



## COMMUNITY ACTION DRUG AND ALCOHOL POLICY FOR USE WITH FMCSA/DOT REGULATED EMPLOYEES

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Federal regulations require that employers conduct alcohol and controlled substances testing of drivers who operate commercial motor vehicles in interstate, foreign or intrastate commerce, including but not limited to: company drivers, leased or contract drivers, casual or intermittent or occasional drivers, mechanics, and supervisors with a commercial driver's license who fill in For the purpose of this policy the term employee will be referred to as "driver" and employer will be referred to as "Company." This policy provides guidelines for circumstances under which the Federal Motor Carrier Safety Administration (FMCSA) and the United States Department of Transportation (DOT) mandated testing must be conducted. Of course, all the details of every possible situation cannot be anticipated, so the Company reserves the right to determine the appropriate application of this policy and general employment policies to any particular case. If at any time this policy conflicts with any new or existing regulation of the DOT, the regulation will control and supersede any conflicting language in this policy.

Drivers covered by this policy have been provided a copy of these FMCSA/DOT provisions and by your signature, you are verifying that you have read and understand the policy. **Drivers should note that in addition to the required DOT regulations they are also subject to the company's non-DOT drug and alcohol policy and all other policies and procedures as applied to all employees.**

### Company Expectations

The Company expects all drivers to work drug- and alcohol-free at all times. If you have any questions about this policy, contact Rachel Ley, **Transportation Supervisor**, or Leticia Vitela, **HR Business Partner**, (503) 693-3234.

*\*\*The manufacture, or sale, or use or possession of alcohol, any controlled or illegal substance (except strictly in accordance with medical authorization) or any other substances which impair job performance or pose a hazard, when use or possession occurs on Company premises or property, or during work time, or while representing the Company in any work-related fashion. \*\* Company requirement, not a DOT mandated requirement.*

Reporting for work having consumed alcohol or used illegal drugs or controlled substances at a time, or in such quantities, or in a manner that may impair work performance. For purposes of this policy, having any detectable level of an illegal or controlled substance, or alcohol with an alcohol concentration of .02 or greater, in one's system while covered by this policy will be considered to be a violation.

### Alcohol and Controlled Substance Problems

In some cases, alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Drivers who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. It is the driver's responsibility to seek help when needed, and to do so before substance abuse causes problems on the job or results in disciplinary action.

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Drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of 49 CFR Part 382 and 40, provided that:

- 1) The driver does not self-identify in order to avoid testing.
- 2) The driver makes the admission of alcohol misuse or controlled substances use before performing a safety sensitive function (i.e., prior to reporting for duty).
- 3) The driver does not perform a safety sensitive function until the Company is satisfied that the driver has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

### Normally, the Company will:

- 1) Not take adverse action against a driver making a voluntary admission of alcohol misuse or controlled substances use provided that the admission occurs before the driver has been subject to disciplinary action or the use/misuse has affected job performance.
- 2) Allow the driver sufficient opportunity to seek an evaluation, education, or treatment to establish control over the driver's drug or alcohol problem.
- 3) Permit the driver to return to safety sensitive duties **only** upon successful completion of an educational or treatment program, as determined by a substance abuse professional, and will be required to sign a Last Chance Agreement as a condition of employment.

*\*\*The driver must pay the cost of the pre-treatment evaluation and any treatment. The Company medical plan may cover a portion of the treatment costs however uncovered costs remain the driver's responsibility to pay. The Company will pay the cost of any follow-up controlled substances or alcohol testing required by the Substance Abuse Professional. The return to duty and follow-up testing will be conducted as non-DOT testing. The Company may perform follow-up testing for five years as directed by the Substance Abuse Professional. \*\* Company requirement, not a DOT mandated requirement.*

### The following Substance Abuse Professional can provide help and referrals:

Betty Friedman or [saplist.com](mailto:saplist.com)  
Bridgeway [naadac.org](http://naadac.org)  
1525 NE Weidler Street, Suite 202  
Portland OR 97232  
(503) 525-1142

## Definitions

"**Alcohol**" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"**Alcohol concentration (or content), BAC**" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

"**Alcohol use**" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

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**"Commercial motor-vehicle"** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or
- Has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; 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 be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

**"Controlled substances for testing"** where used in connection with the testing requirements of this policy, "controlled substances" means those substances identified in 49 CFR Part 40.85: marijuana metabolites, cocaine metabolites, opioids, amphetamines, and phencyclidine (PCP).

**"DOT Agency"** means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or controlled substance (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR Part 40.

**"Driver"** means any person who operates a commercial motor vehicle. This includes, but is not limited to full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

**"Drug"** has the meaning of any controlled substances, prescription, or over-the-counter medication.

**"EBT (or evidential breath testing device)"** means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL) and identified on the most recent CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

**"Employer"** means a person or an entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with 49 CFR Part 382. The term refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who takes personnel actions resulting from violations of 49 CFR Part 382 and any applicable DOT agency regulations. Service agents are not employers.

**"Licensed medical practitioner"** means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

**"Medical Review Officer (MRO)"** means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate medical explanations for an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

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**"Performing (a safety-sensitive function)"** means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**"Refuse to submit (to an alcohol or controlled substances test)"** means that a covered employee:

- Fails to show up for any test (except a pre-employment test) within a reasonable time 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 a Consortium/Third Party Administrator);
- Fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup.
- Fails to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide.
- Fails or declines to take a second test the employer has directed following a negative dilute result as required by 40.197(b);
- Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fail to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined in 40.265(c).
- Fails to cooperate (e.g. refuses to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process.
- Fails to sign the certification at Step 2 of the alcohol testing form (ATF).
- Is reported by the MRO as having a verified adulterated or substituted test result.
- 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 employee has any type of prosthetic or other device that could be used to interfere with the collection process.
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- Admits to the collector or MRO that he or she has adulterated or substituted the specimen.

**"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/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

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1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76).
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### Prohibited Conduct

Certain conduct and behavior related to alcohol and drugs is strictly controlled by federal law. The following is considered prohibited conduct under this policy:

1. 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.
2. No driver shall use alcohol while performing safety-sensitive functions.
3. No driver shall perform safety-sensitive functions within four hours after using alcohol.
4. No driver required to take a post-accident alcohol test under 49 CFR 382.303 shall use alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
5. No driver shall refuse to submit to a pre-employment-controlled substance, post-accident, random, reasonable suspicion, return-to-duty, or follow-up-controlled substance and/or alcohol test required by 49 CFR Part 382.
6. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

**\*\*Prescription Medications:** *No driver may possess any prescription medication or report to work while using any prescription, except when he/she is under a doctor's care and the doctor has advised the driver that the substance does not affect his/her ability to operate a commercial motor vehicle. The use of medication that could affect a driver's safe job performance is prohibited while working. The driver shall report to Rachel Ley, Transportation Supervisor, (503) 693-3234, the use of any prescribed medication and, without identifying the medication, shall provide a certificate from the driver's doctor that the use of the medication will not impair his/her ability to safely perform his/her duties. If, as a result of testing under this policy, the driver is found to have the presence of controlled substances in the body which is a result of the use of his/her legally prescribed medication that has not been reported, the driver shall be removed from service without pay until it is determined that the use of medication will not impair his/her ability to safely perform assigned duties. \*\* Company requirement, not a DOT mandated requirement*

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7. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
8. No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements of 49 CFR Part 40, Subpart O, after the occurrence of any of the following events:
  - a. The driver receives a positive, adulterated, or substituted drug test result
  - b. The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration
  - c. The driver refused to submit to a test for drugs or alcohol
  - d. The driver used alcohol prior to a post-accident alcohol test in violation of 382.209.
  - e. An employer has actual knowledge, as defined in 382.107 that a driver has:
    - (1) Used alcohol while performing safety-sensitive functions in violation of 382.205;
    - (2) Used alcohol within four hours of performing safety-sensitive functions in violation of 382.207; or
    - (3) Used a controlled substance.

The Company shall not permit a driver to continue to perform safety sensitive functions if the Company has actual knowledge of a driver violating any of the aforementioned prohibitions.

The Company can obtain actual knowledge based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substances use, except as discussed in the Company's voluntary self-identification program.

### Other Related Alcohol Conduct

A driver tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the test administration.

### Controlled Substances for Testing and Alcohol Testing

The driver may be tested for controlled substances at any time during his/her work day, except pre-employment, and alcohol testing will be conducted just before, during or after performing safety sensitive functions. *\*\*All negative dilute specimen test results will require the applicant or driver to submit to an immediate retest. He/she should report as early in the day as possible and refrain from drinking any fluids for at least two (2) hours prior to testing. \*\* Company requirement, not a DOT mandated requirement.*

**Drivers will be subject to testing as follows:**

**Pre-Employment:** Drivers will be tested for controlled substances unless the applicant participated in a DOT testing program within the past 30 days and:

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- (1) passed a DOT controlled substance test within the past six (6) months; or
- (2) was subject to DOT random controlled substance testing program for the previous 12 months.
- (3) has not violated any prohibitions of 49 CFR Part 382 within the past six (6) months.

A driver/applicant who tests positive on a pre-employment test will not be hired, however may be eligible to reapply with the Company after three (3) months from the date of the positive test and successful completion of the Return to Duty process, 49 CFR Part 40 subpart O. An applicant who tested positive for any company's mandated pre-employment drug test after August 1, 2001, must provide documentation of his/her successful completion of DOT return-to-duty requirements (i.e. an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT same gender observed return to duty test all of which meet the requirements of 49 CFR Part 40). The driver/applicant will be responsible to pay for the pre-treatment evaluation, education and/or treatment, and the subsequent pre-employment or same gender Return to Duty controlled substance and/or alcohol test(s).

Effective January 6, 2020, the Company will be querying the Commercial Driver's License Drug and Alcohol Clearinghouse to determine if any records exist for an applicant. As a condition of employment, an applicant must submit an electronic consent through the Clearinghouse granting the Company access to the following information:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required under Part 382;
- An employer's report of actual knowledge:
  - On duty alcohol use;
  - Pre-duty alcohol use;
  - Alcohol use following an accident; and
  - Controlled substance use
- A substance abuse professional (SAP) report of the successful complete of the return-to-duty process;
- Negative return-to-duty test(s); and
- An employer's report of completion of follow-up testing.

Results of the query may result in the withdrawal of the job offer.

**Post-Accident:** As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each surviving driver shall be tested for controlled substances and alcohol:

1. who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life (fatality); or
2. who received a citation for a moving violation arising out of the accident, and the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
3. who received a citation for a moving violation arising out of the accident, and the accident involved 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 not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. The alcohol test must be completed within two (2) hours of the accident, if not the driver must advise the Company the reasons for the delay and shall continue to have the test conducted up to eight (8) hours following the accident. After eight (8) hours the attempt to test will be ceased, the driver must again provide the reasons for the test not being administered.

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A controlled substances test shall be administered as soon as practicable up to 32 hours following the accident. After 32 hours any attempts to test will cease and the driver must provide the employer with reasons why the test was not promptly administered. The driver must remain readily available for testing, or may be deemed by the Company to have refused to submit to testing.

*\*\*In addition, any employee involved in any commercial motor vehicle accident involving an injury requiring immediate medical attention or any vehicle towed away because of disabling damage, where no citation has been issued; any motor vehicle accident requiring a report to be filed with any state's Department of Motor Vehicles; any other accident resulting in an injury requiring immediate medical attention; any damage to company and/or customer property in excess of \$1000.00 will be required to submit to testing. Testing will be to determine the presence, use, or any involvement with alcohol or drugs unless the Company determines, at its discretion, that the accident could not have been caused by alcohol or drug use.*

*The driver will submit to an alcohol test within eight (8) and a controlled substances test within 32 hours of the accident. The driver must advise the collection site and alcohol testing personnel that the test being required is a company required test not a mandated DOT test.*

*\*\* Company requirement, not a DOT mandated requirement.*

**Random:** The employer is using a consortium/third party administrator to facilitate the random selection of drivers and notification to the employer of the driver(s) selected for testing. The consortium/third party administrator is:

A WorkSAFE Service, Inc.  
1696 Capitol St NE  
Salem OR 97301  
(503) 391-9363

Drivers will be subject to random alcohol and controlled substance testing under the following program:

- (1) Random selection of drivers will be made by a scientifically valid method using a computer-based random number generator that is matched with drivers' Commercial Driver's License (CDL) or Commercial Learner's Permit (CLP) numbers.
- (2) Each driver shall have an equal chance of being drawn each time selections are made.
- (3) Tests are unannounced and test dates are reasonably spread throughout the calendar year.
- (4) The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions, and the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions. Both alcohol and controlled substances minimum annual percentage rates can be substituted for percentage rates established by the FMCSA, as amended.
- (5) A driver shall only be tested for alcohol just before, during, or just after performing safety-sensitive functions, however, a driver may be tested for controlled substances anytime while performing work for the employer.
- (6) A driver shall proceed to the test site immediately once notified of selection for random alcohol and/or controlled substances testing.

**Reasonable Suspicion:** Drivers will be tested for alcohol and/or controlled substances whenever the employer has reasonable suspicion that the individual has violated any portion of this drug and alcohol



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policy (e.g., if the employer observes physical signs of controlled substance or alcohol use, such as slurred speech, unsteady gait, dilated pupils, odor of alcohol or controlled substances, etc.; or if the employer observes unusual behavior suggesting the use of controlled substances or alcohol in violation of the Company policy). Drivers required to be tested under reasonable suspicion testing will be removed from performing safety sensitive functions pending the outcome of the test result(s) and transported to the testing facility by the Company, with arrangements made to have the driver transported to their residence.

Reasonable suspicion-controlled substance testing is authorized when the supervisor's observation of the driver's behavior occurs anytime during the workday. Reasonable suspicion alcohol testing is authorized only if the supervisor's observation of the driver's behavior has been made during, just preceding, or just after performing any safety-sensitive function.

The alcohol test must be completed within two (2) hours of the observation. If a test is not administered within two (2) hours following the observation, the Company must document the reasons for the delay, and continue to pursue administration of a test for up to eight (8) hours. After eight (8) hours any attempt to test will cease, and the Company must document the reasons for not administering the test.

If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the employer shall prepare and maintain on file a record documenting the reasons the test was not administered within the appropriate time frames.

The Company shall not permit a driver to report for duty, remain on duty, perform, or continue to perform any safety-sensitive functions while the driver is under the influence or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, until:

- 1) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02 percent; or
- 2) The start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following the supervisor's determination that reasonable suspicion exists to authorize alcohol testing.

Supervisors and any company representative that may be expected to serve in a supervisory capacity, and who may be required to make a reasonable suspicion determination, must have received at least 60 minutes of training on the indications of probable controlled substance use and an additional 60 minutes training on the indicators of probable alcohol misuse. Only those individuals who have received this training are qualified to make these decisions.

**Return-to-Duty:** No driver found to be in violation of the Company drug and alcohol policy will be permitted to return-to-duty involving safety-sensitive functions until the driver has a verified negative controlled substances test and/or an alcohol test with a result less than 0.02 alcohol concentration. All controlled substances return-to-duty tests will be conducted using an observer who is the same gender as the employee. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

**Follow-Up:** Any driver in need of assistance in resolving problems associated with alcohol misuse and/or controlled substances use as identified through the evaluation by the Substance Abuse Professional will, if still employed be required to enter into a Last Chance Agreement and submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional. The Company may perform follow-up testing for five years. All controlled substances follow-up tests will be conducted using an observer who is the same gender as the employee. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

*\*\*In addition, any driver who comes forward prior to performing safety sensitive functions, or violating the regulations, or Company policy and requests assistance in resolving problems associated with alcohol*

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*misuse and/or controlled substances use as identified through the evaluation by the Substance Abuse Professional will, if still employed, be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional. Where this occurs, the driver must pay the cost of the pre-treatment evaluation and any treatment. The Company medical plan may cover a portion of the treatment costs however uncovered costs remain the driver's responsibility to pay. The Company will pay the cost of any follow-up controlled substances or alcohol testing required by the Substance Abuse Professional. The return to duty and follow-up testing will be conducted as non-DOT testing. The Company may perform follow-up testing for five years as directed by the Substance Abuse Professional. \*\* Company requirement, not a DOT mandated requirement.*

### Failure to Cooperate

Drivers who are subject to this policy are expected to comply fully with any required testing. Failure to do so (including, for example, refusing to sign consent or refusing to test, obstructing the testing process, failing to make yourself available for a required test, failing to provide an adequate sample for testing, attempting to adulterate or substitute a specimen, or in any way tampering with a required test, failure to empty pockets or wash hands as requested by collection site personnel, refusing to permit an observed collection, possessing or wearing a prosthetic or other device that could be used to interfere with the collection process, behaving in a confrontational way that disrupts the collection process) will cause the driver to be immediately relieved from performing safety-sensitive functions, and will also be considered a violation of Company policy that will subject the driver to discipline, up to and including termination of employment. The Company also reserves the right to involve law enforcement officials for any conduct, which it believes, might be in violation of state or federal law.

### Testing Procedures

Urine Specimen Collection: Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered driver, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances the applicant or covered employee will be afforded complete privacy in the restroom for providing the urine sample. Certain situations require the urine sample be provided under same gender direct observation. Those situations include:

- The temperature on the original specimen was out of range;
- The original specimen appeared to have been tampered with (i.e. unusual color, odor, foam, etc);
- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the Company there was not an adequate medical explanation for the result;
- The MRO reported to the Company that 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 reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL, and the MRO reported the specimen to the Company as negative-dilute and a second collection must take place under direct observation; or
- All return-to-duty or follow-up drug tests.

When these situations occur, the applicant or covered employee will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to

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permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

The observer will watch the applicant or covered employee urinate into the collection container. Specifically, the observer will watch urine go from the applicant or covered employee's body into the collection container.

Refusing to permit an observed collection, possessing or wearing a prosthetic or other device that could be used to interfere with the collection process are considered a refusal to test and will constitute a verified positive drug test result.

Laboratory Analysis: As required by 49 CFR Part 40, only a laboratory certified by the Department of Health and Human Services (DHHS) will be retained by the Company to perform the analysis of the urine specimen for controlled substances. The initial screening test will be performed by immunoassay and will test for substances and at cutoff levels required by 49 CFR Part 40, as amended. All specimens identified as positive on the initial screening test will be confirmed using gas chromatography/mass spectrometry techniques at cutoff levels required by 49 CFR Part 40, as amended.

Breath Alcohol: Testing will be conducted by a qualified technician according to 49 CFR Part 40 procedures. Either a breath or saliva test by an EBT device will be used for the testing.

### **Medical Review**

All controlled substances test results will be reviewed by a Medical Review Officer (MRO) before results are reported to the Company. The MRO will attempt to contact the driver to discuss the test results before reporting positive results to the Company.

The Company Medical Review Officer is:

Dr. Dale Fine, MD  
Drug Free Business Services  
18912 North Creek Parkway, Suite 202  
Bothell WA 98011  
(866) 448-0651

### **Notification of Results**

The Company will notify the affected driver of any controlled substances test that is reported as positive by the MRO. The Company will notify driver-applicants of the results of pre-employment-controlled substances testing if the applicant requests that information in writing within 60 days after we notify the applicant that they have or have not been hired.

### **Reanalysis of Original Specimen**

Within 72 hours of the MRO notifying the driver of a verified positive controlled substances test, an adulterated or substituted specimen, the driver may request the reanalysis of the original specimen. Only the MRO may authorize such a reanalysis, and such a reanalysis may take place only at laboratories certified by the Department of Health and Human Services (DHHS). If the reanalysis fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test.

All drivers have a right to request the reanalysis of the original specimen for which the Company will be responsible to pay.

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## Confidentiality

Records required under this policy, including test results, will be maintained in a secure location with controlled access. Each driver, upon written request, shall be entitled to receive copies of their own records, and to have copies of their records made available to any subsequent employer. Information may also be disclosed to the relevant state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or behalf of the driver.

In addition, the following personal information collected and maintained shall be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse by the MRO or the Company beginning January 6, 2020:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required under Part 382;
- An employer's report of actual knowledge:
  - On duty alcohol use;
  - Pre-duty alcohol use;
  - Alcohol use following an accident;
  - Controlled substance use;
- A substance abuse professional (SAP) report of the successful complete of the return-to-duty process;
- Negative return-to-duty test(s); and
- An employer's report of completion of follow-up testing.

Additionally, as a condition of continuous employment, a driver must provide a written consent for multiple years or for duration of employment, granting the Company access to conduct limited queries of the above information on an annual basis. If any of the above information is found in the Clearinghouse, the driver within 24 hours, must submit a specific electronic consent through the Clearinghouse granting the Company access this information.

## Evaluation and Referral

DOT regulations require that any driver who violates the alcohol and controlled substances rules of 49 CFR Part 382 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. The driver must complete an appropriate education and/or treatment program before being eligible to return-to-safety sensitive duty.

Before returning to performing safety-sensitive functions for **any** DOT employer a driver must be tested for controlled substances with a verified negative controlled substances test result and/or alcohol with a test result less than 0.02 alcohol concentration. The driver will be subject to follow-up testing of at least six tests in the first 12 months of returning to duty, and follow-up testing may continue for five years. All return-to-duty and follow-up drug tests will be required to be collected as same gender direct observation collections.

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**Consequences**

Under normal circumstances, drivers violating this policy or federal regulations will be suspended from performing any safety-sensitive functions with a commercial motor vehicle, as defined by this policy.

***Regular status employees (Includes Employees in their initial Introductory Period)***

*Any regular status covered employee who violates any provision of this policy shall be subject to discipline or discharge. Where, at the Company's discretion, a driver is returned to work, the driver will be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional in order to continue to perform safety-sensitive functions and operating a commercial motor vehicle requiring a CDL.*

*Such an agreement shall include the conditions under which the employee shall be allowed to continue his or her employment with the Employer. It may also include a requirement for continued compliance and satisfactory completion of any treatment prescribed by the substance abuse professional including after-care programs and special requirements by the Employer, or any other requirements deemed appropriate by the parties involved, including discharge if the conditions of the agreement are not met. The Employer shall decide on a case-by-case basis, if the covered employee is eligible to participate in a last chance agreement; however, in most cases of violation of the policy the employee will be discharged.*

*Where this occurs, the driver must pay the cost of the pre-treatment evaluation and any treatment. The Company medical plan may cover a portion of the treatment costs however uncovered costs remain the driver's responsibility to pay. The Company will pay the cost of any follow-up controlled substances or alcohol testing required by the Substance Abuse Professional.*

*The Company reserves the right to take disciplinary action up to and including termination for violation of the Company drug and alcohol policy where and when we deem it appropriate.*

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Washington County, Oregon**

**CERTIFICATE OF RECEIPT**

I hereby certify that on the date shown below I received and read a copy of Community Action Drug and Alcohol Policy for Use With FMCSA/DOT-Regulated Employees, consisting of nineteen (19) pages including these Certificates of Receipt, and a copy of drug and alcohol awareness training materials. I understand and agree to comply with this policy, including any required alcohol or controlled substance testing.

---

EMPLOYEE - PRINT NAME

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EMPLOYEE - SIGNATURE

---

DATE

*(Original to be kept in employee personnel file.)*

**Community Action Head Start  
Washington County, Oregon**

**CERTIFICATE OF RECEIPT**

I hereby certify that on the date shown below I received and read a copy of Community Action Drug and Alcohol Policy for Use With FMCSA/DOT-Regulated Employees, consisting of nineteen (19) pages including these Certificates of Receipt, and a copy of drug and alcohol awareness training materials. I understand and agree to comply with this policy, including any required alcohol or controlled substance testing.

---

EMPLOYEE - PRINT NAME

---

EMPLOYEE - SIGNATURE

---

DATE:

*(Employee to receive duplicate copy)*

**Community Action Head Start  
Washington County, Oregon**

**General Consent for Limited Queries of the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse**

I, \_\_\_\_\_ hereby provide consent to the Company to conduct a limited query of the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether controlled substance or alcohol violation information about me exists in the Clearinghouse. I give consent, for the duration of my employment, for the Company to conduct limited annual queries to the Clearinghouse.

I understand that if the limited query conducted by Company indicates that controlled substance or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Company without first obtaining an additional specific electronic consent from me.

I further understand that if I refuse to provide consent for the Company to conduct a limited query of the Clearinghouse, the Company must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA’s drug and alcohol program regulations.

\_\_\_\_\_  
**Driver Signature**

\_\_\_\_\_  
**Community Action  
Employer Representative Signature**

\_\_\_\_\_  
**Driver Printed Name**

\_\_\_\_\_  
**Community Action  
Employer Representative Printed Name**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**