



**State University of New York at Potsdam (SUNY Potsdam)**

**CDL Controlled Substance & Alcohol Testing Policy**

**INTRODUCTION:**

This policy outlines the responsibilities of employees, supervisors, and managers with regard to substance and alcohol testing of employees in safety-sensitive positions in accordance with the United States Department of Transportation (DOT) regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

**POLICY STATEMENT:**

Controlled substance use and alcohol misuse by anyone can affect everyone. It is the University's responsibility to help prevent accidents and injuries resulting from the use of controlled substances and the misuse of alcohol by CDL employees.

In accordance with the United States Department of Transportation (DOT) regulations, this policy complies fully with the regulations mandating pre-employment, random, reasonable suspicion, and post-accident substance and alcohol testing. This policy applies to employees whose job requires them to obtain and maintain a Commercial Driver's License (CDL) and operate a Commercial Motor Vehicle (CMV).

**DEFINITIONS:**

**Accident:** An incident involving a commercial motor vehicle in which there is either a fatality, injury treated at or away from the scene, structural damage to State property, a vehicle requiring it to be towed from the scene or damage caused to a State vehicle resulting in that equipment being removed from service for repair.

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

**Alcohol Use:** The drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

**Commercial Driver's License (CDL):** A special license required of drivers who drive Commercial Motor Vehicles which meets the following criteria:

- Meets or exceeds 26,001 lbs. gross vehicle weight; or
- Transports 16 or more passengers, including the driver; or
- Transports hazardous materials as determined by the Hazardous Materials Act, 49 USC 5101, and are required to placard the vehicle under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

**Commercial Motor Vehicle (CMV):** Any self-propelled or towed vehicle used on a highway, any roadway or passage which may be available to public transportation at any time, whether on private or public property, in interstate or intrastate commerce to transport passengers or property when the vehicle:

- Has a gross vehicle weight rating or gross combination weight (including trailers) rating of 10,001 lbs. or more; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of hazardous materials as determined by the Hazardous Materials Transportation Act, 49 USC 5101, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

**Controlled Substances:** For the purposes of these guidelines, the terms "drugs" and "controlled substances" as defined by SUNY Potsdam's Drug and Alcohol Workplace policy. The DOT is testing only for the following five controlled substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamines).

**Designated Employer Representative (DER):** The Environmental Health and Safety Director is SUNY Potsdam's designated employee, authorized to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the University, consistent with the requirements of 40.3. Service agents cannot act as DERs.

**Driver:** Any person (volunteer or paid) who operates a CMV and is required to have a CDL. This includes, but is not limited to,

- Full-time, regularly employed drivers
- Leased drivers
- Independent owner-operator contractors (employed directly or leased)
- Casual, intermittent, or occasional drivers.

**Employee:** See definition for Driver.

**Employer:** Any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it.

**Medical Review Officer (MRO):** A licensed physician responsible for receiving and reviewing laboratory results generated by the Universities drug testing and for evaluating medical explanations for certain drug test results.

**Performing a Safety-Sensitive Function:** Any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.

**Safety-Sensitive Function:**

- All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
- All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, 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.
- All time, other than driving time, spent on or in a commercial motor vehicle.
- All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
- All time spent performing the driver requirements associated with an accident.
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Screening Test:**

- In alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.
- In controlled substance testing it means an immunoassay screen to eliminate negative urine specimens from further consideration.

**Substance Abuse Professional (SAP):** A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning evaluation, treatment, follow-up testing, and after-care.

**Self-Admission of Substance Use and/or Alcohol Abuse:**

**It is to the discretion of Human Resources on whether or not to take disciplinary action against a driver who makes a voluntary admission of substance use and/or alcohol misuse if under the following circumstances:**

- A. The driver does not admit to a substance abuse problem in order to avoid required testing.
- B. The driver admits to a substance abuse problem before performing a safety-sensitive function.
- C. The driver does not perform a safety-sensitive function until the employer is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program or policy guidelines.

**RESPONSIBILITIES:**

**Environmental Health & Safety:** Environmental Health & Safety is responsible for the following substance and alcohol screening compliance activities:

- Ensure each employee required to have a CDL, participates in an appropriate substance and alcohol testing program in accordance with DOT regulations. All results will be kept and maintained on file by Environmental Health & Safety pursuant to the University's policy.
- Review all driver qualification forms and documents for completeness and compliance.

**Supervisor/Department:** The duties of the driver's supervisor or his/her department include:

- Active participation in the hiring process for employees who drive CMVs, which includes:
  - If applicable ensure the post-offer applicant follow CDL Federal DOT drug and alcohol testing regulations.
  - Maintain Driver Qualification files.
- Informing and requiring CDL drivers to submit a urine sample for substance and alcohol testing at the designated medical and/or collection facility when the supervisor suspects that the driver is under the influence of controlled substances or alcohol, pursuant to DOT regulations and the University's policy, and
  - Contact Human Resources as soon as possible following the incident, and
  - Complete the Supervisors Reasonable Suspicion Form
- Compliance with DOT regulations

**Driver:** The responsibilities of the driver include:

- While conducting safety sensitive activities employees will comply at all times with the University's policy.
- Submit a sample for drug or alcohol testing when called upon to do so by his/her supervisor, including random testing for CDL drivers, pursuant to the University's policy.

**PROCEDURES:**

**Types of Tests:**

- **Pre-Employment Testing:** All applicants for employment in CDL positions, or candidates for transfer or promotion to such positions must undergo testing for alcohol and controlled substances prior to employment and/or the first time he/she performs safety-sensitive functions for the University.
  - Refusal to submit to testing, an alcohol test with a result greater than or equal to a 0.02 alcohol concentration, or a positive controlled substances test result shall disqualify an applicant from further consideration for employment which requires a CDL.

- **Random Testing:** Conducted on a random, unannounced basis just before, during, or after performance of safety-sensitive functions for alcohol or at any time for controlled substances.
  - Each year, the University must randomly select 25% of all CDL employees for alcohol testing.
  - Each year, the University must randomly select 50% of all CDL employees for controlled substances testing.
  - The selection time shall be unannounced and reasonably spaced throughout the year.
- **Post-Accident Testing:** Conducted after accidents on CDL employees in University CDL required vehicle whose performance in a safety-sensitive function contributed to an accident either involving a fatality, significant damage to property, or a moving traffic violation.
  - Alcohol tests should be completed within 2 hours after the accident, but no more than 8 hours.
  - CDL employees must refrain from all alcohol use until the test is completed.
  - Substance tests should be completed within 32 hours after the accident.
  - A written record must be prepared and maintained on file stating the reason the tests were not administered.
- **Reasonable Suspicion Testing:** Conducted when a trained supervisor or manager observes characteristics (appearance, behavior, speech, and body odors) of alcohol misuse or use of controlled substances in a CDL employee.
  - **Controlled Substance:** A written record of the observations must be made within 24 hours of the initial observation or before the results of the controlled substances test are released, whichever is earlier. Record must be signed by whomever is making the observations.
  - **Alcohol:** Testing must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. A written record must be made of the observation and signed by whomever is making the observations.

- If a reasonable suspicion alcohol test is not administered within 2 hours following the observations, the University must prepare and maintain on file a record stating the reasons the alcohol test was not administered.
- If the reasonable suspicion alcohol test is not administered within 8 hours following the observations, the University must prepare and maintain a record stating the reasons the alcohol test was not administered and must cease attempts to administer the test.
- **Return-To-Duty and Follow-up Testing:** Conducted when an individual who has violated the prohibited alcohol or controlled substance standards returns to performing safety-sensitive duties.
  - Controlled Substance: If a CDL employee has engaged in prohibited conduct regarding controlled substance use they must undergo a return-to-duty controlled substance test with a verified negative result before returning to duty.
  - Alcohol: If a CDL employee has engaged in prohibited conduct regarding alcohol misuse they must undergo a return-to-duty alcohol test with a verified negative result before returning to duty.
  - Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months a driver returns to duty (Three will be in conjunction with our quarterly testing and three maybe off-site at Canton-Potsdam Hospital, Mountain Medical in Massena or an St. Lawrence, Lewis, Jefferson County’s Board of Cooperative Educational Services (BOCES) approved testing location.
  - Refusal to submit return-to-duty testing shall disqualify a CDL employee from returning to work.

**Conducting Tests:**

- **Alcohol:** DOT rules require breath testing using evidential breath testing (EBT) devices.
  - Two breath tests are required to determine if a person has a prohibited alcohol concentration.
  - A screening test is conducted first. Any result less than 0.02 concentration is considered a “negative” test. If the result concentration is 0.02 or greater, a second, confirmation test must be conducted.

- **Controlled Substance:** Drug testing is conducted by analyzing a driver's urine specimen and must be conducted through a United States Department of Health (DOH) and Human Services certified facility (Canton Chemical Dependence office: 315-386-2189) or other DOH approved agency.
  - DOT rules require a split specimen procedure, where the urine specimen is subdivided into two bottles labeled as primary and split and both are sent to the laboratory.
  - Only the primary specimen is opened and used for the urinalysis at the laboratory.
  - If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another Department of Health and Human Services certified laboratory for analysis.
  - All urine specimens are analyzed for the following drugs:
    - Marijuana (THC metabolite)
    - Cocaine
    - Opioids (including heroin)
    - Phencyclidine (PCP)
    - Amphetamines
  - All controlled substance tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the University.
    - If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen.
    - For all the substances listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. The MRO will take into consideration when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.



- If the MRO determines that the substance use is legitimate, the test will be reported to the representative of the Environmental Health & Safety Department and Human Resources, as a negative result.

### **Refusal to Submit to Testing:**

Refusal to submit to a controlled substance or alcohol test constitutes that a CDL employee:

- Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing,
- Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement for urine testing,
- Engages in conduct that clearly obstructs the testing program, including:
  - Adulterating or substituting their specimen
  - Behaving in a confrontational way that disrupts the collection process
  - Fails to follow proper instructions during an observed collection process

CDL employees who refuse to submit to a controlled substance or alcohol test will be removed from all safety-sensitive functions until he/she has complied with the requirements and/or be subject to disciplinary action, including discharge.

### **Process for Receiving Positive Test Results**

- **Controlled Substance Abuse Professional (SAP)**
  - Employees must contact the chemical dependence office in Canton or as assigned by EH&S Department and schedule an appointment as soon as possible and bring proper identification.
    - Canton Chemical Dependence Office (CCDO) accepts walk-in appointment/s Monday-Friday 8:00am-10:00am (phone: 315-386-2189).
  - The CCDO will perform an interview with the employee and possibly a background controlled substance test.
  - A copy of the CCDO report must be provided to the Environmental Health & Safety Department (Torey Russell: [russeltj@potdam.edu](mailto:russeltj@potdam.edu), 315-267-2596).
  - Recommendation of a weekly, 1 hour class for 12 weeks or whatever recommendation provided by the SAP.

- The employee shall save any documentation that he/she receives.
- **Department of Transportation/ Environmental Health & Safety Department**
  - An employees will not be permitted to operate a New York State owned or leased vehicle until the first clean test results are received.
  - Required to perform 6 random testing events to occur within the next 12 months. Three will be in conjunction with our quarterly testing and three may be off-site (Canton-Potsdam Hospital or Mountain Medical in Massena or otherwise approved facility)
  - Meet 12 months from the date of unsatisfactory test results in order to re-evaluate the employee's status.
  - SUNY Potsdam may implement more strict restrictions then DOT regulations.
- **Human Resources**
  - Environmental Health & Safety Department is required to provide Human Resources with the test results.
  - Ensuring all offers of employment shall be contingent upon successful conformation of prior employment, driving record, completion of physical, drug and alcohol testing, and other DOT requirements for drivers.
  - Employee may be subject to disciplinary action as outlined in the appropriate bargaining agreement.

## **REQUIRED TRAINING AND RECORD KEEPING**

### **Information & Training:**

- All current and new employees who must obtain or who currently have a CDL will receive written information describing the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; available methods of intervening when an alcohol or a controlled substances problem is suspected; and the testing requirements and how/where they may receive assistance for alcohol or controlled substances misuse.
- Supervisors and managers of CDL employees must attend training and refresher training as deemed appropriate by the EH&S Office on alcohol and controlled substances misuse

signs and symptoms. Training shall also include education about this policy and the required testing procedures.

**Record Keeping:**

- The University is required to keep detailed records of its controlled substance and alcohol misuse tests.
- Alcohol and controlled substances testing records are confidential and may only be released to the employer, the controlled substance abuse professional, and as required in a lawsuit, grievance, administrative or criminal proceeding.
- Any other release of this information may only be made with the driver's consent, or in response to a court order.

**Policy Owner:**

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Effective Date April 6, 2018