

## **SOUTH CAROLINA BUDGET AND CONTROL BOARD DRUG AND ALCOHOL TESTING POLICY AND PROCEDURE**

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

### **I. Drug and Alcohol Testing Policy Statement**

It is well-recognized that drug and alcohol abuse have a harmful effect on public health and safety, on the welfare of employees, on morale, and on productivity. In this regard, the Budget and Control Board establishes drug testing policies and procedures to test for illegal drug use by employees in positions identified as sensitive and for drug use by any employee when a reasonable suspicion exists that illegal drugs are being used on duty or that drug-related job impairment exists. The procedures set forth in this policy for reasonable suspicion testing should be followed for all employees.

Any current Board employee who moves by way of promotion, demotion, reclassification, transfer or reassignment from a position where testing was not required to a position considered safety sensitive, may be subject to drug and/or alcohol testing prior to the action taking place.

When employees in safety sensitive positions are involved in illegal drug use and drug activity, and/or impaired by the effects of alcohol, the lives of others are endangered and the safety of the state's vehicles are compromised.

Additionally, to comply with federal law (49 CFR Part 40), the South Carolina Budget and Control Board requires that before a person can be recommended for a position that requires a Commercial Drivers License (CDL), he/she will be subject to testing for controlled substances use before that person becomes employed in that position.

### **II. Definitions**

- A. **Applicant:** Any applicant for a position requiring a Commercial Driver's License (CDL).
- B. **Covered Employee:** Any employee in a position requiring a Commercial Driver's License (CDL).

- C. **Drug Test Administrator (DTA):** An individual designated by each office who is responsible for administering the drug and alcohol testing procedures.
- D. **Human Resources Director or his/her designee:** Coordinates the development of procedures related to drug and alcohol testing, coordinates with the Employee Assistance Program for training, assists Division/Office Directors in interpreting the disciplinary policy, and works with the Drug Test Administrator to coordinate applicant testing.
- E. **Medical Review Officer (MRO):** A physician who interprets and evaluates an individual's confirmed positive test result with his or her medical history and any other information to determine whether there is an alternative explanation.
- F. **Reasonable Suspicion Testing.** Substance abuse testing based on a belief that an employee is using or has used drugs or alcohol in violation of the policy of the employer drawn from specific objective and articulate facts and reasonable inferences drawn from the facts in light of experience. Among other things, the facts and inferences may be based upon, but not limited to, the following:
  - 1. Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations or being impaired due to substance abuse.
  - 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - 3. A report of substance abuse provided by a reliable and credible source.
  - 4. Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer.
  - 5. Information that an employee has caused or contributed to an accident while at work.
  - 6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the premises of the employer or while operating the employer's vehicle, machinery, or equipment.
- G. **Safety-sensitive Function:** Any on-duty function such as the time that a driver is at the office or shop facility or any other property waiting to be

dispatched unless he/she has been relieved of duty by the employer; or all time inspecting equipment or servicing or conditioning any commercial motor vehicle at any time; or all driving time or time spent at the driving controls of a commercial motor vehicle in operation; or all time other than driving time in or upon any commercial motor vehicle except time spent resting in the sleeper berth of the vehicle; or all time spent loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts or paperwork for shipments loaded or unloaded or work performed; or all time spent performing the driver's responsibility in an accident situation; or all time spent repairing, obtaining assistance or remaining in attendance upon a disabled commercial motor vehicle. This includes mechanics who repair commercial motor vehicles.

- H. **Refusal to Submit:** An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.
- I. **Split Sample:** Shall mean two urine specimens. If an employee's test results are positive, the employee has an opportunity to have the second sample tested by a second Department of Health and Human Services certified laboratory for the identified drug(s) only with no cut off levels. No cut off levels means any trace of drugs in the second sample will be considered positive.

### **III. Drug Testing**

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to US Department of Transportation guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician= prescription for the positive result; and a documented chain of custody. Each employee, as a condition of employment, may be required to participate in pre-employment, random, post-accident and reasonable suspicion testing upon selection or request of management. The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP) and Alcohol. Testing for the presence of alcohol will be conducted by a breath test. If an alcohol concentration is discovered at less than 0.02, the test will be considered negative for purposes of this policy. Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine.

## **A. Pre-Employment Testing**

When pre-employment testing is appropriate, Board Human Resources will coordinate applicant testing when an employee selection is made. The selected applicant will be notified by Board Human Resources that they are required to report to a facility at a given date and time and submit to a drug screening test.

In addition, when the desired position is one requiring a CDL, the Board is not required to administer a pre-employment controlled substance test if the following conditions are met:

1. The driver must have participated in a drug testing program meeting the requirements of this rule within the previous 30 days; and
2. While participating in this program the driver must have either been tested for controlled substances in the previous 6 months, or participated in a random drug testing program for the previous 12 months; and
3. Board Human Resources must ensure that no prior employer of the driver has record of violations of any U.S. Department of Transportation controlled substance use rule for the driver in the previous 6 months.

Any applicant shall be disqualified from further consideration for employment for the following reasons:

1. Refusal to submit to a required drug test; or
2. A confirmed positive drug test indicating drug use prohibited by this policy.

## **B. Reasonable Suspicion**

If the supervisor of an employee or Board official suspects reasonable suspicion testing is appropriate, the supervisor or official will obtain the concurrence of another supervisor if it is feasible to do so. Board Human Resources staff will advise the appropriate officials and together they will determine whether this employee should be tested. If an employee is tested for controlled substance use due to reasonable suspicion, he/she shall be suspended pending the results of the test. If the test is positive, the established disciplinary policy will be followed. If the test is negative, the employee shall return to his/her regular work without disciplinary penalty. If the employee was suspended pending the results of the test, he/she will

receive all back pay for the regular duty time for which he/she required was to be absent.

### C. **Post-Accident Testing**

An employee **may be required** to submit to post-accident drug and/or alcohol test under the following circumstances:

1. After an accident involving the death of a human being.
2. Upon being issued a citation for a moving violation after an accident.

If a federal, state or local law enforcement officer directs an employee to submit to a drug and/or alcohol test at the scene of an accident, it will be the responsibility of the employee to notify his/her supervisor or another Board official immediately and provide an incident report.

If an employee is not tested on the scene by law enforcement officials, the employee **may be required** to submit to drug testing no later than thirty-two (32) hours and/or alcohol tested no later than eight (8) hours after the accident.

In the case where an employee is seriously injured and cannot provide a specimen at the time of the accident, he/she must provide the necessary authorization to release information needed to determine the existence of drugs and/or alcohol in his/her system.

The Office DTA (or other Board official) will be contacted immediately after an accident under the circumstances described in the above paragraph so that specimen collection can be made as soon as possible after the accident.

### D. **Return-to-Duty and Follow-up Testing For Covered Employees**

#### Return-to-Duty Testing for Covered Employees

Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in prohibited conduct regarding alcohol misuse, the driver shall undergo a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02.

Each employer shall also ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct regarding controlled substance use, the driver shall undergo a

return-to-duty controlled substance test with a result indicating a verified negative result for controlled substance use.

In the event a return-to-duty test is required, the driver must also be evaluated by a substance abuse professional (SAP) and participate in any assistance program prescribed.

#### Follow-up Testing

Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, each employer shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional. The driver shall be subject to a minimum of six follow-up controlled substance and/or alcohol tests in the first 12 months.

Alcohol follow-up testing shall be performed only when the driver is performing safety-sensitive functions, or immediately prior to performing or immediately after performing safety-sensitive functions.

### **IV. Record Keeping**

Board Human Resources will be responsible for keeping the results of the lab testing in accordance with Federal Regulations. Results of test will be kept on file, but the results of the test will not be disclosed without the prior written consent of the employee except to the MRO and officials who need the information to administer this policy or to recommend or carry out disciplinary action.

### **V. Counseling**

The Budget and Control Board shall provide educational material to all employees. The Board also recognizes that alcohol and drug abuse and addiction are treatable illnesses and that early intervention and support improve the success of rehabilitation. The Employee Assistance Program (EAP) is the Board's counseling program that assists employees with personal problems that may affect their job responsibilities including but not limited to the treatment of alcohol and/or drug addiction.

A supervisor may refer an employee to the EAP. The EAP will provide counseling or will refer the employee to a rehabilitation or treatment organization. The supervisor will monitor the progress of employees referred to the EAP both during and after the rehabilitation period.

## **VI. Confidentiality**

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.