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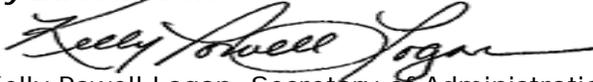
Commonwealth of Pennsylvania Governor's Office

Subject:

Commercial Driver License Drug and Alcohol
Testing and Related Procedures

Number:

M505.5 Amended

By Direction of:

Kelly Powell Logan, Secretary of Administration

Date:

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Contact Agency:

Office of Administration, Office for Human Resources Management, Bureau of
Employee Benefits and Services, Telephone 717.787.8575

This manual contains procedures for drug and alcohol testing and related issues for employees whose jobs or positions require them to possess a Commercial Driver's License (CDL) and perform safety-sensitive duties, as outlined in *Management Directive 505.34, Commercial Driver License Drug and Alcohol Testing Requirements*. It contains significant changes reflecting revisions to federal regulations, including 49 C.F.R. Parts 40, 382 and 392, and changes in commonwealth procedures.

Agencies under the Governor's jurisdiction and independent agencies that employ individuals required to possess a CDL and that participate in the State Employee Assistance Program (SEAP) are required to comply with this manual.

Questions regarding the CDL-related testing process, and CDL-related commonwealth personnel policies, procedures, and training should be directed to the Commonwealth CDL Drug/Alcohol Program Coordinator in the Office of Administration, Office for Human Resources Management (OA/HRM), Bureau of Employee Benefits and Services, Workplace Support Services Division at 717.787.8575.

Questions regarding procedures involving SEAP should be directed to the Commonwealth SEAP Program Coordinator in OA/HRM, Bureau of Employee Benefits and Services, Workplace Support Services Division at 717.787.8575.

Questions regarding discipline and labor relations issues should be directed to OA/HRM, Bureau of Labor Relations at 717-787-5514.

This manual replaces, in its entirety, *Manual 505.5*, dated May 30, 2002.

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SECTION ONE

GENERAL PROCEDURES

1. DRUG AND ALCOHOL TESTING is required for employees whose jobs or positions require them to possess a CDL and perform safety-sensitive duties. Drug tests are performed by the analysis of urine, using a split sample collection method. Alcohol tests are performed by the measurement of breath alcohol, collected either through saliva or an Evidential Breath Testing (EBT) device. Refer to Section Two of this Manual which outlines in detail the testing requirements and procedures.

2. PROHIBITIONS.

a. Prohibitions for Alcohol. CDL-Covered Employees shall not:

- (1) Perform safety-sensitive duties within 24 hours after having an alcohol test with a test result indicating a concentration of 0.02 or greater but less than .04.
- (2) Perform safety-sensitive duties after testing positive for alcohol (.04 or greater) until the requirements in Section Three of this manual are met.
- (3) Operate a Commercial Motor Vehicle (CMV) while possessing alcohol, unless the alcohol is manifested and transported as part of a shipment.
- (4) Consume alcohol while performing safety-sensitive duties.
- (5) Perform safety-sensitive duties within four hours after consuming alcohol.
- (6) Consume alcohol for eight hours following an accident or until undergoing a post-accident alcohol test, whichever occurs first.
- (7) Refuse to submit to an alcohol test as required by this program.

b. Prohibitions for Controlled Substances. CDL-Covered Employees shall not:

- (1) Perform safety-sensitive duties when possessing or using any controlled substance, except under instruction of a physician who has advised the employee that the non-Schedule I controlled substance does not adversely affect the employee's ability to safely operate a CMV.
- (2) Perform safety-sensitive duties after testing positive for controlled substances, until the requirements in Section Three of this manual are met.
- (3) Refuse to submit to a drug test as required by this program.

c. Prohibitions for Supervisors/Managers. Supervisors/Managers shall not:

- (1)** Permit an employee who refuses to submit to an alcohol and/or a drug test as required by this program to perform or continue to perform safety-sensitive duties.
- (2)** Permit an employee to perform or continue to perform safety-sensitive duties if the employer has knowledge that an employee has tested positive, or has used a controlled substance, or has consumed alcohol within the prohibited time frames.
- (3)** Permit an employee to perform safety-sensitive duties for at least 24 hours or until the start of the next shift, whichever is later, following the administration of an alcohol test with test results of 0.02 or greater but less than 0.04.
- (4)** Permit an employee who has an alcohol test result of 0.04 or greater, or who has tested positive for drugs, or who has refused to take an alcohol and/or drug test, to return to the performance of safety-sensitive duties until the requirements in Section Three of this manual are met.

3. EMPLOYEE EDUCATIONAL MATERIALS. All employees covered by the CDL regulations will receive educational material which explains the requirements, policies, and procedures of the drug and alcohol testing program. This information will contain prohibitions, consequences, and information on the effects and symptoms of drug and alcohol use. Employees are required to sign a certificate indicating they have received this information. If employees refuse to sign the certificate, they will be subject to appropriate disciplinary action. The commonwealth will provide affected collective bargaining agreement representatives with copies of the educational materials.

4. SUPERVISOR REASONABLE SUSPICION TRAINING. All immediate supervisors of CDL-covered employees, and all other supervisors who may be involved in making "reasonable suspicion" decisions as to whether or not a CDL-covered employee may be fit for duty and should receive a drug and/or alcohol test, are required to receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substance use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

5. FITNESS FOR DUTY. Employees have the responsibility to be fit for duty and not be under the influence of any substance or circumstance which would render him/her unfit or incapable of safely operating a motor vehicle. If an employee believes that he/she is impaired by circumstance, or is using a substance (prescription or nonprescription) which could impair his or her ability or alertness so as to make it unsafe to operate a motor vehicle, the employee has the responsibility to immediately report such to the employee's supervisor. The agency must investigate the report and determine if the employee should be relieved of safety-sensitive duties.

6. PRESCRIPTION MEDICATION.

- a. All CDL-covered employees who use prescription medications pursuant to the instructions of a physician are required to ask the physician if those drugs could adversely affect their ability to safely operate a commercial motor vehicle. If the physician affirms that safe operation of a commercial motor vehicle could be impaired by the employee's use of a drug, the employee is required to immediately report this to his/her supervisor and the employee must be removed from the performance of safety-sensitive duties. The employee is also required to have the physician complete the CDL Employee Prescription Medications Form (Form 708) indicating the effects (e.g., drowsiness, dizziness) of the medication and expected duration of these effects. The completed form is to be sent to the Designated Employer Representative (DER) in the Office of Administration (OA) for review, and is to be maintained in a confidential manner consistent with other medical information.
- b. Agencies who become aware that a CDL-covered employee is using prescription medication and who have a concern regarding the employee's ability to safely operate a motor vehicle should direct the employee to have their physician complete Form 708 in order to establish that the employee can continue to perform safety-sensitive duties.
- c. Agencies should establish internal policies and procedures to address situations where employees are removed from safety-sensitive duties due to the use of prescription medications.

7. SELF-DISCLOSURE. Situations where an employee self-discloses that he/she is misusing alcohol or is using controlled substances are to be handled as outlined in *Manual 505.3, State Employee Assistance Program*.

8. TREATMENT OF TIME SPENT IN DRUG AND ALCOHOL TESTING. Except for pre-employment drug testing of applicants for employment, all other drug and alcohol testing required by this program is considered to be conducted on duty time and employees will be in compensable status for all time spent in the specimen collection process, including travel time to and from the collection site.

9. PRE-EMPLOYMENT BACKGROUND CHECKS. Pre-employment background checks, including confirmation of previous participation in drug and alcohol testing, are required of all applicants for CDL positions, consistent with the *Federal Motor Carrier Regulations, Parts 382, 383, and 391*.

10. ANNUAL REVIEW OF DRIVING RECORD AND MOTOR VEHICLE VIOLATION REPORTING REQUIREMENTS.

- a. On an annual basis agencies must obtain the motor vehicle record of each driver it employs and a certification from each employee listing any motor vehicle moving violations, except parking violations, for which the employee was convicted or forfeited bond or collateral, or certify that no such violations occurred, consistent with the *Federal Motor Carrier Regulations, Part 391*.

- b. Based on this information the agency must review each employee's driving record and must assess the record of accidents and/or violations to determine if the employee has exhibited a disregard for the safety of the public.

11. CDL CODING REQUIREMENTS.

- a. All positions within the agency which require the operation of a CMV, even on an infrequent, emergency or one-time-only basis, are to be identified and the appropriate qualification (50411311) must be added to those positions.
- b. Positions which represent jobs that have the requirement for operation of a CMV included in their specifications should not have the CDL qualifications added to the position, as the appropriate qualification is already a relationship at the job level.
- c. All positions which directly supervise CDL-covered employees are to be identified and the appropriate qualification (50411363) must be added to those positions.
- d. Upon receipt of the required employee education materials the appropriate qualification (50411362) must be added to the employee's record (IT0024) to indicate that the training has been completed.
- e. Upon completion of the required CDL supervisory training the appropriate qualification (50411363) must be added to the employee's record (IT0024) to indicate that the training has been completed.

12. CDL CLASSIFICATION/RECRUITMENT REQUIREMENTS.

- a. All jobs which do not require a CDL which are used to recruit employees for positions requiring a CDL must include a statement that "A Commercial Driver's License supplemented by endorsements may be required for certain positions."
- b. If agencies identify additional jobs that they believe require a CDL they are to notify the OA/HRM, Classification and Pay Division. The Classification and Pay Division will notify interested parties of the proposed changes in job specification. If approved, the Classification and Pay Division will request Executive Board authorization to amend the Classification Plan in accordance with applicable management directives.
- c. Position descriptions for positions which require the incumbent to operate a CMV are to reflect that assignment. Employees are not permitted to operate a CMV unless the position descriptions for their positions include those duties.
- d. Agency recruitment literature and vacancy announcements for CDL-covered positions are to reflect the requirement to possess a CDL and that drug and alcohol testing is required.

- e. Employees appointed or transferred to a position requiring a CDL, or whose current position is changed to require a CDL, are not permitted to operate a CMV unless they have a CDL or CDL permit, have received a pre-employment drug test with negative results, and have received the required CDL education and policy information.

13. MAINTENANCE OF RECORDS.

- a. Agencies are to establish internal confidential procedures to ensure that testing notifications, test results, and any other data pertaining to the drug and alcohol testing of employees are maintained in a locked file and are released only to authorized personnel.
- b. Agencies are to maintain the signed certifications of supervisor training and employee receipt of information in the individual's Official Personnel Folder (OPF).
- c. With the employee's written consent, the agency will provide testing information to another employer/potential employer.
- d. Employees have the right to promptly obtain copies of certain CDL related records pertaining to them upon written request. In addition, information also will be provided to the employee's collective bargaining representative consistent with *Section 382.405 of the Federal Motor Carrier Safety Regulations*. Neither employees nor collective bargaining representatives may be provided with information regarding follow-up testing schedules. Information will also be released for certain legal proceedings and federal and state investigations consistent with *49 C.F.R. Part 40*. The employee is to be notified in writing of the release of such information.

SECTION TWO

DRUG AND ALCOHOL TESTING

For all drug and alcohol tests, the agency gives the applicant/employee two forms, both of which the applicant/employee must take to the collection site, along with a form of photographic identification:

- The Commonwealth of Pennsylvania Drug and Alcohol Testing Program Form (also known as a cover sheet). The agency completes the cover sheet to include the applicant/employee name, applicant social security number/employee number (social security number is not used for current employees), applicant/employee information, the test reason and type(s), and the agency contact person.
- The Federal Drug Testing Chain of Custody and Control Form. The only information that the agency writes on this form is the organization code.

1. PRE-EMPLOYMENT TESTING.

- a. Applicants selected for CDL-covered positions are to be given a conditional offer of employment or promotion, pending negative results from drug testing.
- b. The agency must ensure that negative drug test results are received prior to the employment start date. It is therefore recommended all applicants be sent for drug testing at least ten workdays prior to the scheduled start date. The applicant should be provided with the appropriate testing forms, and informed of the collection site location and appointment time (if an appointment is needed), and that a photographic identification is required.
- c. An applicant for employment/promotion who decides not to appear for a pre-employment drug test, or who leaves the collection site before the testing process has commenced, is not considered a "refusal to test".
- d. If the result of the applicant's pre-employment drug test is reported as "negative diluted", the agency must conduct an immediate retest. The applicant must be immediately escorted to the collection site for another specimen collection. The results of this second specimen collection are the results that are used for the employment decision. A "negative diluted" result from this second collection is treated as a negative result.
- e. The conditional offer of employment/promotion will be withdrawn if the applicant has a verified positive test result for drugs or if the applicant decides not to take the drug test.

- f.** For civil service applicants, agencies are to use code FDA (failed drug/alcohol test) on civil service certifications to indicate that the applicant was passed over due to a positive drug test result or the applicant's decision not to take the drug test. An applicant passed over for this reason is only removed from the current civil service certification and will continue to appear on certifications for other civil service certifications for CDL-covered jobs or positions. For non-civil service applicants, agencies should select "failed CDL Drug & Alcohol Testing" as the reason for non-selection. A non-civil service applicant passed over for this reason will not be referred out for other non-civil service CDL-covered jobs or positions for three months.
- g.** Agencies are not required to administer a pre-employment drug test if all of the following conditions are met:

 - (1)** The applicant participated in a drug testing program meeting the federal requirements within the previous 30 days;
 - (2)** While participating in this program the applicant either was tested for controlled substances in the previous six months or participated in a random drug testing program for the previous 12 months;
 - (3)** No prior employer of the applicant has a record of violations of any federal controlled substance use rule for the applicant in the previous six months;
 - (4)** The agency has verified (1), (2), and (3) above by contacting the applicant's current or prior employer and obtaining the name and address of the testing program to ensure that this testing program conforms to the required procedures set forth in *49 C.F.R. Part 40*, and that the applicant has not refused to be tested; and
 - (5)** Documentation of information obtained to meet the requirements of g. (1) through (4) is placed and maintained in the employee's OPF.
- h.** An applicant who tests positive must be provided with information by the agency regarding accessing the services of a Substance Abuse Professional (SAP).
- i.** An employee who has been absent from work (approved or unapproved absence) for 30 calendar days or more must have a pre-employment drug test with a negative result before he/she can be returned to safety-sensitive duties.
- j.** Alcohol tests are not conducted as part of pre-employment testing.

2. RANDOM TESTING.

- a.** On a monthly basis OA will provide the vendor who provides the drug and alcohol testing services with an updated list of all CDL-covered employees. This list represents the random testing pool, and will consist of all CDL-covered employees whose jobs or positions require a CDL in all agencies under the Governor's jurisdiction, the State System of Higher Education, and other independent agencies with CDL-covered employees who wish to participate in the commonwealth random testing pool. The vendor will use this list to select employees for random testing that month.
- b.** Agencies will receive a monthly list from OA containing the names of the agency employees who have been randomly selected by the vendor. The number of random tests conducted annually is a percentage of the average size of the random testing pool; those percentages are established by federal regulations.
 - (1)** Agencies are to confidentially distribute the names to field sites, and are to ensure that employees selected for testing are tested without forewarning within 72 hours of the supervisor/manager receiving notification of which employees must be tested.
 - (2)** Employees must immediately proceed to the collection site when they are notified of their selection.
 - (3)** Employees who are on leave for one week or less should be sent for testing immediately upon their return to work.
 - (4)** For employees who are on leave longer than one week, the agency should contact OA to discuss whether the employee should be excused from testing or sent immediately upon their return to work.
 - (5)** Strict confidentiality procedures are to be followed regarding the names of employees selected and scheduled for testing as well as the results of such testing. Any breach in confidentiality may result in disciplinary action.
- c.** An employee may only be scheduled for a random alcohol test immediately before, during, or immediately after the performance of safety-sensitive duties. Employees may be scheduled for a random drug test at any time, including while they are on call.
- d.** If an employee's most recent drug test result was diluted, the supervisor/manager must escort (transport) the employee to the collection site for the current test.
- e.** An employee sent for a random drug and/or alcohol test must show the supervisor or designated official verification of testing upon returning to the worksite. This verification would include the employee's copy of the chain of custody form and/or the employee's copy of the alcohol test results.

- f. If the result of the employee's random drug test is reported as "negative diluted", the agency will be notified that they must conduct an immediate retest. The employee must be immediately escorted to the collection site for another specimen collection. If directed by the MRO, the specimen collection must be witnessed by collection site staff. A "negative diluted" result from this second collection is treated as a negative result.

3. REASONABLE SUSPICION TESTING.

- a. When an agency supervisor/manager has reasonable suspicion to believe an employee has violated the alcohol or controlled substance prohibitions, the employee must be required to submit to a reasonable suspicion alcohol and/or controlled substance test.
- b. Reasonable suspicion is determined through the personal observation of the employee by a supervisor/manager who has received the required CDL supervisor training, and must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.
- c. The following procedures are to be used by a supervisor/manager in situations where an employee appears to be under the influence of alcohol and/or drugs. At least one of the supervisors or managers involved must have received the required CDL supervisor training.
 - (1) Determine **in-person** if an employee "appears" to be under the influence of alcohol, drugs, or both.
 - (2) If the supervisor/manager believes that the employee may be under the influence, conduct an interview with the employee using Part 1 of the Reasonable Suspicion Checklist. If requested by the employee, allow a union representative, if available, to be present during the interview. If available, have another supervisor or manager also participate in the interview. Ask the questions in the sequence indicated and record the employee's answers on the form. If another supervisor or manager is participating, that individual should document the employee's answers on a separate Reasonable Suspicion Checklist.
 - (3) Each supervisor/manager should then document his/her visual observations of the employee's appearance and behavior using Part 2 of the Reasonable Suspicion Checklist.
 - (4) At the conclusion of the interview each supervisor/manager should complete Part 3 of Reasonable Suspicion Checklist, documenting his/her opinion regarding whether the employee is under the influence and/or is fit for duty, sign and date the form, and have the other supervisor/manager (if one was available) witness the signature.
 - (5) If the supervisor/manager concludes that the employee does not appear to be under the influence of alcohol and/or drugs and is able to perform work duties, the employee should be returned to work duties.

- (6) If the supervisor/manager concludes that the employee is not under the influence of alcohol and/or drugs, but is not fit to perform work duties, the agency human resource office should be contacted to determine the appropriate actions to be taken.
- (7) If the supervisor/manager concludes that the employee is under the influence of alcohol, drugs, or both, then the employee must be escorted (transported) for a reasonable suspicion test. The reasonable suspicion test is to be conducted, even if the employee **admits** using drugs and/or alcohol.
 - (a) Reasonable suspicion testing for alcohol may be done only when the observations are made immediately before, during or immediately after the performance of safety-sensitive duties.
 - (b) Reasonable suspicion testing for drugs may be done at any time, including prior to the start of duties of that work shift.
 - (c) If a reasonable suspicion alcohol test is not administered within two hours following the supervisor's observations, the supervisor must prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly.
 - (d) If the reasonable suspicion drug and/or alcohol test is not administered within eight hours, the supervisor must cease attempts to have the tests administered and must prepare and maintain on file a record stating the reasons the alcohol and/or drug test was not administered promptly.
- (8) An employee who is taken for a reasonable suspicion drug and/or alcohol test must be immediately removed from safety-sensitive duties and cannot be returned to those duties until a negative result from the reasonable suspicion test is received. The employee may use annual leave (leave code A), personal leave (leave code P) or an unpaid approved leave without pay (leave code AO) until that result is received. If the drug test result is negative the employee shall be made whole for any wages lost or paid leave used.
- (9) If the employee refuses to be tested or cooperate in the testing process, this is considered to be a refusal to test, which is equivalent to a positive test.
- (10) At the conclusion of the collection process the supervisor/manager is to make necessary arrangements to have the employee taken home; the employee cannot be permitted to drive. If the employee refuses those arrangements and attempts to drive, do not attempt to restrain the employee but contact local law enforcement to report the circumstances.

- (11) If the result of the employee's reasonable suspicion drug test is reported as "negative diluted", the agency will be notified that they must conduct an immediate retest. The employee must be immediately escorted to the collection site for another specimen collection. If directed by the MRO, the specimen collection must be witnessed by collection site staff. A "negative diluted" result from this second collection is treated as a negative result.

4. POST-ACCIDENT TESTING.

- a. As soon as practicable following an accident involving a CMV, the driver of the CMV must be tested for alcohol and drugs when either:
- (1) The accident involved a fatality; or
 - (2) The driver has received a citation within 32 hours of the accident under state or local law for a moving traffic violation arising from the accident and:
 - (a) there is bodily injury to any person who immediately receives medical treatment away from the scene, or
 - (b) one or more motor vehicles has incurred disabling damage as a result of the accident, requiring that the motor vehicle be towed away from the scene.
- b. The employee (driver) must ensure that the supervisor/manager is notified as soon as practicable following an accident. The supervisor/manager will review the circumstances of the accident to determine if a post-accident test is required, and if so, make arrangements to have the employee tested for alcohol and drugs. Employees who have been involved in accidents which do not require a post-accident test under the federal regulations may **not** be tested.
- c. A post-accident alcohol test must be administered within eight hours of the accident.
- (1) If the driver has not received an alcohol test within two hours of the accident, the supervisor/manager must prepare and maintain on file a record stating the reason an alcohol test was not promptly administered.
 - (2) If the driver has not received an alcohol test within eight hours of the accident, attempts to administer the alcohol test must cease and the supervisor/manager must prepare and maintain on file a record stating the reason an alcohol test was not promptly administered.
- d. A post-accident drug test must be administered within 32 hours of the accident. **NOTE:** If the driver has not received a drug test within 32 hours of the accident, attempts to administer the drug test must cease and the supervisor/manager must prepare and maintain on file a record stating the reason a drug test was not promptly administered.

- e. The above procedures should not delay necessary medical attention for any injured individuals following an accident, nor prohibit the driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.
- f. It is the driver's responsibility to remain available for alcohol and drug testing, or he/she may be deemed to have refused to submit to testing.
- g. An employee who is subject to post-accident testing must refrain from consuming alcohol for eight hours following the accident or until the post-accident alcohol test is conducted, whichever comes first.
- h. Agencies are to establish and inform CDL-covered employees and supervisors of procedures to be followed for the reporting of accidents consistent with this manual and agency policy. The employee must follow the specific procedures established by the agency for notification of accidents.

5. RETURN-TO-DUTY TESTING.

- a. Agencies must ensure that before an employee is considered for return to safety-sensitive duties after a self disclosure referral or a positive alcohol and/or drug test (including refusal to test, and adulterated and substituted specimens), that employee must undergo a return-to-duty alcohol test and a return-to-duty drug test.
- b. The agency may not schedule the return-to-duty tests until the agency receives written confirmation from SEAP that the employee is eligible to take the tests.
- c. The agency must escort (transport) the employee to the collection site, and the specimen collection must be witnessed by collection site staff. Agencies must call collection sites in advance to ensure a collection site staff member of the same gender will be available to witness the collection procedure.
- d. If the result of the employee's return-to-duty drug test is reported as "negative diluted", the agency will be notified that they must conduct an immediate retest. The employee must be immediately escorted to the collection site for another specimen collection, which must be witnessed by collection site staff. A "negative diluted" result from this second collection is treated as a negative result.
- e. The employee cannot be returned to safety-sensitive duties until the agency has received notification that the results of the return-to-duty alcohol and drug tests are negative. The results of the alcohol test must indicate a breath alcohol concentration of less than 0.02 and the results of the drug test must be verified by the Medical Review Officer as a negative result for controlled substances.

6. FOLLOW-UP TESTING.

- a.** An employee who has tested positive for drugs and/or alcohol will be subject to unannounced follow-up drug and/or alcohol testing after return to safety-sensitive duties. The follow-up testing schedule is determined by the Substance Abuse Professional (SAP), and will consist of a minimum of six drug and/or alcohol tests in the first 12 months. Follow-up testing may be extended up to five years at the direction of the SAP.
- b.** Neither the agency nor the employee is permitted to know the details of the follow-up testing schedule. OA will inform the agency when the employee must receive a follow-up test.
- c.** Follow-up testing for alcohol may be done only immediately before, during or immediately after the performance of safety-sensitive duties. Follow-up testing for drugs may be done at any time, including prior to the start of duties of that work shift.
- d.** If the employee has had a previous diluted specimen, the agency must escort (transport) the employee to all subsequent follow-up tests.
- e.** All specimen collections for follow-up tests must be witnessed by collection site staff. Agencies must call collection sites in advance to ensure a collection site staff member of the same gender will be available to witness the collection procedure.
- f.** If the result of the employee's follow-up drug test is reported as "negative diluted", the agency will be notified that they must conduct an immediate retest. The employee must be immediately escorted to the collection site for another specimen collection, which must be witnessed by collection site staff. A "negative diluted" result from this second collection is treated as a negative result.

SECTION THREE

TEST RESULTS

1. POSITIVE DRUG TEST RESULTS

- a. A positive drug test result is one that has been verified by the MRO as positive for controlled substances.
- b. Prior to verifying the test result as positive, the MRO will make reasonable efforts over a 24 hour period to contact the employee confidentially and afford the employee the opportunity to discuss the test result.
- c. If the MRO is unable to speak directly with the employee, the MRO will contact the DER for assistance in speaking with the employee. The DER will notify the agency to direct the employee to contact the MRO immediately. If the employee fails to contact the MRO within 72 hours of that direction, the MRO will verify the test result as positive.
- d. A request from the MRO to speak with the employee is not a verified positive result and agencies may take no action on the basis of the request.
- e. The refusal of an employee to submit to required drug testing is equivalent to a positive result. Refusal to submit to required drug testing includes refusal or failure to provide a sufficient quantity of urine without a valid medical explanation or engaging in conduct that clearly obstructs the testing process.
- f. A result that the MRO verifies as an adulterated specimen or a substituted specimen constitutes a refusal to test, which is equivalent to a positive result.
- g. A verified positive-diluted test result is treated as a positive test result, and no second specimen collection is conducted.
- h. Verified results are sent by the MRO to the DER in the OA. The OA will notify agencies immediately when a verified positive, adulterated, substituted or refusal to test result is received.
- i. An employee may request that the MRO have the split specimen tested. The employee must make this request him/herself to the MRO, and must make that request within 72 hours of being notified by the MRO of the verified positive test result. An employee's request to have the split specimen tested does not delay the agency's actions resulting from the verified positive test result.

2. POSITIVE ALCOHOL TESTS RESULTS.

- a. A positive alcohol test is a breath alcohol test result of .04 or higher.
- b. Alcohol test results are provided by the collection site to the employee and the agency.

- c. The refusal of an employee to submit to required alcohol testing is equivalent to a positive result. Refusal to submit to required testing includes refusal or failure to provide a sufficient quantity of breath without a valid medical explanation or engaging in conduct that clearly obstructs the testing process.

3. ALCOHOL TEST RESULTS BETWEEN .02 AND .039

- a. A breath alcohol test result which is 0.02 or greater, but less than 0.04 is not considered positive, but the employee must be removed from safety-sensitive duties for at least 24 hours following the administration of the test.
- b. Agencies should determine if there are work activities of a non safety-sensitive nature (including work out of class at a lower level) which can be assigned to the employee and if operationally appropriate, consider assigning those duties to the employee until the 24 hour period has elapsed.
- c. The employee may also be subject to disciplinary action for the actions which prohibit the employee from performing his/her safety-sensitive job duties for 24 hours. Discipline will be determined by the agency on a case by case basis, depending on the circumstances and consequences of the employee's behavior, conduct, test results, and other actions.

4. CONSEQUENCES TO AN EMPLOYEE WHO TESTS POSITIVE OR WHO REFUSES TO SUBMIT TO TESTING

- a. The employee will be immediately removed from the performance of safety-sensitive duties.
- b. The employee may be subject to discipline up to and including termination.
- c. If employee is terminated, he/she must be provided information regarding how to access the services of a SAP.
- d. If the employee is not terminated, he/she will be required to sign a CDL Referral Agreement as outlined in *Manual 505.3, State Employee Assistance Program*.
- e. An employee's request to have the second part of the split urine sample tested for controlled substances does not affect nor delay the removal of safety-sensitive duties nor the requirement to sign the CDL Referral Agreement.
- f. The employee may not return to the performance of safety-sensitive duties until he/she has signed the CDL Referral Agreement, has been evaluated by a SAP, has complied with the recommended education and/or treatment, has been reevaluated by the SAP, has been determined by SEAP as eligible to return to safety-sensitive duties, and has undergone both a return-to-duty alcohol test and a return-to-duty drug test with negative results.
- g. Agencies should determine if there are work activities of a non safety-sensitive nature (including work out of class at a lower level) which can be assigned to the employee and if operationally appropriate, consider assigning those duties to the employee until the employee is eligible to be reassigned safety-sensitive duties.

- h.** If non safety-sensitive duties are not assigned, the employee is not permitted to work and must be placed on an unpaid approved absence (leave code AO). Once evaluated by a SAP, the employee is eligible to request an absence in accordance with the provisions of *Management Directive 530.30, Sick, Parental, and Family Care Absence Policy*, until SEAP certifies that the employee can be considered for return to safety-sensitive duties and has undergone both a return-to-duty alcohol test and a return-to-duty drug test with negative results.
- i.** The employee shall be subject to unannounced follow-up alcohol and/or drug testing upon return to safety-sensitive duties, as described in Section 2.
- j.** The employee may also be subject to disciplinary action for the actions which prohibit the employee from performing his/her safety-sensitive job duties. Discipline will be determined by the agency on a case by case basis, depending on the circumstances and consequences of the employee's behavior, conduct, test results, and other actions.

APPENDIX

REASONABLE SUSPICION CHECKLIST

Part I. Interview Question Checklist.

With another supervisor/manager present (if available), ask the employee who is suspected of being under the influence of alcohol and/or drugs the following questions in the order listed. If the employee admits, at any time during the questioning, to be under the influence of a drug(s) or alcohol, continue the interview. Regardless of the employee's responses, follow the interview questions with the visual observation checklist.

1. Are you feeling ill? _____yes _____ no _____no response

If yes, what are your symptoms? _____

2. Are you under a doctor's care? _____yes _____ no _____no response

3. Do you have a cold? _____yes _____ no _____no response

4. Have you recently taken any medication? _____yes _____ no _____no response

5. Did you forget to take your medication? _____yes _____ no _____no response

6. Have you recently taken any nonprescription medications? _____yes _____ no _____no response

7. Did you drink alcohol or an alcoholic beverage today? _____yes _____ no _____no response

Part II. Visual Observation Checklist.

Directions: Circle pertinent items based on your visual observation of the employee. This section must be completed regardless of the outcome of the interview.

<p>1. WALKING/STANDING Normal</p>	<p>stumbling swaying unable to walk/stand</p>	<p>staggering unsteady</p>	<p>falling holding on</p>
<p>2. SPEECH Normal</p>	<p>shouting slow slobbering</p>	<p>silent rambling/incoherent</p>	<p>whispering slurred</p>
<p>3. DEMEANOR Normal</p>	<p>sleepy talkative</p>	<p>crying excited</p>	<p>silent fighting</p>
<p>4. ACTIONS Normal</p>	<p>resisting communications drowsy hyperactive</p>	<p>Threatening hostile erratic</p>	<p>fighting profanity</p>
<p>5. EYES Normal</p>	<p>bloodshot droopy</p>	<p>watery closed</p>	<p>glassy</p>
<p>6. FACE Normal</p>	<p>flushed</p>	<p>pale</p>	<p>sweaty</p>
<p>7. APPEARANCE/ CLOTHING Normal</p>	<p>disheveled partially dressed stains on clothing</p>	<p>messy bodily excrement stains</p>	<p>dirty</p>
<p>8. BREATH</p>	<p>alcoholic odor</p>	<p>faint alcoholic odor</p>	<p>no odor</p>
<p>9. MOVEMENT Normal</p>	<p>fumbling nervous</p>	<p>jerky hyperactive</p>	<p>slow</p>
<p>10. EATING/CHEWING</p>	<p>gum other – identify if possible</p>	<p>candy</p>	<p>mints</p>

11. OTHER OBSERVATIONS:

Part III. Opinion Based on Observations and Questioning by Supervisor.

- A. Under the influence of alcohol and/or drugs _____yes _____ no _____uncertain

- B. Fit for safety-sensitive duties _____yes _____ no _____uncertain

- C. Recommended for drug/alcohol test _____yes _____ no

If yes to C, direct the employee to submit to a drug and alcohol test, and transport the employee to a collection facility. If the employee refuses to be tested, inform the employee that a refusal to test is the same as a positive test, with the same consequences as a positive test.

Remarks:

Signed _____
Supervisor

Date _____

Witnessed by _____
Supervisor

Date _____

CDL Employee Prescription Medications Form

This information is required to comply with *The Omnibus Transportation Employee Testing Act of 1991*.

Instructions:

- Employee completes Section 1 prior to giving form to treating physician.
- Treating physician completes Section 2, signs and dates, and returns completed form to employee.
- Employee submits completed form to supervisor, who immediately sends it to agency human resource office. Employee may also submit completed form directly to agency human resource office.

Section 1: Employee Information:

Employee Name	Employee #	Name of Treating Physician	Today's Date
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Section 2: Medication Information

The above-named patient currently is taking the following prescription medication(s) which will impair his/her ability to operate Commercial Drivers License motorized vehicles/equipment.

Dates employee will be taking medication	Name of Medications	Dosage	Will medication impair patient's ability to operate motorized vehicles or equipment? (yes/no)	If yes, how will it impair the patient? (e.g., dizziness, fatigue, sleepiness, nausea, etc.)
From	To			

Physician Comments:

Physician signature _____ Date _____

Physician address _____ Telephone _____