

# Greenwave Logistics LLC

USDOT# 3543168

## **DRIVER POLICY AND PROCEDURE HANDBOOK**

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3705 E Loop 820 S  
Fort Worth, TX 76119  
817-829-7796 (Office)  
Safety@Greenwave.LLC  
**Effective: 1/26/2023**  
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# Driver Accident Procedures and Reporting Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's (hereinafter "FMCSA") safe driving practices for drivers of commercial motor vehicles.

## **Scope:**

This policy applies to all employees who are involved in the operation of a commercial motor vehicle for MOTOR CARRIER

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **General Procedures:**

*The first steps taken following an accident involving a commercial motor vehicle are extremely important for drivers.*

MOTOR CARRIER shall ensure their drivers are knowledgeable of the proper procedures for handling accidents. Basic rules include the following:

- Drivers shall immediately stop their commercial motor vehicle after an accident of *any* kind. They shall not leave the scene of an accident.
- Drivers shall immediately activate flashers. If the commercial motor vehicle is operational, it should be pulled off the road or as far to the side as possible to prevent further collisions.
- If the driver is injured, they shall remain in cab (unless necessary for safety) and wait for emergency medical assistance to arrive as moving could cause further injury.
- If the driver is uninjured, they shall check the accident scene for others who may be injured.
- Drivers shall notify authorities, calling 911 or the highway patrol.
- It is also important to take steps to prevent further collisions and injuries. Uninjured drivers should set out reflective triangles or flares to warn other traffic.
- In some cases, it may be necessary to deal with an emergency situation such as a fire or hazardous material spill. Drivers shall check their vehicle to make sure no emergency situation exists.
- Drivers shall also try to assess any damage to the vehicle and/or the cargo.

# Driver Accident Procedures and Reporting Policy

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## Warning Devices:

Warning devices such as flares or reflective triangles shall be positioned properly to warn other drivers of the accident.

- **The first device** shall be positioned in the direction of approaching traffic, within 10 feet of the last vehicle involved in the accident, and on the traffic side. No flame-producing signal shall ever be attached to any part of a truck or another vehicle!
- **A second device** shall be placed about 100 feet *behind* the accident scene, facing approaching traffic, and in the center of the lane or shoulder where the truck and other vehicles involved in the accident are stopped.
- **The third device** shall be placed about 100 feet in *front* of the accident scene and facing traffic approaching from the other direction.

## Notification of Management:

Drivers shall report the accident to MOTOR CARRIER to the Safety Department as soon as the scene is safely secured and there is no immediate danger to answer any questions and provide the following information:

- Location of the accident;
- Description of the driver's condition; for example, injured or uninjured, able to continue driving, etc.;
- Extent of damage to the commercial motor vehicle and/or cargo; and
- Any assistance needed; for example, a tow truck or another truck to transfer cargo.

The driver shall contact **Safety Department at 817-829-7796**

MOTOR CARRIER will advise the driver with regard as to whether post-accident drug and alcohol testing is required and if needed obtaining information on a local testing facility. Failure to obtain a required post- accident test will result in the driver's immediate termination.

# Cargo Securement Policy and Procedure

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## **Purpose:**

Proper cargo securement practices are essential to the prevention of damaged cargo and accidents caused by unsecured freight. The company is committed to ensuring all freight is secured according to National Safety Code Standard 10: Cargo Securement.

## **Scope:**

The policy applies to all employees who are involved in the operation of commercial motor vehicles for the company and shall be reviewed by managers and supervisors to ensure full implementation and compliance.

## **Policy:**

Drivers must:

- Inspect the vehicle to confirm that the vehicle's tailgate, tailboard, doors, tarpaulins, spare tire, and other equipment used in its operation, are secured. Ensure that the cargo does not interfere with the driver's ability to drive the vehicle safely.
- Ensure that the cargo does not interfere with the free exit of a person from the cab or driver's compartment of the vehicle.

The driver of a vehicle must re-inspect the vehicle's cargo and the cargo securement systems used and make necessary adjustments to the cargo or cargo securement system as necessary, including adding more securing devices, at the earliest of the following:

- There is a change of duty status of the driver and/or the vehicle has been driven for 200 miles, whichever occurs first.

If the cargo is sealed in a vehicle and the driver has been ordered not to open it to inspect the cargo or if the vehicle is loaded in a manner that makes the cargo, or portions of the cargo, inaccessible, then the driver is not required to inspect the cargo and cargo securement systems as required above. However, the driver shall ensure the tractor trailer is weighed and is not over weight in any manner. If the shipper does not have a scale, the driver shall proceed to the nearest available weigh scale (CAT Scale) to determine the weight of the unit. If the load is overweight, the driver shall return to the shipper to have the load rebalanced or a portion of it removed to obtain the proper legal weight.

Adherence to this policy is to be considered a condition of employment. Failure to abide by this stated policy will be considered a breach of that condition of employment and subject the person in violation to disciplinary action.

## Cargo Securement Policy and Procedure

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### **Disciplinary Actions:**

#### First Offense:

- a. Verbal warning to driver.

#### Second Offense:

- a. Written disciplinary action.
- b. Re-training with MOTOR CARRIER's Cargo Securement training module.
- c. A fine to be determined by MOTOR CARRIER's Management.

#### Third Offense:

- a. An in-person disciplinary meeting with Safety Director.
- b. Written disciplinary action.
- c. Retraining on TCS-USA On-Line Cargo Securement training. All expense involved in retraining shall be the responsibility of the driver. Failure to complete or pass the required training will result in driver termination.
- d. A fine to be determined by MOTOR CARRIER's Management.
- e. Possible driver suspension or termination.

# Prohibited Use of Cell Phone and Electronic Devices While Driving Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's restrictions of cell phone use for drivers of commercial motor vehicles, established in FMCSA Regulations.

## **Scope:**

This policy applies to all employees who are involved in the operation of commercial motor vehicles for MOTOR CARRIER.

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **Definitions:**

**Driving** - Driving refers to operating a motor vehicle on the highway, including while temporarily stationary because of traffic, a traffic control device or other momentary delay. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

**Electronic Device** – Includes, but is not limited to, a cellular telephone; personal digital assistant; pager, or computer.

**Hand-held Mobile Telephone** - Any mobile communication device (*cell phone, mobile phone, smart phone, handheld cell, handset*) that falls under or uses any commercial mobile radio service, as defined in the Federal Communications Commission (FCC) 47 CFR 20.3. Wireless communication devices such as satellite telephones and broad band radio service are also included in this definition. Two-way radios, walkie-talkies, citizens band radios, and compliant mobile phones (i.e. hands-free headsets) are not considered hand-held mobile telephones.

**Texting** means manually entering alphanumeric text into, or reading text from, an electronic device.

(1) This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

(2) Texting does not include:

- (i) Inputting, selecting, or reading information on a global positioning system or navigation system; or
- (ii) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

# Prohibited Use of Cell Phone and Electronic Devices While Driving Policy

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(iii) Using a device capable of performing multiple functions (*e.g.*, fleet management systems, dispatching devices, smart phones, citizens band radios, music players, *etc.*) for a purpose that is not otherwise prohibited in subchapter of § 390.5-Definitions.

## Federal Regulation:

### § 392.82: Using a hand-held mobile telephone.

(a) (1) No driver shall use a hand-held mobile telephone while driving a CMV.

(2) No motor carrier shall allow or require its drivers to use a hand-held mobile telephone while driving a CMV.

(b) Definitions. For the purpose of this section only, *driving* means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

(c) Emergency exception. Using a hand-held mobile telephone is permissible by drivers of a CMV when necessary to communicate with law enforcement officials or other emergency services.

## General Procedures:

- Use of an Electronic Device while driving is strictly prohibited.
- Use of hand-held mobile phones while driving is strictly prohibited. All drivers must possess HANDS FREE DEVICES and utilize the push to talk function. "NO TEXTING WHILE DRIVING". This includes all functions of the device including, but not limited to, phone calls, text messaging/SMS, email, MMS, Internet use, camera use, etc.
- Passengers making or taking calls for the driver is permissible provided the interaction does not affect the driver's performance.
- Regular callers must be informed that the driver will not be available while driving and should be notified beforehand of the best times to call based on driving schedule.
- Employees who receive calls from co-workers who are driving are obligated to ask that the co-worker to call back at a more appropriate time.
- Drivers who violate the restriction will face federal civil penalties of up to **\$2,750** for each offense and disqualification from operating a commercial motor vehicle for multiple offenses. Additionally, states will suspend a driver's CDL after two or more serious traffic violations.

## Headset/Hands-Free Use:

The use of headsets or hands-free devices while driving is permissible IF:

# Prohibited Use of Cell Phone and Electronic Devices While Driving Policy

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- The device is pre-approved by MOTOR CARRIER for use.
- Use of the device does not cause distraction (e.g., fiddling with the device or taking eyes off road to get it to function properly).
- Any dialing or use of the handset is handled while stopped or pulled to the side of the road, unless the dialing of said device requires the use of no more than one button.
- Conversations do not interfere with the driver's ability to drive safely.
- Road conditions are generally good and do not threaten your safety.

## **Exception in Cases of Emergency:**

Drivers are permitted to use a hand-held mobile telephone if necessary to communicate with law enforcement or other emergency services.

## **State Laws:**

MOTOR CARRIER is not responsible for any traffic violations or parking tickets acquired by violation of city ordinance, state or federal laws regarding your driving habits and operation of your motor vehicle. Any ticket issued is the employee's responsibility, even if the ticket is issued while conducting business for MOTOR CARRIER. Any violation and/or fine received by a driver, for the illegal use of a cell phone or an electronic device while operating a commercial motor vehicle for MOTOR CARRIER must be reported within 24 hours of its issuance.

Note that cell phone driving laws vary greatly by state, and it is the employee's responsibility to be familiar with and abide by such laws. This is especially important for employees who travel on company business. Some states have laws banning all drivers from talking on handsets but permit the use of headsets.

MOTOR CARRIER employees must comply with the company Prohibited Use of Cell Phone or Electronic Device While Driving Policy on top of abiding by any state or local regulations addressing the same matter.

## **Disciplinary Actions:**

### First Offense:

- a. Verbal warning to driver.

### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER Prohibited Use of Cell Phone and Electronic Devices While Driving Policy.
- c. A fine to be determined by MOTOR CARRIER's Management.

### Third Offense:

- a. An in-person disciplinary meeting with Safety Director.
- b. Written disciplinary action.
- c. A fine to be determined by MOTOR CARRIER's Management.
- d. Possible driver suspension or termination.

# Hours of Service Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's (hereinafter "FMCSA") hours of service for drivers of commercial motor vehicles, established in FMCSA Regulations.

## **Scope:**

This policy applies to all employees who are involved in the operation of a commercial motor vehicle for MOTOR CARRIER

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **General Procedures:**

All drivers are advised to read and understand the following actions that will be implemented when Record of Duty Status (R O D S) violations occur. These violation include but not limited to **not** allowing drivers to operate past the 14<sup>th</sup> hour on duty, or drive over 11 hours without having a 10 hour off duty (or a combination of 8 consecutive hours off duty combined with a subsequent 2 hours) rest period(s). Drivers **must** take a 30 minute break at 8 hours from the end of the last "OFF DUTY" period to be logged off duty or sleeper berth. It is company policy to require every driver to submit records of duty status to the main office within 13 days. Drivers should make themselves aware of any Hours of Service rule changes. Each driver is responsible for their time entries and must comply with part 395 of the FMCSA Regulations.

## **Correctable Flaws:**

Description: Any entry made on log book pages that can be easily corrected by the driver after reaching the terminal.

*Examples are listed below but not limited to the following:*

- a. Missing names or dates.
- b. Omission of signature.
- c. Failure to enter Bill of Laden number.
- d. Omission of total driving miles.
- e. Neatness.

*(Note: This area is concerned with any information entered other than the graft lines.)*

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## Hours of Service Policy

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Disciplinary action(s) on Correctable Flaws are as follows:

First Offense:

- a. Verbal warning to driver.

Second Offense:

- a. Written disciplinary action.

Third Offense:

- a. Written disciplinary action
- b. Additional training on Hours of Service with MOTOR CARRIER Hours of Service training module.
- c. Possible driver suspension or termination.

### **Fatal Flaws:**

Description: Any entry made on log book pages that cannot easily be corrected after reaching the terminal by the driver or staff. This requires the driver to complete a new log page or cause to make changes to the grid or graft areas.

*Examples are listed below but not limited to the following:*

- a. Time entries on fuel stops.
- b. No PTI entry.
- c. Calculation of sleeper berth and off duty time.
- d. Failure to restart (daily or weekly).
- e. Making entries on sleeper berth, off duty, on duty or driving before time has occurred.

*(Note: This area is concerned with any entry made on a graft before, during & after the trip is complete).*

Disciplinary actions(s) on Fatal Flaws are as follows:

First Offense:

- a. An in-person disciplinary meeting with Safety Director.
- b. Verbal disciplinary action.
- c. Retraining on MOTOR CARRIER's Hours of Service training.
- d. A fine to be determined by MOTOR CARRIER's Management.

Second Offense:

- a. An in-person disciplinary meeting with Safety Director.
- b. Written disciplinary action.

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## Hours of Service Policy

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- c. Retraining on TCS-USA On-Line Hours of Service training. All expense involved in retraining shall be the responsibility of the driver. Failure to complete or pass the required training will result in driver termination.
- d. A fine to be determined by MOTOR CARRIER's Management.

### Third Offense:

- a. An in-person disciplinary meeting with Safety Director.
- b. Written disciplinary action.
- c. A fine to be determined by MOTOR CARRIER's Management.
- d. The severity of all combined errors or offenses issued by an authority figure in a roadside or determined by Company management could result in suspension or termination.

All driver meetings will be treated with the utmost consideration with respect to job longevity and performance.

*(Note: this disciplinary policy applies to Non-CDL and CDL driver under part 383.)*

### **ELD (Electronic Logging Device) Use:**

It is the responsibility of all employees, supervisors, managers, and drivers to ensure that all drivers are operating in compliance with all FMCSA Hours of Service regulations in all circumstances, including but not limited to:

- Recording all duty time (driving and on duty not driving) in accordance with the regulations, specifically the appropriate definitions in §395.2.
- Complying with the 8, 11, 14, 60/70 hour limits in §395.3.
- Meeting the 30-minute and 10-hour break requirements detailed in §395.3.
- Recording all time on the log in accordance with the requirements in §395.8 (or §395.15 or ELD regulations if using electronic logs), including maintaining a current, accurate, and truthful log at all times.
- Obtaining pre-authorization and noting on the log any time an exception listed in §395.1 is used.

Violation of this policy will result in disciplinary action, up to and including termination of employment. This policy has no exceptions other than those listed. When using an electronic logging device, the driver must:

- Log in using their own login at the appropriate time;
- Make required entries at the appropriate time;
- Set the device up to provide information for roadside inspection when it is requested by an officer;
- Heed any limit warning the device provides;
- Log out at the appropriate time;
- Immediately report any malfunctions when using an electronic logging device; and
- Maintain paper logs in the CMV for back-up to be utilized only in the event of an ELD malfunction.

## Driver Out of Service Corrective Action Policy

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The driver must not:

- Tamper with the device or the record it is creating;
- Create false entries (such as using the off-duty line for an on-duty activity or operate the vehicle in such a way as to create a false record); or
- Submit or accept edits that create a false record.

The only exceptions to this policy are when the driver has been authorized by the company to use time records rather than an electronic log and when the driver's electronic log has failed and the driver has contacted the company for instructions. Driver shall contact the Safety Department to determine if any technical difficulties can be resolved before switching to paper logs. Authorization to utilize paper logs shall only be given by the Safety Department. **NO EXCEPTIONS.**

### **Disciplinary Actions:**

#### First Offense:

- a. Verbal warning to driver.

#### Second Offense:

- a. Written disciplinary action.

#### Third Offense:

- a. Written disciplinary action
- b. Additional training on ELD with MOTOR CARRIER's ELD training module.
- c. Possible driver suspension or termination.

# Driver Out of Service Corrective Action Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's (hereinafter "FMCSA") Out of Service Corrective Action for drivers of commercial motor vehicles in accordance with all applicable FMCSA Regulations.

## **Scope:**

This policy applies to all employees who are involved in the operation of commercial motor vehicles for MOTOR CARRIER.

## **Policy:**

MOTOR CARRIER strives to maintain our commercial motor vehicles in a safe mechanical condition at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct a driver vehicle inspections before operations begin to ensure safe operations and make periodic checks of the units in operation while on duty to ensure compliance of all Parts of the FMCSA Regulations.

## **General Procedures:**

When a driver receives an "OUT OF SERVICE ORDER" violation by Federal Department of Transportation, the following shall occur:

- a. The mechanical condition shall be repaired **BEFORE** operations continue.
- b. The driver shall receive training in the FMCSA Part found to be Out OfService.
- c. A copy of this document shall be signed by the company's designated foreman/or mechanic and the subject driver to ensure the training has been received.
- d. The documentation shall be attached to the Driver/Vehicle Examination Report in the Roadside inspection file.

## **Disciplinary Actions:**

### First Offense:

- a. Verbal warning to driver.

### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER's Driver Out of Service Corrective Action Policy.
- c. A fine to be determined by MOTOR CARRIER's Management.

## Driver Out of Service Corrective Action Policy

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### Third Offense:

- a. An in-person meeting with the Safety Director.
- b. Written disciplinary action.
- c. A fine to be determined by MOTOR CARRIER's Management.
- d. Possible driver suspension or termination.

# Prohibited Driving Practices Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's (hereinafter "FMCSA") safe driving practices for drivers of commercial motor vehicles.

## **Scope:**

This policy applies to all employees who are involved in the operation of a commercial motor vehicle for MOTOR CARRIER.

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **General Procedures:**

Illegal, unsafe, and unprofessional driving practices are all considered to be "prohibited" driving practices, and will not be condoned by MOTOR CARRIER at any time. It is the responsibility of every driver to operate their equipment in a safe, professional, and legal manner at all times. It is also the responsibility of every driver to know and understand all local, state, and federal regulations pertaining to the operation of commercial motor vehicles.

Below is a list of some of the actions that are considered by MOTOR CARRIER to be "prohibited driving practices" and will result in disciplinary action up to and including termination. This list is not all inclusive and is a representation only. The below does not constitute a complete list of all actions MOTOR CARRIER may consider to be "prohibited driving practices."

- Speeding
- Aggressive/illegal lane change
- Tailgating
- Over-speed on exit and entrance ramps
- Lack of turn signal use
- Excessive speed in curves
- Excessive speed for road or weather conditions
- Attempting to go around railroad crossings that are signaling an approaching train
- Any action that can be viewed as "road rage"

## Prohibited Driving Practices Policy

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Adherence to this policy is to be considered a condition of employment with MOTOR CARRIER Failure to abide by this stated policy will be considered a breach of that condition of employment and subject the person in violation to disciplinary action, including possible termination.

### **Disciplinary Actions:**

#### First Offense:

- a. Verbal warning to driver.

#### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER Prohibited Driving Practices Policy.
- c. A fine to be determined by MOTOR CARRIER's Management.

#### Third Offense:

- a. Written disciplinary action.
- b. A fine to be determined by MOTOR CARRIER's Management.
- c. Possible driver suspension or termination.

# Seatbelt Practices Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's safe driving practices for drivers of commercial motor vehicles in accordance with FMCSA Regulations.

## **Scope:**

This policy applies to all employees who are involved in the operation of a commercial motor vehicle for MOTOR CARRIER.

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **Federal Regulation:**

**§ 392.16 Use of seat belts.** A commercial motor vehicle which has a seat belt assembly installed at the driver's seat shall not be driven unless the driver has properly restrained himself/herself with the seat belt assembly.

The use of seat belts is to be considered a condition of employment with MOTOR CARRIER. Failure to abide by this stated policy will be considered a breach of that condition of employment and subject the person in violation to disciplinary action, including termination.

## **General Procedures:**

Any Driver who operates a commercial motor vehicle for MOTOR CARRIER is required to have their seatbelt properly applied at all times while in the course of conducting business.

MOTOR CARRIER is committed to strictly following State and Department of Transportation (hereinafter "DOT") Regulations for the proper application of the vehicle seatbelt. FMCSA Regulation 392.16, requires all drivers to be properly restrained with the seatbelt assembly. Adherence to this policy will help avoid DOT penalties and increase driver safety.

Adherence to this policy is to be considered a condition of employment with MOTOR CARRIER. Failure to abide by this stated policy shall be considered a breach of that condition of employment and subject the person in violation to disciplinary action, including possible termination.

# Seatbelt Practices Policy

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## **Disciplinary Actions:**

### First Offense:

- a. Verbal warning to driver.

### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER Prohibited Driving Practices Policy.
- c. A fine to be determined by MOTOR CARRIER's Management.

### Third Offense:

- a. Written disciplinary action.
- b. A fine to be determined by MOTOR CARRIER's Management.
- c. Possible driver suspension or termination.

# Vehicle Maintenance Policy

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## **Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's vehicle maintenance of commercial motor vehicles, established in FMCSA Regulations.

## **Scope:**

This policy applies to all employees who are involved in the operation of commercial motor vehicles for MOTOR CARRIER.

## **Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

## **General Procedures:**

MOTOR CARRIER commercial motor vehicle shall **NOT** be driven unless the driver is satisfied that the following parts and accessories are in good working order nor shall any driver fail to use or make use of such parts and accessories when and as needed. Systematic maintenance of equipment is an essential element of our transport operation. Part 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) requires motor carriers to "inspect, repair and maintain all motor vehicles" under their control. Even if there were no federal regulations in place, however, it makes excellent business sense to have an organized maintenance program in operation. At MOTOR CARRIER, it is our policy to keep all company transportation equipment well maintained and in safe and efficient operating condition at all times.

It is further the policy of MOTOR CARRIER to use the "preventive maintenance" approach with our transport equipment. The specifics of that approach will be detailed in the procedures to follow. The following list is to be reviewed and checked by drivers. This is a limited list and does not substitute Part 393 of the Federal Motor Carrier Administration Regulation Manual. Each driver is responsible for having knowledge of the following areas and must do their part to report any and all deficiencies to the transportation manager for necessary repairs”:

## **Vehicle Maintenance Procedures:**

Sec. 396.3(b) of the FMCSRs specifies the requirement that vehicle records be kept on each vehicle controlled for 30 consecutive days or more by a motor carrier. These records include:

- A vehicle identification including a company number
- Make
- Serial number

# Vehicle Maintenance Policy

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- Year
- Tire size

If the vehicle is not owned by MOTOR CARRIER, this record should indicate the name of the owner/supplier of the vehicle. The record must also contain a way to indicate the nature and due date of any inspection and maintenance operations to be performed on the vehicle, and a record of any inspections, repairs and maintenance performed on the vehicle in question, including dates performed and specifics on the nature of the operations.

Besides the basic records for CMVs, MOTOR CARRIER also requires all non-commercial motor vehicles to be maintained.

MOTOR CARRIER keeps maintenance records on file for a one year period and for six months after the equipment is out of the fleet.

MOTOR CARRIER will maintain a complete record on each vehicle in its fleet as a matter of course. That record will include basic vehicle information, along with a listing of repair orders, procedures performed, and dates of maintenance.

MOTOR CARRIER will keep each vehicle subject to its control properly lubricated, and free of oil and grease leaks, per the provisions of the FMCSRs.

## **Preventative Maintenance:**

Preventive maintenance is an attitude and a commitment by MOTOR CARRIER to get the most out of transport equipment by investing in its maintenance on a regular basis, according to a planned schedule. The preventive maintenance philosophy that MOTOR CARRIER has adopted as company policy is widely used in the transportation industry.

Our preventive maintenance policy reflects a very modern attitude of conservation and of wise asset utilization. Without a doubt, it also saves money for a company that is committed to its principles. The preventive maintenance philosophy would say: "if it's scheduled to be replaced, replace it whether or not it has failed."

Maintenance is part of the cost of doing business, and every fleet has a major investment in its equipment. Whether or not that equipment operates efficiently and reliably has a major impact on corporate profitability. Making certain that equipment operates well is where preventive maintenance comes into the picture.

MOTOR CARRIER has implemented a preventive maintenance program because of the positive impact it has in the following areas:

- Preventive maintenance is a major factor in promoting highway safety: A well-maintained truck is a safer truck. PM alerts all personnel to potentially hazardous conditions, e.g., equipment failure. It also facilitates recordkeeping. Safer trucks promote high driver morale, are involved in fewer accidents, create a favorable

## Vehicle Maintenance Policy

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public image for MOTOR CARRIER and the trucking industry in general, have fewer breakdowns and delays, and may play a role in determining better insurance rates.

- Preventive maintenance prolongs useful life of equipment: Narrow profit margins mean that transportation companies need equipment that continues to run economically and well as it ages. Component replacement in older vehicles is more difficult to schedule, so PM and its careful monitoring of vehicles is a big help.
- Preventive maintenance reduces unscheduled downtime: An idle truck is not making any money for MOTOR CARRIER. Anything that minimizes unscheduled downtime in a fleet makes the equipment more productive. Drivers don't have to wait for vehicles to get out of the shop, and customers are happy because service is more reliable. Vehicle and personnel utilization are both improved when companies are able to balance work loads.
- Preventive maintenance reduces unscheduled repairs and the higher cost related to them: In an in-house shop, parts inventory can be kept lower if component replacement is planned as part of an overall PM schedule. The fewer times vehicles have to be repaired on the road, the better the bottom line for MOTOR CARRIER.

In summary, a good preventive maintenance program lowers repair frequency and lowers overall maintenance cost.

The service portion of preventive maintenance is actually scheduled maintenance. MOTOR CARRIER vehicles will be given preventive maintenance according to the following schedule:

- Service consisting of A Service (Schedule A attached hereto).
- Service consisting of B Service (Schedule B attached hereto).

At MOTOR CARRIER, Inc.'s compliance with the preventive maintenance program is the responsibility of Keith Shields.

Drivers receive training on vehicle inspection procedures including how to prepare and submit a driver vehicle inspection report (DVIR). MOTOR CARRIER views its drivers as the first line of defense in preventing serious maintenance problems. We expect drivers to spot developing problem situations before they get to the "breakdown" point. This on the road expertise of drivers should work together with the in-shop expertise of the maintenance department.

Drivers are responsible for knowing the mechanical condition of their vehicles at all times, and for operating those vehicles correctly and efficiently. The maintenance department is responsible for providing safe and drivable vehicles to MOTOR CARRIER drivers.

Communication is the key between drivers and the maintenance department. Some basic guidelines should help drivers contribute the most information possible to the MOTOR CARRIER preventive maintenance program.

## Vehicle Maintenance Policy

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Drivers are expected to do complete and careful pre-trip and post-trip inspections of their vehicles. Drivers are expected to treat company vehicles as their own. Observable vehicle abuse will not be tolerated. Discovery of unauthorized modifications or tampering with any company vehicle will be reported to Safety Department. Drivers are expected to report any problems they find accurately and in detail. Problems should be reported promptly.

MOTOR CARRIER is not responsible for loss or damage to personal effects left in vehicles prior to maintenance work being performed.

On the road, drivers are expected to spot and report potential maintenance problems:

- **LISTEN** for unusual or abnormal equipment sounds. Thumps, rattles, squeaks, bumps, squeals, and hisses all can signal the beginning of trouble. If things don't sound right, they should be reported to maintenance.
- **SMELL** for unusual odors that may signal trouble. Burning rubber, insulation, wood, scorched fabric, hot oil or other fluids can all mean problems. Diagnosis can be made early with a good sense of smell.
- **FEEL** changes in the vehicle's response. Steering, braking, shifting, and other handling operations all have unique "feels" in a particular vehicle. If the vehicle doesn't seem to behave the way it should, it should be reported promptly. Little problems cost much less to fix and cause less down time.
- **OBSERVE** the equipment carefully when you make your required routine inspections. Defects in wiring, lights, cables, tires, splash guards, locks, air lines, coupling devices, fifth wheels, tarps and fasteners, landing gear, brakes and various accessories should all be carefully noted and reported to the maintenance department.

If a MOTOR CARRIER driver has an unexpected breakdown while on the road, he/she should stay calm and use common sense. Report the problem and follow prescribed procedures.

If a MOTOR CARRIER vehicle is put out of service during a roadside inspection, the driver must notify his/her driver supervisor as soon as possible to receive instructions. MOTOR CARRIER strictly forbids the operation of an out-of- service vehicle until the required repairs are completed. A driver who violates this policy will be subject to disciplinary action.

### **Driver Procedures:**

*Approaching the commercial motor vehicle and trailer* - Note general condition and look for any fluid leaks underneath.

*Under Hood* - Driver shall check fluid levels, fan and belts.

# Vehicle Maintenance Policy

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*In Cab - Driver shall:*

- Listen for abnormal engine noises.
- Check the gauges for normal reading.
- The “low Warning” should operate if the air pressure is below 60pounds.
- Check the emergency equipment. (Horn, fire extinguisher, triangles, spare fuses).
- Check windshield wipers and make sure fluid reservoir is full.
- Check steering wheel slack and clutch play.
- Check all lights, including four-way flashers.
- Check and engage air controls for parking brakes (trailer included).
- Check high/low beam switch and exit cab for the walk-around.

***After exiting the cab, the driver shall take the following steps to complete the inspection:***

*Step 1-Cab Front* - Check front headlights, clearance lights, parking and identification lights, reflectors and turn signals. Check steering system and front axle. Check condition of windshield, wipers blades and arms.

*Step 2-Cab Left* - Check left front wheel, tire, lugs and rims. Check left front suspension and left front brake. (drive, hoses, air chamber mounting and slack adjusters).

*Step 3-Saddle Tank Left* - Check fuel tank(s) mounting, lines and caps. Check drive shaft, exhaust system, frame and cross members, air lines and electrical wiring, plus battery and cover.

*Step 4-Trailer Front* - Check air and electrical connections (glad hands, electrical receptacle and safety catch, line securement and slack). Check front trailer clearance lights and reflectors.

*Step 5-Tractor Rear Left* - Check tires, wheels, lugs and hub caps. Check matching of dual tires and remove debris between duals. Check springs, spring hangers, shackles and u bolts. (See step 1). Make sure the drain tank is drained of condensation daily.

*Step 6-Tractor Rear Under* - Check frame and cross members, lights and reflectors and securement of air and electrical lines.

*Step 7-Coupling System* - Check fifth wheel mounting, parts, no visible space between upper and lower. Check condition of the king pin. Check the release lever and safety latch/hook. Check air and electrical lines visible at this point. Check for missing mud flaps.

*Step 8-Trailer Left* - Check landing gear and crank-handle for securement. Check trailer slide clearance length and reflectors. Check frame, cross members, wheel braces for clearance, braces and bolsters.

*Step 9-Trailer Wheels Left* - Check wheels, rims, brakes, suspension.

## Vehicle Maintenance Policy

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*Step 10-Trailer Rear* - Check lights and reflectors. Check for missing mud flaps. Check rear end protection (drop down).

*Step 11-Trailer Wheels Right* - Repeat Step 10 and Step 6 checks.

*Step 12-Trailer Left/Tractor Right Rear* - Repeat Step 9 and Step 6.

*Step 13-Saddle Tank Right* - Repeat Step 4.

*Step 14-Cab Right* - Repeat Step 1.

*Back in the Cab Area:*

- Re-check all gauges.
- Check pressure to at maximum (approximately 120).
- Apply and hold brakes for one minute with engine idling to check for pressure drop.
- Turn off four-way flashers and activate left and right turn signals.
- Check the front lights to determine proper operation.

***Always make a TEST STOP before leaving the terminal or where the vehicle is parked.***

### **Disciplinary Actions:**

#### First Offense:

- a. Verbal warning to driver.

#### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER's Driver Vehicle Maintenance Policy.
- c. A fine to be determined by MOTOR CARRIER Management.

#### Third Offense:

- a. Written disciplinary action.
- b. A fine to be determined by MOTOR CARRIER's Management.
- c. Possible driver suspension or termination.

# A-Service Approximately Every 31 Days

Date: \_\_\_\_\_

<b>Truck#:</b> _____	<b>Make:</b> _____	<b>Year:</b> _____	<b>Last Four of Vin#:</b> _____
<b>Mileage:</b> _____			
<b>Trailer:</b> _____	<b>Model:</b> _____	<b>Year:</b> _____	<b>Last Four of Vin#:</b> _____

## CHECK LIST:

Please check each when complete:

License Plate, decals, registration, etc.	
Visually check the condition of : interior/exterior, tanks, lights, tires, cab, trailer	
Emergency/safety equipment: battery, fire extinguisher, reflectors, seat belts	
Operation of instrument panel	
Operation of cab controls: PTO, wipers, defroster, inter-diff lock, horns, etc.	
Coolant system	
Air condition	
All fluids	

Belts & hoses	
Pressure systems	
Braking system	
Steering operation	
Lubricate Chassis/body	
Suspension	

TIRE CHECK: Lug nuts, condition, pressure (Record results below)

	PSI	TREAD		PSI	TREAD DEPTH		PS	TREAD DEPTH		PS	TREAD DEPTH
L/F		/32			/32	R/F		/32			/32
L/F/		/32	L/R/I		/32	R/F/I		/32	R/F/O		/32
L/R/		/32	L/F/I		/32	R/R/I		/32	R/R/O		/32

## NOTES:

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MECHANIC SIGNATURE: \_\_\_\_\_

01/01/2017

## B-Service Approximately Every 15,000-20,000 Miles

Date: \_\_\_\_\_

<b>Truck#:</b> _____	<b>Make:</b> _____	<b>Year:</b> _____	<b>Last Four of Vin#:</b> _____
<b>Mileage:</b> _____			
<b>Trailer:</b> _____	<b>Model:</b> _____	<b>Year:</b> _____	<b>Last Four of Vin#:</b> _____

### CHECK LIST:

Please check each when complete:

OIL FILTER - CHANGED	
AIR FILTER - CHANGED	
FUEL FILTER - CHANGED	
BRAKES	
WHEEL BEARINGS	
ALL BELTS	
TRANSMISSION / DIFFERENTIAL VENTS (CHECK & CLEAN)	
TEMPERATURE FOR ENGINE THERMOSTAT	

Inspect:

FOR LEAKS	
CYLINDER ON TRAILER	
FIFTH WHEEL	
TRUNION BUSHINGS	
THIRD AXLE AIR BAGS	

### NOTES:

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**Mechanic Signature:** \_\_\_\_\_

01/01/2017

# Disciplinary Actions and Fine Schedules

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## **Disciplinary Action Policy:**

MOTOR CARRIER strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations. To ensure compliance with FMCSA Regulations and MOTOR CARRIER Policy and Procedure, MOTOR CARRIER has implemented a Disciplinary Actions program.

## **Disciplinary Actions:**

Disciplinary Actions include the following, except for Hours of Service violations:

### First Offense:

- a. Verbal warning to driver.

### Second Offense:

- a. Written disciplinary action.
- b. Review of MOTOR CARRIER's Policy and Procedure specific to violation.
- c. A fine to be determined by MOTOR CARRIER's Management.

### Third Offense:

- a. Written disciplinary action.
- b. A fine to be determined by MOTOR CARRIER's Management.
- c. Possible driver suspension or termination.

## **General Procedures:**

MOTOR CARRIER will be monitoring the FMCSA Portal to review all roadside inspections received within the last one two days. Any violation received, the driver will receive a Notice of Disciplinary Action and it will detail the violation, action to be taken and the expectation of improvement. The Disciplinary Action will be recorded the driver's Disciplinary Action Log and retained in the driver's file. All disciplinary measures taken will be in accordance with MOTOR CARRIER's Driver Policy and Procedure Handbook. A copy of the Notice of Disciplinary Action and Disciplinary Action Log is attached hereto.

## **Roadside Inspections:**

As stated, the roadside inspections will be monitored on a daily basis by MOTOR CARRIER Safety Department. Each driver shall submit the roadside inspection via text, fax or email at his/her next off duty time to **Carolyn Minyard 817-829-7796** Any driver that does not submit the roadside inspection shall be subject disciplinary action and/or a fine to be determined by MOTOR CARRIER Management.

## Disciplinary Actions and Fine Schedules

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MOTOR CARRIER expects professionalism from all drivers and for those who deliver professionalism we will reward them as follows:

Passed Inspections:

- a. Level 1 Inspection - \$150.00
- b. Level 2 Inspection - \$100.00
- c. Level 3 Inspection - \$ 50.00

Additionally, when a driver excels in his professionalism, MOTOR CARRIER will reward accordingly in other ways monetary and non-monetary.

MOTOR CARRIER welcomes you to our family and hope that we will have a long and prosperous relationship.

# NOTICE OF DISCIPLINARY ACTION

Employee Name (Print): \_\_\_\_\_ Date of Notice: \_\_\_\_\_

Position: \_\_\_\_\_ Supervisor Name (Print): \_\_\_\_\_

## TYPE OF PROBLEM OR VIOLATION:

- ☐ Tardiness/Leaving Early
- ☐ Absenteeism
- ☐ Quality of Work

- ☐ Violation of Safety Policies
- ☐ Violation of Company Policies
- ☐ Violation of FMCSRs

☐ Other: \_\_\_\_\_ Date of Occurrence: \_\_\_\_\_

## DETAILS OF OCCURRENCE:

## CORRECTIVE ACTION TO BE TAKEN:

**EXPECTED IMPROVEMENT** (Include a clear statement as to the consequences of failing to improve.)

## ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF DISCIPLINARY ACTION

By signing this form, you confirm that you understand the information in this Notice of Disciplinary Action. You also confirm that you and your supervisor have discussed the warning and a plan for improvement. Signing this form does not necessarily indicate that you agree with this warning.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## RECORD OF DISCIPLINARY ACTION

Driver: \_\_\_\_\_

## DISCIPLINARY ACTION LOG KEY

### ACTION CATEGORY:

1. Unsafe Driving – US
2. Accident – AC
3. Hours of Service – HOS
4. Vehicle Maintenance – VM
5. Controlled Substance/Alcohol – CSA
6. Personnel Issue – PI
7. Other – OT

### EXPIRATION DATE:

Any FMCSA violation received expires in 24 months.

### NO. OF VIOLATION:

The number of violation received in that category. (Ex: 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup>)

**Purpose:**

This policy establishes how a driver will comply with the Department of Transportation and the Federal Motor Carrier Safety Administration's (hereinafter "FMCSA") regulation and/or prohibition of the use of controlled substances and alcohol by drivers of commercial motor vehicles, established in FMCSA Regulations.

**Scope:**

This policy applies to all employees who are involved in the operation of commercial motor vehicles for MOTOR CARRIER.

**Policy:**

MOTOR CARRIER, strives to operate our commercial motor vehicles at all times while performing any safety sensitive function. All MOTOR CARRIER, LLC drivers shall conduct themselves in a manner while on duty that will ensure safe operations of the commercial motor vehicle and will ensure compliance of all Parts of FMCSA Regulations.

MOTOR CARRIER, (hereinafter "Company") is dedicated to the health and safety of our drivers. Controlled substance and/or alcohol use poses a serious threat to driver health and safety. Therefore, it is the policy of the company to prevent the use of controlled substances and abuse of alcohol from having an adverse effect on our drivers.

The serious impact of controlled substances use and/or alcohol abuse has been recognized by the federal government. The FMCSA has issued regulations which require the company to implement an alcohol and controlled substances testing program.

The purpose of the FMCSA issued regulations is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

The Company will comply with these regulations and is committed to maintaining a drug-free workplace.

It is the policy of our company that the use, sale, purchase, transfer, possession, or presence in one's system of any controlled substance (except medically prescribed drugs) by any driver while on company premises, engaged in company business, operating company equipment, or while under the authority of the Company is strictly prohibited. Disciplinary action will be taken as necessary.

Neither this policy nor any of its terms are intended to create a contract of employment or contain the terms of any contract of employment. The company retains the sole right to change, amend, or modify any term or provision of this policy without notice.

## **DRUGS AND ALCOHOL TESTING PROCEDURES**

### **Regulatory Requirements:**

All drivers who operate commercial motor vehicles that require a commercial driver's license under 49 CFR Part 383 are subject to the FMCSA's controlled substances and alcohol regulations, 49 CFR Part 382.

### **Non-Regulatory Requirements:**

The FMCSA Regulations set the minimum requirements for testing. The company's policy in certain instances may be more stringent. This policy will clearly define what is mandated by the FMCSA Regulations and what company procedure is.

### **Who is Responsible?**

It is the company's responsibility to provide testing for the driver that is in compliance with all federal and state laws and regulations, and within the provisions of this policy. The company will retain all records related to testing and the testing process in a secure and confidential matter.

The company's controlled substances and alcohol program administrators who are designated to monitor, facilitate, and answer questions pertaining to these procedures are:

### **Drug & Alcohol Testing Program Administrator:**

- Name: Eric Shackelford, Support Services Administrator
- Address: 693 Beach Blvd., 2<sup>nd</sup> Floor  
Biloxi, MS 39532
- Phone: (228) 872-7160

**Designated Employer Representative (DER):**

- Name: Safety Department
- Address: 3705 E Loop 820 S  
Fort Worth Tx, 76119
- Phone: 817-829-7796

The driver is responsible for complying with the requirements set forth in this policy. The driver will not use/abuse, be in possession of, or have the presence of alcohol or any controlled substance in excess of regulation-established threshold levels while on duty. The driver will not use alcohol within four (4) hours of performing a "safety-sensitive" function, while performing a "safety-sensitive" function, or immediately after performing a "safety-sensitive" function. The driver must submit to alcohol and controlled substances tests administered under FMCSA Part 382.

All supervisors must make every effort to be aware of a driver's condition at all times the driver is in service of the company. The supervisor must be able to make reasonable suspicion observations to determine if the driver is impaired in some way, and be prepared to implement the requirements of this policy if necessary.

**Alcohol Prohibitions:**

FMCSA Part 382, Subpart B, prohibits any alcohol misuse that could affect performance of safety-sensitive functions. This alcohol prohibition includes:

- Use while performing safety-sensitive functions;
- Use during the four (4) hours before performing safety-sensitive functions;
- Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.04 or greater;
- Use of alcohol for up to eight (8) hours following an accident or until the driver undergoes a post-accident test; or
- Refusal to take a required test.

NOTE: Per FMCSA Regulation § 382.505, a driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions.

**Drug Prohibitions:**

FMCSA Part 382, Subpart B, prohibits any controlled substances use that could affect the performance of safety-sensitive functions. This controlled substances prohibition includes:

- Use of any controlled substances, except when administered to a driver by, or under the instructions of, a licensed medical practitioner, who has advised the driver that the substance will not affect the driver's ability to safely operate a commercial motor vehicle. (The use of marijuana under any state statute is not a legitimate medical explanation. Under federal law, the use of marijuana or any *Schedule I* controlled substances does not have a legitimate medical use in the United States.);
- Testing positive for controlled substances; or
- Refusing to take a required test.

All drivers will inform the controlled substances and alcohol program administrator of any therapeutic drug use prior to performing a safety-sensitive function. The driver may be required to present written evidence from a health care professional which describes the effects such medications may have on the driver's ability to perform assigned tasks.

### **Circumstances for Testing:**

*Pre-Employment Testing (§ 382.301):* All driver applicants will be required to submit to and pass a controlled substances test as a condition of employment.

Each driver applicant will be asked whether they have tested positive, or refused to test, on any pre-employment drug test administered by an employer to which the driver applicant applied for, but did not obtain, safety-sensitive transportation work during the past two (2) years.

If the driver applicant admits that they have tested positive or refused to test on any pre-employment controlled substances test, the driver applicant may not perform any safety-sensitive functions for the Company until and/or unless the driver applicant documents successful completion of the return-to-duty process.

Driver applicant controlled substances testing shall follow the collection, chain-of-custody, and reporting procedures set forth in 49 CFR Part 40.

An employee of the company transferring to a driving position is also subject to and must pass a urine controlled substances test as a condition of the transfer.

The Company may or may not require a pre-employment controlled substances test if the following conditions are met:

- The driver has participated in a controlled substances testing program meeting the requirements of FMCSA Part 382 within the previous thirty (30) days;

- While participating in this program the driver must have either been tested for controlled substances in the previous six (6) months, or participated in a random controlled substances testing program for the previous twelve (12) months; and
- No prior employer of the driver has a record of violations of any DOT controlled-substance-use rule for the driver in the previous six (6) months.

The Company must contact the previous employer's testing program prior to using the driver and obtain the following information:

- The name and address of the program (usually the driver's prior and/or current employer);
- Verification that the driver participates or participated in the program;
- Verification that the program conforms with the required procedures set forth in 49 CFR Part 40;
- Verification that the driver is qualified under this rule, including that the driver has not refused to submit to an alcohol or controlled substances test;
- The date the driver was last tested for alcohol or controlled substances; and
- The results of any drug or alcohol test administered in the previous 6 months, and any violations of the alcohol misuse or controlled substances use rules.

*Reasonable Suspicion Testing (§382.307):* If the driver's supervisor or another company official designated to supervise drivers believes a driver is under the influence of alcohol or controlled substances, the driver will be required to undergo a controlled substances and/or alcohol test. The basis for this decision will be specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The driver's supervisor or another company official will immediately remove the driver from any and all safety-sensitive functions and take the driver or make arrangements for the driver to be taken to a testing facility. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test may not administer the alcohol test.

Per FMCSA Regulations, reasonable suspicion alcohol testing is only authorized if the observations are made during, just preceding, or after the driver is performing a safety sensitive function.

Per FMCSA Regulations, if the driver tests 0.02 or greater, but less than 0.04, for alcohol the driver will be removed from all safety-sensitive functions, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

If an alcohol test is not administered within two hours following a reasonable suspicion determination, the program administrator will prepare and maintain a record stating the reasons why the test was not administered within two (2) hours.

If the test was not administered within eight (8) hours after a reasonable suspicion determination, all attempts to administer the test shall cease. A record of why the test was not administered must be prepared and maintained.

A written record of the observations leading to an alcohol or controlled substance reasonable suspicion test, signed by the supervisor or company official who made the observation, will be completed within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances test are released, whichever is first.

Post-Accident Testing (§382.303): Drivers are to notify the controlled substances and alcohol program administrator as soon as possible if they are involved in an accident.

According to §382.303, if the accident involved the following, a controlled substances test is required:

- A fatality; **or**
- Bodily injury with immediate medical treatment away from the scene **and** the driver received a citation; **or**
- Disabling damage to any motor vehicle requiring tow away **and** the driver received a citation.

The driver will be tested for controlled substances and alcohol as soon as possible following the accident. The driver must remain readily available for testing. If the driver isn't readily available for alcohol and drug testing, they may be deemed as refusing to submit to testing. A driver involved in an accident may not consume alcohol for eight (8) hours or until testing is completed.

If the alcohol test is not administered within two (2) hours following the accident, the controlled substances and alcohol program administrator will prepare a report and maintain a record of why the test was not administered.

If the alcohol test is not administered within eight (8) hours following the accident, all attempts to administer the test will cease. A report and record of why the test was not administered will be prepared and maintained.

The controlled substances test must be administered within thirty-two (32) hours of the accident. If the test could not be administered within (thirty-two) 32 hours, all attempts to test the driver will cease. A report and record of why the test was not administered will be prepared and maintained.

The controlled substances and alcohol program administrator will prepare and maintain a record stating the reasons why the test was not administered within the allotted time frame.

Random Testing (§382.305): The company will conduct random testing for all drivers as follows:

- The company will use a consortium. The consortium will use a selection process based on a scientifically valid method, prescribed by FMCSA Regulations.
- TCS-USA will administer the random testing program, maintaining all pertinent records on random tests administered.

Each year, at least ten percent (10%) of the consortium's average number of driver positions will be tested for alcohol each year and at least fifty percent (50%) of the consortium's average number of driver positions will be tested for controlled substances each year.

The random testing will be spread reasonably throughout the calendar year. All random alcohol and controlled substances tests will be unannounced, with each driver having an equal chance of being tested each time selections are made. A driver may only be tested for alcohol while they are performing a safety-sensitive function, just before performing a safety-sensitive function, or just after completing a safety-sensitive function. Once notified that they have been randomly selected for testing, the driver must proceed immediately to the assigned collection site.

Return to Duty Testing (§382.309): After failing an alcohol test, a driver must undergo a return-to-duty test under direct observation prior to performing a safety-sensitive function. The test result must indicate a breath alcohol concentration of less than 0.02. After testing positive for a controlled substance, a driver must undergo a return-to-duty test prior to performing a safety-sensitive function. The test must indicate a verified negative result for drug use.

Follow-Up Testing (§ 382.311): Following the driver's violation of FMCSA Part 382, Subpart B, the driver will be subject to follow-up testing. Follow-up testing will be unannounced. The number and frequency of such follow-up testing will be directed by the SAP, and consist of at least six (6) tests in the first twelve (12) months. Follow-up testing may be done for up to sixty (60) months. Follow-up drug tests must be conducted under direct observation.

### **Refusal to Submit:**

According to §382.211, a driver may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test required by the regulations. A driver who refuses to submit to such tests may not perform or continue to perform safety-sensitive functions and must be evaluated by a substance abuse professional as if the driver tested positive for drugs or failed an alcohol test.

Refusal to submit includes failing to provide adequate breath or urine sample for alcohol or controlled substances testing and any conduct that obstructs the testing process. This includes adulteration or substitution of a urine sample.

### **Diluted Specimens:**

If the Medical Review Officer (hereinafter “MRO”) informs the company that a positive controlled substances test was dilute, the company will simply treat the test as a verified positive test. The company will not direct the employee to take another test based on the fact that the specimen was dilute. This is in accordance with §40.197.

If the MRO directs the company to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL (see §40.155(c)), the company will do so *immediately*.

The following provisions apply to all tests that the company sends the driver for under the directive of the MRO:

- The employee is given the minimum possible advance notice that they must go to the collection site;
- The result of the retest taken under §40.197(b), and not a prior test, is accepted as the test result of record;
- If the result of the retest taken under §40.197(b) is also negative and dilute, the company will not make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs the company to conduct a recollection under direct observation under §40.197(b)(1), the company must immediately do so; and
- If the employee declines to take a test as directed in accordance with §40.197(b), the employee has refused the test for purposes of this part and DOT agency regulations.

If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, the company has elected to include the option retest provision in its company policy. The company will direct the employee to take another test immediately under company policy in accordance with §40.197. Such recollections will not be collected under direct observation, unless there is another basis for use of direct observation (see §40.67 and (c)).

The following provisions apply to all retests that the company sends the driver for under company policy:

- The employee is given the minimum possible advance notice that he or she must go to the collection site;
- The result of the retest taken under §40.197(b), and not a prior test, is accepted as the test result of

record;

- If the result of the retest taken under §40.197(b) is also negative and dilute, the company will not make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs the company to conduct a recollection under direct observation under §40.197(b)(1), the company must immediately do so.
- If the employee declines to take a test as directed in accordance with §40.197(b), the employee has refused the test for purposes Part 40 and DOT agency regulations.

### **Invalid results:**

When the laboratory reports that the test result is an invalid result, the MRO must:

- Contact the employee and inform the employee that the specimen was invalid. In contacting the employee, the MRO uses the procedures set forth in §40.131.
- After explaining the limits of disclosure (see §§40.135(d) and 40.327), the MRO must determine if the employee has a medical explanation for the invalid result and inquire about the medications the employee may have taken.

If the employee gives an explanation that is acceptable, the MRO must:

- Place a check mark in the “Test Cancelled” box (Step 6) on Copy 2 of the Control and Custody Form (hereinafter “CCF”) and enter “Invalid Result” and “Direct Observation Collection Not Required” on the remarks line.
- Report to the DER that the test is cancelled, the reason for cancellation, and that no further action is required unless a negative test result is required (i.e., pre-employment, return-to-duty, or follow-up tests). If a negative test result is required and the medical explanation concerns a situation in which the employee has a permanent or long-term medical condition that precludes him or her from providing a valid specimen, the MRO must follow the procedures outlined at §40.160 for determining if there is clinical evidence that the individual is an illicit drug user:
  - If the medical evaluation reveals no clinical evidence of drug use, the MRO must report this to the employer as a negative test result with written notations regarding the medical examination. The report must also state why the medical examination was required (i.e., either the basis for the determination that a permanent or long-term medical condition exists or because the recollection under direct observation resulted in another invalid result for the same reason, as appropriate) and for the determination that no signs and symptoms of controlled substances use exist.
  - If the medical evaluation reveals clinical evidence of drug use, the MRO must report the result to the employer as a cancelled test with written notations regarding the results of the

medical examination. The report must also state why the medical examination was required (i.e., either the basis for the determination that a permanent or long-term medical condition exists or because the recollection under direct observation resulted in another invalid result for the same reason, as appropriate) and state the reason for the determination that signs and symptoms of controlled substances use exist. Because this is a cancelled test, it does not serve the purpose of an actual negative test result (i.e., the employer is not authorized to allow the employee to begin or resume performing safety-sensitive functions, because a negative test result is needed for that purpose).

If the employee does not give a reasonable explanation, the MRO:

- Places a check mark in the “Test Cancelled” and enters “Invalid Result” and “Direct Observation Collection Required” on the remarks line.
- Reports to the DER that the test is cancelled, the reason for cancellation, and that a second collection must take place immediately under direct observation.
- Instructs the employer to ensure that the employee has the minimum possible advance notice that they must go to the collection site.

If the employee admits to the MRO that they tampered with the specimen, the result is reported as a refusal to be tested. If the employee admits to the MRO that they used controlled substances, the test is cancelled with the reason noted as “invalid” and the DER is notified of the admission. The DER has actual knowledge of a violation and the occurrence is treated the same as a positive result.

When the test result is invalid because pH is greater than or equal to 9.0 but less than or equal to 9.5 and the employee has no other medical explanation for the pH, the MRO should consider whether there is evidence of elapsed time and increased temperature that could account for the pH value. The MRO:

- Is authorized to consider the temperature conditions that were likely to have existed between the time of collection and transportation of the specimen to the laboratory, and the length of time between the specimen collection, and arrival at the laboratory.
- May talk with the collection site and laboratory to discuss time and temperature issues, including any pertinent information regarding specimen storage.

If the MRO determines that time and temperature:

- Account for the pH value, they must cancel the test and take no further action.
- Fail to account for the pH value, they must cancel the test and direct another collection under direct observation, as provided at paragraph §40.159(a)(5).

**Alcohol Testing Procedures:**

Alcohol testing will be conducted by a qualified Breath Alcohol Technician (hereinafter “BAT”) or Screening Test Technician (hereinafter “STT”), according to 49 CFR Part 40 procedures. Only products on the conforming products list (approved by the National Highway Traffic Safety Administration (NHTSA) and Part 40 requirements will be utilized for testing under this policy.

The testing will be performed in a private setting. Only authorized personnel will have access, and are the only individuals who can see or hear the test results. When the driver arrives at the testing site, the BAT or STT will ask for identification. The driver may ask the BAT or STT for identification.

The BAT or STT will then explain the testing procedure to the driver. The BAT or STT may only supervise one test at a time, and may not leave the testing site while the test is in progress.

A screening test is performed first. When a breath testing device is used, the mouthpiece of the breath testing device must be sealed before use, and opened in the driver's presence. Then the mouthpiece is inserted into the breath testing device. The driver must blow forcefully into the mouthpiece of the testing device for at least six (6) seconds or until an adequate amount of breath has been obtained.

Once the test is completed, the BAT must show the driver the results. The results may be printed on a form generated by the breath testing device or may be displayed on the breath testing device. If the breath testing device does not print results and test information, the BAT is to record the displayed result, test number, testing device, serial number of the testing device, and time on the alcohol testing form. If the breath testing device prints results, but not directly onto the form, the BAT must affix the printout to the alcohol testing form in the designated space.

When an Alcohol Screening Device (hereinafter “ASD”) is used, the STT must check the device's expiration date and show it to the driver. A device may not be used after its expiration date.

The STT will open an individually wrapped or sealed package containing the device in front of the driver and they will be asked to place the device in their mouth and use it in the manner described by the device's manufacturer.

If the driver declines to use the device, or in a case where the device doesn't activate, the STT must insert the device in the driver's mouth and use it in the manner described by the device's manufacturer. The STT must wear single-use examination gloves and must change the gloves following each test.

When the device is removed from the driver's mouth, the STT must follow the manufacturer's instructions to ensure the device is activated.

If the procedures listed above can't be successfully completed, the device must be discarded and the new test must be conducted using a new device. Again, the driver will be offered the choice of using the new device or having the STT use the device for the test. If the new test can't be successfully completed, the driver will be directed to immediately take a screening test using an Evidential Breath Testing device (hereinafter "EBT").

The result displayed on the device must be read within fifteen (15) minutes of the test. The STT must show the driver the device, the EBT reading and enter the result on the ATF.

If the reading on the EBT or ASD is less than 0.02, both the driver and the BAT or STT must sign and date the result form. The form will then be confidentially forwarded to the company's DER. If the reading on the EBT or ASD is 0.02 or more, a confirmation test must be performed. An EBT must be used for all confirmation tests.

The test must be performed after fifteen (15) minutes have elapsed, but within thirty (30) minutes of the first test. The BAT will ask the driver not to eat, drink, belch, or put anything into their mouth. These steps are intended to prevent the buildup of mouth alcohol, which could lead to an artificially high result.

A new sealed mouthpiece must be used for the new test. The calibration of the EBT must be checked. All of this must be done in the driver's presence.

If the results of the confirmation test and screening test are not the same the confirmation test will be used.

Refusal to complete and sign the alcohol testing form or refusal to provide breath or saliva will be considered a failed test and the driver will be removed from all safety-sensitive functions until the matter is resolved.

### **Controlled Substance Testing Procedures:**

*Collection:* Specimen collection will be conducted in accordance with 49 CFR Part 40 and any applicable state law. The collection procedures have been designed to ensure the security and integrity of the specimen provided by each driver. The procedures will strictly follow federal chain of custody guidelines.

A controlled substances testing CCF will be used to document the chain of custody from the time the specimen is collected at the testing facility until it is tested at the laboratory. A collection kit meeting the requirements of Part 40, Appendix A must be used for the drug test.

The collection of the specimen must be conducted in a suitable location and must contain all necessary personnel, materials, equipment, facilities and supervision to provide for collection, security, temporary storage, and transportation of the specimen to a certified laboratory.

When the driver arrives at the collection site, the collection site employee will ask for identification. The driver may ask the collection site person for identification.

The driver will be asked to remove all unnecessary outer garments (i.e. coat/jacket) and secure all personal belongings. The driver may keep their wallet.

The driver shall wash and dry their hands. After the washing of hands, the driver must remain in the presence of the collection site employee and may not have access to fountains, faucets, soap dispensers, or other materials that could adulterate the specimen.

The collection site employee will select or allow the driver to select, an individually wrapped or sealed container from the collection kit materials. Either the collection site employee or the driver, with both individuals present, must unwrap or break the seal of the collection container. The seal on the specimen bottle may not be broken at this time. Only the collection container may be taken into the room used for urination. The driver is then instructed to provide the specimen in a location that allows for privacy.

The specimen must consist of at least 45 mL of urine. Within four (4) minutes after obtaining the specimen, the collection site person will measure its temperature. The acceptable temperature range is 90 to 100 degrees Fahrenheit. If the specimen temperature is outside the acceptable range, the collector must note this on the CCF and must immediately conduct a new collection using direct observation procedures outlined in § 40.67. Both specimens must be sent to the lab for testing. The collector must notify both the DER and collection site supervisor that the collection took place under direct observation and the reason for doing so.

The collection site person will also inspect the specimen for color and look for signs of contamination or tampering. If there are signs of contamination or tampering, the collector must immediately conduct a new collection using direct observation procedures outlined in § 40.67. Both specimens must be sent to the lab for testing. The collector must notify both the DER and collection site supervisor that the collection took place under direct observation and the reason for doing so.

The 45mL sample provided must be split into a primary specimen of 30 mL and a second specimen (used as the split) of 15 mL. The collection site employee must place and secure the lids on the bottles, place tamper-evident bottle seals over the lids and down the sides of the bottles, and write the date on the tamper-evident seals. The driver then initials the tamper-evident bottle seals to certify that the bottles contain specimens they provided. All of this must be done in front of the driver.

All identifying information must be entered on the CCF by the collection site employee. The CCF must be signed by the collection site employee and certifying collection was accomplished in accordance with the instructions provided. The driver must also sign this form indicating the specimen was theirs. The collector

is responsible for placing and securing the specimen bottles and a copy of the CCF into an appropriate pouch or plastic bag. At this point, the driver may leave the collection site.

The collection site must forward the specimens to the lab as quickly as possible, within 24 hours or during the next business day.

*Laboratory Analysis:* As required by FMCSA Regulations, only a laboratory certified by the Department of Health and Human Services is to perform urinalysis for the presence of controlled substances will be retained by the Company. The laboratory will be required to maintain strict compliance with federally approved chain-of-custody procedures, quality control, maintenance, and scientific analytical methodologies. All specimens are required to undergo an initial screen followed by confirmation of all positive screen results.

*Results:* According to FMCSA Regulation, the laboratory must report all test results directly to the company's MRO. All test results must be transmitted to the MRO in a timely manner, preferably the same day of the review by the certifying scientist is completed. All results must be reported.

The MRO is responsible for reviewing and interpreting all confirmed positive, adulterated, substituted, or invalid drug test results. The MRO must determine whether alternate medical explanations could account for the test results. The MRO must also give the driver who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the MRO must notify the DER.

If the MRO, after making and documenting all reasonable efforts, is unable to contact a tested driver, the MRO shall contact the DER instructing them to contact the driver. The DER will arrange for the driver to contact the MRO before going on duty.

The MRO may verify a positive, adulterated, substituted, or invalid drug test without having communicated with the driver about the test results if:

- The driver expressly declines the opportunity to discuss the results of the test;
- Neither the MRO or DER has been able to make contact with the driver for ten (10) days; or
- Within seventy-two (72) hours after a documented contact by the DER instructing the driver to contact the MRO, the driver has not done so.

The MRO may verify an invalid test result as cancelled, with instructions to recollect immediately under direct observation, without interviewing the employee, as provided at §40.159 if:

- The driver expressly declines the opportunity to discuss the test with the MRO;
- The DER has successfully made and documented a contact with the driver and instructed the driver to contact the MRO and more than seventy-two (72) hours have passed since the time the DER contacted the driver; or
- Neither the MRO nor the DER, after making and documenting all reasonable efforts, has been able to contact the driver within ten days of the date on which the MRO received the confirmed invalid test result from the laboratory.

*Split Sample:* As required by FMCSA Regulations, the MRO must notify each driver who has a positive, adulterated, or substituted, drug test result that they have seventy-two (72) hours to request the test of the split specimen. If the driver requests the testing of the split, the MRO must direct in writing the lab to provide the split specimen to another certified laboratory for analysis. There is no split specimen testing for an invalid result. The employee/applicant will pay for the testing of the split specimen.

If the analysis of the split specimen fails to reconfirm the results of the primary specimen, or if the split specimen is unavailable, inadequate for testing, or unstable, the MRO must cancel the test and report the cancellation and the reasons for it to the DER and the driver.

*Specimen Retention:* Long-term frozen storage will ensure that positive urine specimens will be available for any necessary retest. The company's designated drug testing laboratory will retain all confirmed positive specimens for at least one (1) year in the original labeled specimen bottle.

### **Confidentiality/Recordkeeping:**

All driver alcohol and controlled substance test records are considered confidential under §382.401. For the purpose of this policy/procedure, confidential recordkeeping is defined as records maintained in a secure manner, under lock and key, and accessible only to the program administrator.

Driver alcohol and controlled substance test records will only be released in the following situations:

- To the driver, upon his/her written request;
- Upon request of a DOT agency with regulatory authority over the company;
- Upon request of state or local officials with regulatory authority over the company;
- Upon request by the United States Secretary of Transportation;
- Upon request by the National Transportation Safety Board as part of an accident investigation;
- Upon request by subsequent employers upon receipt of a written request by a covered driver;
- In a lawsuit, grievance, or other proceeding if it was initiated by or on behalf of the complainant and arising from results of the tests; or
- Upon written consent by the driver authorizing the release to a specified individual.

All records will be retained for the time period required in §382.401.

*Supervisor Training:* According to FMCSA Regulations, all employees of the company designated to supervise drivers will receive training on this program. The training will include at least sixty (60) minutes on alcohol misuse and sixty (60) minutes on controlled substance use. The training content will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and controlled substance use. The training allows supervisors to determine reasonable suspicion that a driver is under the influence of alcohol or controlled substance.

*Referral, Evaluation, and Treatment (§382.605):* According to FMCSA Regulations, a list of substance abuse professionals will be provided to all drivers who fail an alcohol test or test positive for drugs.

A list of substance abuse professionals and counseling and treatment programs for your location is attached with this policy. The controlled substance and alcohol program administrator will be responsible for designating the appropriate substance abuse professional (hereinafter “SAP”) who, in conjunction with the driver's physician, will diagnose the problem and recommend treatment. The driver/applicant is responsible for all expenses for the evaluation by the SAP and any treatment required.

According to FMCSA Regulations, prior to returning to duty for the company, a driver must be evaluated by a SAP and must complete the treatment recommended by the SAP. Successful completion of a return to duty test and all follow-up tests is mandatory.

A driver who fails to complete an evaluation by the SAP, treatment recommended by the SAP, a return to duty test, or a follow-up test may be subject to termination.

### **Discipline:**

The company may not stand-down a driver before the MRO has completed the verification process unless the company has applied for and has received a FMCSA issued waiver (§40.21).

According to FMCSA Regulations, no person who has failed an alcohol or controlled substance test, or refused to test, will be allowed to perform safety-sensitive functions until the referral, evaluation, and treatment requirements have been complied with. The following company disciplinary measures apply to all reasonable suspicion, post-accident, and random tests:

*Controlled Substance Positive Test Result:* Upon notification by the MRO that a driver has a controlled substance test result of positive, adulterated, or substituted, the driver may request a test of the split sample within seventy-two (72) hours per §40.171. If the driver has requested to the MRO that a test of the split sample be performed, the driver will be immediately removed from safety-sensitive functions until the

results of a split sample test are obtained. The driver/applicant will be responsible for all expenses related to requesting a split sample.

If the driver doesn't request a split sample test or the split sample test confirms the initial positive, adulterated, or substituted, drug test result, the driver will be immediately removed from safety-sensitive functions and may be subject discipline up to termination. If the split sample testing disputed the initial test results or if the initial test results are designated invalid, the driver will be reinstated.

*Refusal to Test:* A driver's refusal to test for alcohol or controlled substances will be considered a positive test result. Adulteration or tampering with a urine or breath sample is considered conduct that obstructs the testing process and is considered a refusal to test. A driver whose conduct is considered a refusal to test will be removed from performing safety-sensitive functions and may be subject to discipline up to termination.

*Failed Alcohol Test Result:* Upon notification that a driver has failed an alcohol test (0.04% BAC or greater), the driver will be removed from performing safety-sensitive functions and may be subject to discipline up to termination.

Upon notification that a driver tested 0.02% BAC or greater, but less than 0.04% BAC in initial and confirmatory tests for alcohol, the driver will be removed from performing safety-sensitive functions and may be subject to discipline up to termination.

#### **Additional Documents:**

Copies of the following documents are attached at the end of this policy:

- Controlled Substances & Alcohol Testing Definitions
- Educational Materials
- List of Substance Abuse Professionals (SAP)

#### **Safety Sensitive Function Identified:**

This policy applies to every person and to all employers of such persons who operate a commercial motor vehicle in any State. For safety-sensitive employees performing the following duties outlined are covered in this policy in accordance with the FMSCA 49 CFR Part 382:

- Commercial Motor Vehicle Operator.
- Waiting to be dispatched to operate a commercial motor vehicle.
- Performing all other functions directly related to operating a commercial motor vehicle or operating any other heavy equipment.

## CONTROLLED SUBSTANCES & ALCOHOL TESTING DEFINITIONS

When implementing and interpreting the drug and alcohol policies and procedures required by the FMCSA as well as the policies and procedures required by the company, the following definitions apply:

*Actual knowledge* means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the driver, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or a controlled substance, or a driver's admission of alcohol or controlled substance use under the provisions of Sec. 382.121. Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of driver behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Sec. 382.307.

*Adulterated specimen* means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*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) 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.

*Alcohol screening device* (ASD) means a breath or saliva device, other than an evidential breath testing device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

*Alcohol use* means the consumption of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

*Aliquot* means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

*Breath Alcohol Technician* (or BAT) means an individual who instructs and assists individuals in the alcohol testing process, and operates an evidential breath testing device (EBT).

*Collection site* means a place designated by the company, where individuals present themselves for the purpose of providing a urine specimen for a drug test.

*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 of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

*Confirmatory drug test* means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial 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).

*Confirmatory validity test* means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite. *Consortium/Third-party administrator (C/TPA)* is a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services for the company. C/TPAs typically perform administrative tasks concerning the operation of the company's drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers."

*Controlled substances* mean those substances identified in 49 CFR, Section 40.85. In accordance with FMCSA rules, urinalyses will be conducted to detect the presence of the following substances:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP).

Detection levels requiring a determination of a positive result shall be in accordance with the guidelines adopted by the FMCSA in accordance with the requirements established in 49 CFR, Section 40.87.

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA1	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL.
Opiate metabolites Codeine/Morphine <sup>2</sup>	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamines <sup>3</sup> AMP/MAMP <sup>4</sup>	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine <sup>5</sup>	250 ng/mL.
MDMA <sup>6</sup>	500 ng/mL	MDMA	250 ng/mL.
		MDA <sup>7</sup>	250 ng/mL.
		MDEA <sup>8</sup>	250 ng/mL.

<sup>1</sup>Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA). <sup>2</sup>Morphine is the target analyte for codeine/morphine testing.

<sup>3</sup>Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

<sup>4</sup>Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

<sup>5</sup>To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

<sup>6</sup>Methylenedioxymethamphetamine (MDMA).

<sup>7</sup>Methylenedioxyamphetamine (MDA).

<sup>8</sup>Methylenedioxyethylamphetamine (MDEA)

*Designated employer representative (DER)* is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove drivers from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

*Dilute specimen* means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Direct observation* means the observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show, by turning around, that he/she does not have a prosthetic device. After observer has determined that the employee does not have such a device, he/she may permit the employee to return clothing to its proper position for observed urination.

*Disabling damage* means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

1. *Inclusions:* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
2. *Exclusions:*
  - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
  - b. Tire disablement without other damage even if no spare tire is available.
  - c. Headlight or taillight damage.
  - d. Damage to turn signals, horn, or windshield wipers which make them inoperative.

*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 operates a commercial motor vehicle at the direction of or with the consent of an employer.

*Drug* means any substance (other than alcohol) that is a controlled substance as defined in this policy and 49 CFR Part 40.

*Evidential breath testing device (EBT)* means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for "Evidential Breath Measurement Devices" and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

*FMCSA* means Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

*Initial drug test* (also known as a “Screening drug test”) means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial specimen validity test* means the first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

*Invalid result* means the result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory* means any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under Part 40.

*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)* is a person who is a licensed physician (Doctor of Medicine or Osteopathy) and who is responsible for receiving and reviewing laboratory results generated by the company's drug testing program and evaluating medical explanations for certain drug test results.

*Negative result* means the result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

*Non-negative specimen* means a urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

*Oxidizing adulterant* means a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Prescription medications* means the use (by a driver) of legally prescribed medications issued by a licensed health care professional familiar with the driver's work related responsibilities.

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

1. Fails to appear for any test (except pre-employment) within a reasonable time, as determined by the company, consistent with applicable DOT regulations, after being directed to do so by the company. This includes the failure of a driver (including an owner-operator) to appear for a test when called by a C/TPA;
2. Fails to remain at the testing site until the testing is complete (except pre-employment if the driver leaves before the testing process begins);
3. Fails to provide a urine specimen for any DOT required drug test (except pre-employment if the driver leaves before the testing process begins);
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of the specimen;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the employer or collector has directed the driver to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER (In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment);
8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when 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).
9. For an observed collection, fails to follow the observer's instructions to raise his/her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he/she has any type of prosthetic or other device that could be used to interfere with the collection process.
10. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
11. Admits to the collector or MRO that he/she adulterated or substituted the specimen.
12. Is reported by the MRO as having a verified adulterated or substituted test result.

*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 include:

- 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 Company;
- All time inspecting equipment as required by Secs. 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of Sec. 393.76);
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or

- receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

*Screening test technician (STT)* is a person who instructs and assists employees in the alcohol testing process and operates an alcohol screening device (ASD).

*Split specimen collection* means a collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Stand-down* means the practice of temporarily removing a driver from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive drug test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

*Substance abuse professional (SAP)* is a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. A SAP must be:

- A licensed physician (Doctor of Medicine or Osteopathy);
- A licensed or certified social worker;
- A licensed or certified psychologist;
- A licensed or certified employee assistance professional; or
- A drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC).

*Substituted specimen* means a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

## **EDUCATIONAL MATERIALS**

### **Safety Sensitive Function Identified:**

This policy applies to every person and to all employers of such persons who operate a commercial motor vehicle (CMV) in any State. For safety-sensitive employees performing the following duties outlined are covered in this policy in accordance with the DOT FMSCA 49 CFR part 382:

- a) Commercial Motor Vehicle Operator (CMV)
- b) Waiting to be dispatched to operate a CMV
- c) Performing all other functions directly related to operating a CMV or operating any other heavy equipment.

### **General Health Effects of Marijuana Use:**

Marijuana is a controlled substance that when used affects almost every organ in the body, the nervous system, and immune system. Marijuana use causes the heart to race and overwork putting people with heart conditions at risk. Marijuana use can cause respiratory tract and sinus infections, lower the body's immune system, cause changes in brain cells and brain waves and long term use may cause brain damage. A marijuana user's mental function is effected as use can delay decision making, diminished concentration, and impaired short-term memory. Marijuana use can create emphysema-like conditions. One marijuana cigarette contains cancer causing substances equal to ½ pack of cigarettes. In males marijuana use decreases the testosterone hormone and in females increases the estrogen hormone. Further, marijuana use by females result in higher than normal incidence of stillborn births, early termination of pregnancy, and a higher mortality rate during the first few days of life of the infant.

### **Workplace Issues:**

- Marijuana smoking has long term effects on work performance such as delay in decision making, diminished concentration, and impaired short-term memory.

### **Signs and Symptoms of Abuse:**

- Reddened Eyes.
- Slowed Speech.
- Distinct odor on clothing.
- Lackadaisical attitude.
- Chronic fatigue/lack of motivation.
- Constant and irritating cough.

## **General Health Effects of Cocaine Use:**

Cocaine is a controlled substance that is a powerful physical and mental stimulant when abused. The entire nervous system becomes energized, muscles tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neuro-hormones that is associated with mood elevation. Regular cocaine use may upset the chemical balance of the brain and as a result, may speed up the aging process by causing damage to critical nerve cells and Parkinson's disease may occur. Cocaine use increases heartbeat and blood pressure, causes spasms of blood vessels in the brain and heart both of which lead to ruptured vessels causing strokes and heart attacks. Cocaine use causes the strongest mental dependency of all the controlled substances and is extremely dangerous when taken with other depressant drugs, such as alcohol. Overdose of cocaine can result in a rapid death.

## **Workplace Issues:**

- Extreme mood and energy swings create instability.
- Sudden noise can cause violent reactions.
- Lapses in attention and ignoring warning signals increases probability of accidents.
- High cost of the drug frequently leads to theft and/or dealing.
- Paranoia and withdrawal may create unpredictable or violent behavior.
- Performance is characterized by forgetfulness, absenteeism, tardiness and missing assignments.

## **Signs and Symptoms of Abuse:**

- Increased physical activity and fatigue.
- Frequent/extended absences.
- Financial problems.
- Unusual defensiveness, anxiety, and agitation.
- Frequent non-business visitors, delivered packages, and phone calls.
- Wide mood swings, runny or irritated nose, difficulty concentrating, and restlessness.
- Paranoia, hyper-excitability, and overreaction to stimulus.

### **General Health Effects of Opiates Use:**

Opiates are controlled substances that alleviate pain and depress body functions and reactions. Intravenous users have a high risk of contracting hepatitis or AIDS from the sharing of needles. There is an increased pain tolerance during use and as a result the user may more severely injure themselves and fail to seek needed medical attention. The narcotic effects of opiate use are multiplied when combined with other depressants causing an increased risk for overdose. A strong mental and physical dependency occurs with opiate use and serious financial burdens occur due to increased tolerance of the user.

#### **Workplace Issues:**

- Nausea, vomiting, dizziness, mental clouding, and drowsiness places the user at high risk for accidents.
- Causes impairment of physical and mental faculties.
- May gain access to narcotics through prescription.

#### **Signs and Symptoms of Abuse:**

- Mood changes.
- Impaired mental function.
- Impaired coordination and fatigue.

### **General Health Effects of Amphetamines Use:**

Amphetamines are controlled substances that affect the central nervous system and speeds up the mind and body. Regular amphetamine use causes strong psychological dependency and increased tolerance. High doses may cause toxic psychosis resembling schizophrenia and may induce a heart attack or stroke due to increased blood pressure. Chronic amphetamine use may cause heart or brain damage due to severe constriction of capillary blood vessels. The euphoric stimulation that comes with amphetamine use increases impulsive and risk taking behavior that include bizarre and violent acts. Withdrawal may result in severe physical ailments and mental depression.

#### **Workplace Issues:**

- Use alleviates the sensation of fatigue and may be abused to increase alertness during periods of overtime or failure to get rest.
- With heavy use, it increases fatigue and short term mental or physical enhancement then reverses and becomes an impairment.

#### Signs and Symptoms of Abuse:

- Increased body temperature.
- Euphoria.
- Increased blood pressure.
- Dry mouth.
- Faster breathing.
- Dilated pupils.
- Increased energy and alertness.
- Decreased fatigue.
- Decreased appetite.

#### **General Health Effects of Phencyclidine (PCP) Use:**

PCP is controlled substance that is used as a large animal tranquilizer and is abused primarily for its mood altering effects. Low doses of PCP produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and agitation. Sudden noises or physical shocks can cause a “freak out” in which a person has abnormal strength, violent behavior, and an inability to speak or comprehend. The potential for accidents and overdose emergencies are high due to the extreme mental effects and when combined with other depressants, including alcohol, the possibilities of an overdose increase. Irreversible memory loss, personality changes and thought disorders may result with the use of PCP.

#### Workplace Issues:

- Adverse effect on coping skills.
- PCP induced depression.
- Drug induced schizophrenia.
- Increased potential for accidents.

#### Signs and Symptoms of Abuse:

- Impaired coordination.
- Severe confusion and agitation.
- Extreme mood swings.
- Muscle rigidity.
- Dilated pupils, rapid heartbeat, dizziness and profuse sweating.

## **General Health Effects of Alcohol:**

Alcohol is used routinely as a beverage for enjoyment. Though not illegal, alcohol can also have a negative physical and mood altering impact when abused.

### **Workplace Issues:**

- Unexplained absences from work.
- Frequent requests for time off.
- Accidents without explanation.
- Unsatisfactory work performance.
- Lack of concentration.
- Slurred speech.

### **Signs and Symptoms of Abuse:**

- Dulled mental processes.
- Lack of coordination.
- Odor of alcohol on breath.
- Sleepy or stuporous condition.
- Slurred speech slowed reaction rate etc.

The findings below are based on an average of three or more servings per day of beer (12 oz.), whiskey (1 oz.) or wine (6 oz.).

- Dependency.
- Fatal Liver Disease.
- Kidney Disease.
- Pancreatitis Ulcers.
- Malignant melanoma.
- In females, spontaneous abortion and neonatal mortality.

## **Intervention Methods Available For Alcohol and Substance Abuse:**

- Stick to the facts and base observations on what you can see or smell. Not on a hunch or what someone else has told you.
- Explain to your employee that you are concerned about their behavior and appearance.

- Explain to your employee that you are concerned about their health.
- Unless you are certain suggest he/she undergo both drug and alcohol testing.
- Explain to your employee that a short health assessment will be done to rule out medical problems.

**Difficult Situations:**

- If the employee becomes defensive listen attentively.
- If the employee talks non-stop interrupt by asking questions that are yes or no answers.
- If the employee cries listen and respond kindly and give them a few minutes. Make it clear that you are not accusing but following procedure.
- If the employee remains silent ask non-threatening questions.
- If the employee becomes belligerent remain calm, avoid yelling, and do not respond with inflammatory remarks.
- If they become combative get out of the situation without escalating and call authorities.
- The employee can also be referred to any employee assistance program and or to management.

**As part of our continuing policy to ensure fair and equal treatment of our employees, we understand that there may be questions and concerns involving our drug and alcohol testing program. To assist our employees in understanding the requirements placed on both the employee and the employer, please contact Eric Shackelford (228) 872-7160.**

**This policy satisfies the requirements set forth by FMCSA 49 CFR Parts 40 and 382. As part of your agreement for employment with this company you are required to sign this policy.**

## Controlled Substances and Alcohol Testing Policy

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### **CONTROLLED SUBSTANCES & ALCOHOL TESTING CONSENT FORM**

By my signature I acknowledge that I have read, understand, and agree to comply with the drug and alcohol testing program of \_\_\_\_\_, as well as the U.S. Department of Transportation Regulations as contained in 49 CFR Part 382.

I also understand that it is a condition of being considered for employment, and continued employment by the company that I agree to abide by the company policy. By my signature I consent to urine and/or breathe/saliva testing for controlled substances and/or alcohol prior to and at any time during my employment when requested by my employer on a random or event triggered basis. I hereby specifically authorize the company to have all and immediate access to any and all of my urine and/or breath custody and control forms and the results thereof.

I understand and agree that I may not be under any degree of influence of alcohol or controlled substance at any time during my employment. Should any level of alcohol or controlled substance be detected in any of my breath, saliva, or urine at any time while employed, the company shall have grounds for immediate termination of my employment. This authorization specifically covers any random or event triggered testing as may be required by U.S. Department of Regulations or company policy.

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTROLLED SUBSTANCES & ALCOHOL TESTING  
POLICY RECEIPT**

I, (*Applicant*) \_\_\_\_\_ have received a copy of the Controlled Substance and Alcohol Testing Policy for \_\_\_\_\_. By my signature, I acknowledge that I have read, understand, and consent to this Policy.

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