the driver still sealed in its wrapper or shall be unwrapped in the driver applicants/currently employed drivers presence immediately prior to its being provided; and the collection site person shall unwrap the specimen bottle in the presence of the driver at the time the urine specimen is presented.
- C. Use of a tamper-proof sealing system designed in a manner such as to ensure against undetected opening. The specimen bottle shall be identified with a unique identifying number identical to that appearing on the urine custody and control form and space shall be provided to initial the bottle affirming its identity.
- D. Use of a shipping container in which the specimen and associated paperwork is transferred is sealed to prevent undetected tampering.

VI. **The Collection Site**

- A. Collection site personnel are trained in the collection procedures and in maintaining the integrity of the

specimen collection and transfer process, carefully ensuring the modesty and privacy of the donor, and they are to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

- B. The collection site personnel have successfully completed training to carry out this function or shall be a licensed medical professional or technician who is provided instructions for collection under CFR 49, §40.33 and certifies completion of the process.

If a non-medical collection site person is utilized to collect the specimen, the collection site shall ensure that this person has received training in compliance with CFR 49, §40, and shall have demonstrated proficiency in the application of this part prior to serving as a collection site person. A medical professional, technologist or technician licensed or otherwise approved to practice in the jurisdiction in which the collection takes place is not required to receive such training if that person is provided instructions described in CFR 49, §40 and performs collections in accordance with those instructions.

- C. Unless it is impracticable for any individual to perform this function, a direct supervisor of a driver applicant/currently employed driver shall not serve as the collection site person for a test of the driver applicant/currently employed driver. If the rules of a D.O.T. agency are more stringent than this provision regarding the use of supervisors as collection site personnel, the D.O.T. agency rules shall prevail with respect to testing to which they apply.

In any case where a collection is monitored (as defined in this policy) by non-medical personnel or is directly observed, the collection site person shall be of the same gender as the donor. A collection is monitored for this purpose if the enclosure provides less than complete privacy for the donor (*e.g.*, if a restroom stall is used and the collection site person remains in the restroom, or if the collection site person is expected to listen for use of unsecured sources of water.).

VII. Responsibility of the Driver Being Tested for Controlled Substances

The collection of your urine will be conducted under the procedures mandated by the Department of Transportation. The D.O.T. regulations provide for your individual privacy unless there is reason to believe that you may or have altered or substituted the urine specimen. You will be asked to:

- A. Present the required photo identification to the collector. If you do not have a photo I.D., an employer representative will be asked to identify you.
- B. You may ask the collector to show his/her identification. A valid driver's license will comply with this requirement for the collector.
- C. You must sign an "Authorization Sheet."
- D. You must remove any unnecessary outer garments, (*e.g.*, coat, jacket). All personal belongings (*e.g.*, purse, briefcase, etc.) must remain with the outer garments. You may retain your wallet. You may ask for a receipt.
- E. When instructed by the collector, wash and dry your hands.
- F. You will be provided a sealed specimen bottle or collection container; the collector may unwrap it in your

presence.

- G. You may provide the urine specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
- H. You, as the donor, must observe the entire collection procedure. The collector will check the specimen bottle for volume, temperature and color. The collector will then seal the bottle.
- I. You, as the donor, must initial the sealing identification labels, which will be used to seal the specimen bottles, to certify that it is your specimen.
- J. You, as the donor, will be given the "Donor" copy of the completed form after the collector has completed his/her certification and the urine sample has been sealed and packaged for shipment to the lab for testing.
- K. You should not list, nor will you be asked by the collector about, any medications/prescriptions on any other copy of the form. However, you may list these on the "Donor" copy, which you keep for your records.

The result of the laboratory analysis will be forwarded to the Medical Review Officer ("MRO"). If the laboratory results are "negative", the MRO will notify your company's safety director or other designated employee. If the laboratory results are positive, the MRO will contact you at the phone number you provided on the "collection form" to give you the opportunity to discuss the test results and to submit to him/her any information which would indicate any "medically authorized" use of the drug in question, (see Section IX).

The MRO will follow up on this information with your physician and pharmacy.

VIII. Privacy for Controlled Substance Drug Testing

Procedures for collecting urine specimens shall allow for individual privacy *unless* there is a reason to believe that a particular individual may alter or substitute the specimen to be provided, as further described in this section of the policy.

For purposes of this policy, the following circumstances are the exclusive grounds constituting a reason to believe that the individual may alter or substitute the specimen:

- A. The driver applicant/currently employed driver has presented a urine specimen that falls outside the normal temperature range (32°-38°C/ 90°-100°F), and
 - 1. The driver applicant/currently employed driver declines to provide a measurement of oral body temperature, as provided in CFR 49, §40, or
 - 2. Oral body temperature varies by more than 1°C/1.8°F from the temperature of the specimen;
- B. The last urine specimen provided by the driver applicant/currently employed driver (*e.g.*, on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.
- C. The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (*e.g.*, substitute urine in plain view, blue dye in specimen presented, etc.); or
- D. The driver applicant/currently employed driver has previously been determined to have used a controlled

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substance without medical authorization and the particular test was being conducted under a D.O.T. agency regulation providing for follow-up testing upon or after return to service.

IX. The Medical Review Officer ("MRO")

All laboratory findings for urine or confirmatory testing (when performed under the guidelines specified in CFR 49, §40.61-40.73) will be reviewed by a qualified, independent Medical Review Officer (hereafter referred to as the "MRO"), before the results are reported to **The Company**. A driver with a positive Drug Test result may request one immediate re-test, (at the driver's expense). This re-test will be performed on the original sample provided in the "split-sample" collection. Also, this re-test must be authorized through the MRO and must be performed within 72 hours.

X. Devices to be used for Breath Alcohol Tests

For screening test, **The Company** will utilize only EBT's that meet the following requirements:

- A. EBT's shall have the capability of providing, independently or by direct link to a separate printer, a printed result in triplicate (or three consecutive identical copies) of each breath test and of the operations specified within this section of the policy.
- B. EBT's shall be capable of assigning a unique and sequential number to each completed test, with the number capable of being read by the BAT (as defined in this policy) and the driver applicant/currently employed driver before each test and being printed out on each copy of the result.
- C. EBT's shall be capable of printing out, on each copy the result, the manufacturer's name for the device, the device's serial number, and the time of the test.
- D. EBT's shall be able to distinguish alcohol from acetone at the 0.02% alcohol concentration level.
- E. EBT's shall be capable of the following operations:
 - 1. Testing an air blank prior to each collection of breath; and
 - 2. Performing an external calibration check.

XI. Quality Assurance Plans for EBT's

- A. In order ensure the accuracy of the BAT/EBT to be used by **The Company**, in either screening or confirmation alcohol testing subject to CFR 49, §40, **The Company** will ensure that the BAT facility utilizes an EBT that is manufactured by a company that utilizes a quality assurance plan ("QAP") for it's EBT.
 - 1. The QAP must designate the method or methods to be used to perform external calibration checks of the device, using only calibration devices on the NHTSA "Conforming Products List of Calibrating Units for Breath Alcohol Tests".
 - 2. The plan shall specify the minimum intervals for performing external calibration checks of the device. Intervals shall be specified for different frequencies of use, environmental conditions (*e.g.*, temperature, altitude, humidity), and contexts of operation (*e.g.*, stationary or mobile use).
 - 3. The plan shall specify the tolerances on an external calibration check within which the EBT is regarded to be in proper calibration.
 - 4. The plan shall specify inspection, maintenance, and calibration requirements and intervals for the device.
 - 5. For a QAP to be regarded as valid, the manufacturer shall have submitted the plan to NHTSA for

review and have received NHTSA approval of the plan.

- B. **The Company** and their testing agency shall comply with the NHTSA-approved quality assurance plan for each EBT utilized for alcohol screening or confirmation testing subject to CFR 49, §40.
1. **The Company** shall ensure that the testing agency/BAT is utilizing the external calibration checks of each EBT are performed as provided in the QAP.
 2. **The Company** shall ensure that the testing agency/BAT takes out of service any EBT that fails any calibration check as set forth in the manufacturers QAP. The EBT which has been removed from service shall not again be used for alcohol testing under CFR 49, §40, until it has been serviced and has had an external calibration check resulting in a reading within the tolerances for the EBT as set forth in the manufacturers QAP.
 3. **The Company** shall ensure that the testing agency's/BAT's EBT's inspection, maintenance, and calibration, as required by the QAP, is performed by the manufacturer or a maintenance representative certified by the device's manufacturer or a state health agency or other appropriate state agency. **The Company** shall also ensure that each agency/BAT or other individual who performs an external calibration check of an EBT used for alcohol testing subject to this part has demonstrated proficiency in conducting such a check of the model of EBT in question.
 4. **The Company** shall ensure that the testing agency/BAT shall maintain records of the external calibration checks of the EBT's as provided in CFR 49, §40.

XII. Procedures for Screening Test

- A. When the driver applicant/currently employed driver enters the alcohol testing location, the BAT will require him/her to provide positive identification (*e.g.*, through the use of a photo I.D. card or identification by an employer representative).
- B. The BAT shall explain the testing procedure to the driver applicant/currently employed driver.
- C. The BAT shall complete Step 1 on the Breath Alcohol Testing Form. The driver applicant/currently employed driver shall then complete Step 2 on the form by signing the certification. Refusal by the driver applicant/currently employed driver to sign this certification shall constitute a "refusal to take the test".
- D. An individually sealed mouthpiece shall be opened in view of the driver applicant/currently employed driver and BAT and attached to the EBT in accordance with the manufacturer's instructions.
- E. The BAT shall instruct the driver applicant/currently employed driver to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.
- F. If the EBT does not meet the requirements of CFR 49, §40.233, the BAT shall ensure, before the screening test is administered to each driver applicant/currently employed driver, that he/she and the driver applicant read the sequential test number displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, and time in Step 3 of the form.
- G. If the EBT does not meet the requirements of CFR 49, §40.233, the BAT and the driver applicant/currently employed driver shall take the following steps:
1. Show the driver applicant/currently employed driver the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of testing device, time and

- qualified result in Step 3 of the form.
2. Record the test number, date of the test, name of the BAT, location, and quantified test result in the log book. The driver applicant/currently employed driver shall initial the log book entry.
- H. If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the driver applicant/currently employed driver the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide clear evidence of removal (*e.g.*, tamper-evident tape).
- I. If the EBT prints the test results directly onto the form, the BAT shall show the driver applicant/currently employed driver the result displayed on the EBT.
- J. In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02%, the BAT shall date the form and sign the certification in Step 3 of the form. The driver applicant/currently employed driver shall sign the certification and fill in the date in Step 4 of the form.
1. No further testing is authorized. The BAT shall transmit the result of less than 0.02% to **The Company**, in a confidential manner, and **The Company** shall receive and store the information so as to ensure that confidentiality is maintained as required by CFR 49, §382.401.
 2. If the driver applicant/currently employed driver does not sign the certification in Step 4 of the form for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the driver applicant's/currently employed driver's failure to sign in the "Remarks" section of the form.
 3. If a test result printed by the EBT does not match the displayed result, or if a sequential test number printed by the EBT does not match the sequential test number displayed by the EBT prior to the screening test, the BAT shall note the disparity in the "Remarks" section. Both the driver applicant/currently employed driver and the BAT shall initial and sign the notation. In accordance with CFR 49, Part 40, §382, the test is invalid and the driver applicant/currently employed driver shall be so advised.
- K. If the result of the screening test is an alcohol concentration of 0.02% or greater, a confirmation test shall be performed as provided in CFR 49, §40.251.
- L. If the confirmation test is to be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the form and log book entry. The BAT will provide the driver applicant/currently employed driver with Copy 2 of the form.
- M. If the confirmation test will be conducted at a different site from the screening test, **The Company** or its agent shall ensure that:
1. The driver applicant/currently employed driver is advised against taking any of the actions mentioned in the first sentence of CFR 49, §40.251;
 2. The driver applicant/currently employed driver is advised that he/she must not drive, perform safety-sensitive duties as defined in this policy, or operate heavy equipment, as noted in Block 4 of the alcohol testing form; and
 3. The driver applicant/currently employed driver is under the observation of a BAT, STT, or other of **The Company** personnel while in transit from the screening test site to the confirmation test site.
- N. All confirmation tests shall be conducted in accordance with CFR 49, §40.251 (a) through (g).

XIII. Procedures for Confirmation Test

- A. If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT must follow the procedures found in CFR 49, §40.251.
- B. The BAT shall instruct the employee not to eat, drink, put any object or substance in his /her mouth, and, to the extent possible, not to belch during the waiting period before the confirmation test. This time period begins with the completion of the screening test, and shall not be less than fifteen (15) minutes. The confirmation test shall be conducted within thirty (30) minutes of the completion of the initial screening test. The BAT shall explain to the driver applicant/currently employed driver the reason for this requirement (*e.g.*, to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the driver applicant's/currently employed driver's benefit. The BAT shall also explain that the test will be conducted at the end of the waiting period, even if the driver applicant/currently employed driver has disregarded the instructions. If the BAT becomes aware that the driver applicant/currently employed driver has not complied with this instruction, the BAT shall so note in the "Remarks" section of the form. If the BAT conducts the confirmation test more than 30 minutes after the result of the initial screening test has been obtained, the BAT shall so note in the "Remarks" section of the form the time that elapsed between the initial screening and the confirmation tests and the reason why the confirmation test could not be conducted within thirty (30) minutes of the screening test.
- C. If a BAT other than the one who conducted the initial screening test is conducting the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall complete Step 1 on the form. The driver applicant/currently employed driver shall then complete Step 2 on the form by signing the certification. Refusal by the driver applicant/currently employed driver to sign this certification shall be regarded as a refusal to take the test. The BAT shall note in the "Remarks" section of the form that a different BAT conducted the screening test.
 - 1. In all cases, the procedures of CFR 49, §40.241-40.247 shall be followed. A new mouthpiece shall be used for the confirmation test.
- D. Before the confirmation test is administered for each employee, the BAT shall ensure the EBT registers 0.00% on an air blank. If the reading is greater than 0.00%, the Bat shall conduct one more air blank. If the reading is greater than 0.00%, testing shall not proceed using that instrument, which shall be taken out of service. However, testing may proceed on another instrument. Any EBT taken out of service because of failure to perform an air blank test accurately shall not be used for testing until a check of external calibration is completed and the EBT is found to be within tolerance limits.
- E. Before the confirmation test is administered for each driver applicant/currently employed driver, the BAT shall ensure that he/she and the driver applicant/currently employed driver read the sequential test number displayed by the EBT.
- F. In the event that the screening and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action under operating administration rules shall be based.
- G. If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the driver applicant/currently employed driver the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide

clear evidence of removal (*e.g.*, tamper-evident tape).

1. If the EBT prints the test results directly onto the form, the BAT shall show the driver applicant/currently employed driver the result displayed on the EBT.
- H. Following the completion of the test, the BAT shall date the form and sign the certification on Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.
1. If the employee does not sign the certification in Step 4 of the form, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the "Remarks" section.
 2. If a test result printed by the EBT (see paragraph "G.1" or "G.2" of this section) does not match the displayed result, or if a sequential test number printed by the EBT does not match the sequential test number displayed by the EBT prior to the confirmation test (see paragraph "E" of this section), the BAT shall note the disparity in the "Remarks" section. Both the driver applicant/currently employed driver and the BAT shall initial and sign the notation. In accordance with CFR 49, §40.255, the test is invalid and the driver applicant/currently employed driver shall be so advised.
- I. The BAT shall transmit all test results to **The Company** in a confidential manner.
1. **The Company** has designated the personnel director/safety director or their designated agent for the purpose of receiving and handling alcohol testing results in a confidential manner. All communications by BAT's to **The Company** concerning the alcohol testing results of driver applicants/currently employed drivers shall be to the personnel listed above only.
 2. Such transmission may be in writing (the "Employer Copy" [Copy 1] of the breath alcohol testing form), in person or by telephone or electronic means, but the BAT shall ensure immediate transmission to **The Company** of results that require **The Company** to prevent the driver applicant/currently employed driver from performing a safety-sensitive function.
 3. If the initial transmission is not in writing (*e.g.*, by telephone), **The Company** has established a mechanism to verify the identity of the BAT providing the information.
 4. If the initial transmission is not in writing, the BAT will follow the initial transmission by providing to **The Company** the employer's copy of the Breath Alcohol Testing form. **The Company** will store the information so as to ensure that confidentiality is maintained as required by CFR 49, §382.401.
- J. If the EBT prints the test results directly onto the form, the BAT shall show the driver applicant/currently employed driver the result displayed on the EBT.

XIV. Refusals to Test and Uncompleted Alcohol Test

- A. Refusal by a driver applicant/currently employed driver to complete and sign the Breath Alcohol Testing Form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test, shall be noted by the BAT in the remarks section of the form. The testing process shall be terminated and the BAT shall immediately notify **The Company**.
- B. If a screening or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new breath alcohol testing form with a new sequential test number (in the case of a screening test conducted on an EBT that meets the requirements of CFR 49, §40.233 or in the case of a confirmation test).

XV. Inability to Provide an Adequate Amount of Breath

This section sets forth procedures to be followed in any case in which a driver applicant/currently employed driver is unable, or alleges that he/she is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition.

- A. The BAT shall again instruct the driver applicant/currently employed driver to attempt to provide an adequate amount of breath. If the driver applicant/currently employed driver refuses to make the attempt, the BAT shall immediately inform **The Company**.
- B. If the driver applicant/currently employed driver attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "Remarks" section of the "Breath Alcohol Testing" form and immediately inform **The Company**.
- C. If the driver applicant/currently employed driver attempts and fails to provide an adequate amount of breath, **The Company** shall direct the driver applicant/currently employed driver to obtain, as soon as practical after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to **The Company** concerning the driver applicant's/currently employed driver's medical ability to provide an adequate amount of breath.
- D. If **The Company's** approved, licensed physician determines, in his/her reasonable medical judgment, that a medical condition has, or with a high degree of probability could have, precluded the driver applicant/currently employed driver from providing an adequate amount of breath, the driver applicant's/currently employed driver's failure to provide an adequate amount of breath shall not be deemed a refusal to take an alcohol breath test. However, **The Company**-approved, licensed physician who the driver applicant/currently employed driver saw must provide to **The Company** a written statement of the basis for his/her conclusion.
 - 1. If **The Company's** licensed physician, in his/her reasonable medical judgment, is unable to make the determination set forth in the above paragraph, the driver applicant's/currently employed driver's failure to provide an adequate amount of breath shall be regarded as a refusal to take the Alcohol Breath Test. **The Company's** licensed physician who the driver applicant/currently employed driver saw must provide to **The Company** a written statement of the basis for his/her conclusion.

XVI. Disciplinary Action for Policy Violations by Drivers

Compliance with this policy is a condition of employment and continued employment with **The Company**. Drivers will be subject all disciplinary action up to and including denial of employment and termination from employment and the possible denial of unemployment/workmen's compensation benefits under the Code, Section 25-4-78(3), for the following:

- A. Refusing to submit to a search or inspection or to a urine, and/or breath (when performed under the guidelines specified in CFR 49, §40) test for the detection of alcohol or drugs or metabolites thereof;
- B. Knowingly alternating or the adulteration of urine, and/or breath (when performed under the guidelines specified in CFR 49, §40) sample by the driver;
- C. Using, possessing, concealing, transporting, promoting, purchasing or selling any prohibited item or substance on Company premises;

- D. Working or reporting for work while under the influence of alcohol;
- E. Working or reporting for work with any detectable level of an illegal drug or non-prescribed controlled substance or any metabolite thereof in his system.

XVII. Referral, Evaluation, and Treatment

- A. Each driver who has engaged in conduct prohibited by this policy will be advised by **The Company** of the resources available to drivers in evaluating and resolving the problems associated with the misuse of alcohol and controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. However, this *must in no way* be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation, counseling or treatment. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.
- B. Each currently employed driver who engages in conduct prohibited by this policy shall be evaluated by a substance abuse professional (as defined by the D.O.T.) who shall determine what assistance, if any, he/she needs in resolving problems associated with alcohol misuse and controlled substances use. However, this *must in no way* be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation, counseling or treatment. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.
- C. If a driver tests positive for drugs, the medical examiner must examine the driver again because of the prior use of drugs and certify that the driver is medically qualified to drive. The complete medical examination need not always be given; however, the extent to which the driver must be physically re-examined must be determined by **The Company's** medical examiner. However, this *must in no way* be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.
- D. If the driver is allowed to return to duty requiring the performance of a safety-sensitive function, as defined in this policy, after engaging in conduct prohibited by this policy, that driver must undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02% if the conduct involved alcohol. However, this *must in no way* be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation, counseling or treatment. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.
- E. If a driver is allowed to return to duty requiring the performance of a safety-sensitive function, as defined in this policy, after engaging in conduct prohibited by this policy, that driver must undergo a return-to-duty drug test with a verified negative result indicating no illegal drug, as defined in this policy, in his/her system.

However, this *must in no way* be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation, counseling or treatment. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.

- F. In addition, every currently employed driver identified as needing assistance, as determined by the "qualified abuse professional", in resolving problems associated with alcohol misuse or controlled substance use:
1. Shall be evaluated by a substance abuse professional, as defined in this policy, to determine that the driver has properly followed any rehabilitation program as prescribed in paragraph 2 of this section, and
 2. Shall be subject to unannounced follow-up alcohol and controlled substance tests administered by **The Company** following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and will consist of at least six (6) test in the first twelve (12) months following the driver's return to duty. The employer may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular driver. Any such testing shall be performed in accordance with the requirements of CFR 49, §40. Follow-up testing shall not exceed 60 months from the date of the driver's return-to-duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the substance abuse professional determines that such testing is no longer necessary. These two (2) paragraphs must in no way be construed to mean the establishment of an agreement between **The Company** and that driver that implies that **The Company** agrees to pay for this evaluation, counseling or treatment. This will be the sole responsibility of the driver. Also, this *must not be* construed to mean the establishment of a contractual agreement between **The Company** and the currently employed driver for employment or continued employment.

XVIII. Alcohol and Drug Testing Driver Applicants

- A. **The Company** may require urine or other tests for the detection of alcohol or drugs or metabolites thereof in connection with and/or as part of a pre-employment examination.
- B. **The Company** reserves the right to refuse to hire any driver applicant who either refuses to submit to any such drug or alcohol tests, or who tests positive.

XIX. Non-Applicable Provisions and Reservations of Rights

The provisions of this **Policy** do not apply to the extent that the same may conflict with any Federal regulation, and **The Company** reserves the right to apply any provision of the **Policy** as it deems fair and legal under existing Federal regulation.

In addition, the provisions of this policy are severable. If any part of this policy is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

If you fail any of the above requirements, you cannot become eligible for employment as a driver. Furthermore, should you decide to leave employment within the one year (1 year) or are discharged for cause during this period, you agree to reimburse **The Company** for all expenses incurred in establishing and maintaining your eligibility,

including, but not limited to, all cost relating to drug testing, background checks and medicals. Such expenses may be deducted from any sums due you at the time of your leaving employment.

XX.

Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.

In accordance with **§382.601 (12)**, the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (i) A verified positive, adulterated, or substituted drug test result;
- (ii) An alcohol confirmation test with a concentration of 0.04 or higher;
- (iii) A refusal to submit to any test required by subpart C of this part;
- (iv) An employer's report of actual knowledge, as defined at §382.107:
 - (A) On duty alcohol use pursuant to §382.205;
 - (B) Pre-duty alcohol use pursuant to §382.207;
 - (C) Alcohol use following an accident pursuant to §382.209; and
 - (D) Controlled substance use pursuant to §382.213;
- (v) A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
- (vi) A negative return-to-duty test; and
- (vii) An employer's report of completion of follow-up testing.

This Policy and these programs are made for the maximum safety and well-being of all drivers, other personnel, and the general public. Your assistance and cooperation for the achievement of this goal is vitally important.

Drug, Alcohol, and (Private) Contraband Policy For CDL Drivers Employed By

If there are any questions regarding the above stated drug and alcohol policy, you may contact your company representative, _____ @ _____ or Motor Carrier Consultants at 251-433-4111.

★ I, _____, *understand and agree to abide by the above requirements and statement as a condition of employment.*

★ _____
Driver's Signature

Date

Witness

Date

Determination that Driver Applicant/Currently Employed Driver Is Fit for Duty

Prior to releasing driver for said examination, The **Company** requests them to sign a consent form. This consent form will apply to any D.O.T. required drug/alcohol screen performed while driver is employed by **The Company**.

Consent Form

Voluntary Submission for Physical Examination, Breath/Saliva Analysis, (when performed under the guidelines specified in CFR 49, §382.303) and/or Urine Analysis and the Release of Said Results.



I, _____, voluntarily agree to undergo a physical examination, including a urine test and/or breath/saliva test (when performed under the guidelines specified in CFR 49, §40) by a doctor, medical center, hospital, or medically qualified personnel.

I hereby authorize the release of the results of the examination to **The Company** and its representatives. By this authorization, I do hereby release any doctor, hospital, medical center, clinic, medical personnel, etc. and **The Company** or any of its representatives from any and all liabilities arising from the release or use of the information contained in my physical exam and test results.



Driver's Signature

Date

Witness

Date