

DRUG AND ALCOHOL TESTING OF
COMMERCIAL DRIVER LICENSED PERSONNEL

27.01 PURPOSE

This regulation establishes Department policy for drug and alcohol testing of personnel whose position requires them to possess a commercial driver's license (CDL).

27.02 POLICY

In accordance with the Commonwealth of Pennsylvania Administrative Manual M505.5, *Commercial Driver License Drug and Alcohol Testing and Related Procedures*, and Management Directive 505.34, *Commercial Driver License Drug and Alcohol Testing Requirements*, the Department **must** identify personnel who are required, by the nature of their duties, to possess a CDL and operate a commercial motor vehicle (CMV), **and test such personnel** for the use of controlled substances and alcohol. Personnel who operate a CMV are subject to testing, even if the operation of a CMV is infrequent.

27.03 DEFINITIONS

- A. **Adulterated Specimen:** A urine sample that has been altered due to the addition of substances that attempt to destroy the drug/drug metabolite(s) or interfere with the test(s). A confirmed adulterated test result constitutes a refusal to test and is treated as a positive test result.
- B. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol (ethanol), or other low molecular weight alcohols, including methyl and isopropyl alcohol.
- C. **Alcohol Use:** The consumption of any beverage, mixture, or preparation, including **ANY MEDICATION** containing alcohol.
- D. **Commercial Motor Vehicle:** A motor vehicle in excess of 26,000 pounds gross vehicle weight rating, **or a gross combination weight rating in excess of 26,000 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds**, or designed to carry 16 or more

passengers, including the driver, or of any size which is used in the transportation of **hazardous material in any amount that requires a placard.**

- E. Controlled Substances: All controlled substances as defined by law, including all substances listed in Schedules I through V of The Controlled Substance, Drug, Device and Cosmetic Act. The controlled substances covered by this act include, but are not limited to, cocaine, marijuana, opiates, phencyclidines (PCP), and amphetamines.
- F. **Crash: For the purpose of this regulation,** an occurrence involving a CMV operating on public roadways which result in:
 - 1. A fatality.
 - 2. Bodily injury to a person who immediately receives medical treatment away from the **crash.**
 - 3. One or more motor vehicles incurring disabling damage as a result of the **crash, where the vehicle cannot leave the scene in its usual manner in daylight after simple repairs.**
- G. **Drug: Any substance, other than alcohol, that is a controlled substance, as defined in the definition for controlled substances.**
- H. **Medical Review Officer (MRO): A licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug test program and evaluating medical explanations for certain drug test results.**
- I. Reasonable Suspicion: A belief that **an individual** has violated the alcohol and/or controlled substance prohibitions **of this regulation,** based on specific contemporaneous, articulable observations concerning the **individual's** appearance, behavior, speech, or body odors.
- J. Refusal to Submit to Testing:
 - 1. **Failure to appear for any test (except a pre-employment test) within a reasonable time after being directed to do so by the employer.**

2. **Failure to remain at the testing site until the testing process is complete.**
 3. **Refusal or failure to provide a urine specimen for any drug test or failure to provide** adequate urine for controlled substances testing without a valid medical explanation after the **individual** has received notice of the requirement for urine testing.
 4. **For the requirement of a directly observed or monitored collection of a drug test, failure to permit the observation or monitoring of the individual's provision of a specimen.**
 5. **Declining or failure to take a second test the employer or collector has directed the individual to take.**
 6. **Failure to undergo a medical examination or evaluation as directed by the medical reviewing officer as part of the verification process.**
 7. **Failure to cooperate with any part of the testing process.**
 8. **Having a verified adulterated or substituted test result, as reported by the MRO.**
- K. Safety-Sensitive Duties:** The following on-duty functions cannot be performed by CDL-covered **personnel** who test positive for drugs or alcohol:
1. Waiting to be dispatched at a carrier or shipper plant, terminal, facility, or other property.
 2. Inspecting equipment, as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any CMV at any time.
 3. **Operating** a CMV.
 4. Being in or on a CMV, except time spent in a sleeper berth.
 5. Loading or unloading a CMV, 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.

6. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- L. **Substituted Specimen: A sample that is not a urine sample from the individual. It may be another's urine or some other substance. A confirmed substituted test result constitutes a refusal to test and is treated as a positive test result.**

27.04 PROHIBITIONS

The following prohibitions are in addition to **other** Department regulations, rules, or policies. Personnel who are required to possess a CDL are prohibited from:

- A. Operating a CMV while possessing alcohol.
- B. Using alcohol while performing safety-sensitive **duties**.
- C. Performing safety-sensitive **duties** while having an alcohol concentration of **0.04** or greater.
- D. **Possessing alcohol while performing safety-sensitive duties.**
- E. Performing safety-sensitive **duties** within four hours after using alcohol **or if the individual tests positive for controlled substances.**
- F. Performing safety-sensitive **duties** when using any controlled substance, except under instruction of a physician who has advised the **individual** that the substance does not adversely affect the individual's ability to safely operate a CMV.
- G. Using alcohol within eight hours of being involved in a **crash**, unless they have undergone a post-**crash** alcohol test.
- H. Refusing to submit to an alcohol or controlled substance test.
- I. **Performing safety-sensitive duties within 24-hours after an alcohol test with a result indicating an alcohol concentration of 0.02 or greater, but less than 0.04.**

27.05 RESPONSIBILITIES

- A.** The Director, Bureau of **Human Resources**, shall oversee the **Department CDL Program** and assign a staff member to serve as the **Department CDL Coordinator**.
- B.** The **Department** CDL Coordinator shall ensure that the Department's drug and alcohol testing procedures meet the requirements of current law and **Commonwealth policy**, as amended. In addition, the **Department** CDL Coordinator shall ensure that:
1. All positions requiring the operation of a CMV are identified and properly coded.
 2. All supervisors of personnel who operate a CMV are identified and properly coded.
 3. All supervisors of personnel who operate a CMV have received the appropriate training materials and/or training on alcohol misuse and controlled substances.
 4. All personnel who operate a CMV have received the appropriate training materials and/or training on alcohol misuse and controlled substances.
 5. All supervisors of personnel who operate a CMV are provided a copy of this regulation and acknowledge receipt by submitting **Department** Correspondence, Form **SP 3-201**, through channels, to the **Department** CDL Coordinator **within 30-days of becoming such a supervisor**.
 6. All personnel who operate a CMV are provided a copy of this regulation and acknowledge receipt by submitting **Department** Correspondence, through channels, to the **Department** CDL Coordinator **within 30-days of becoming a CMV operator**.
 7. **New personnel who will operate a CMV are provided the manual, *Employee Guide to CDL Drug and Alcohol Testing*, at orientation and are required to sign the Employee Education/Training Acknowledgement.**

8. All information regarding the CDL drug and alcohol testing requirement is contained in applicable recruitment and vacancy literature.
9. All information and records concerning alcohol or controlled substance testing **of personnel** are maintained in a locked file. Access to testing information shall be restricted to authorized personnel.

C. Supervisors of CDL personnel:

1. Have a sufficient quantity of personnel drug/alcohol testing forms.
2. Receive required training on alcohol and controlled substances; or, if a new supervisor, attend **the first available training program. Required alcohol and controlled substance training is held on a quarterly basis, and attendance shall be arranged through the Department CDL Coordinator.**
3. Prevent CDL personnel from performing safety-sensitive **duties** if:
 - a. They refuse to submit to alcohol or controlled substance testing.
 - b. **The supervisor has knowledge the individual** has tested positive or used a controlled substance or alcohol within the prohibited time frames.
 - c. It is less than 24-hours since the **individual** has been administered an alcohol test with results of 0.02 or greater, but less than 0.04.
 - d. They were not evaluated by a substance abuse professional and passed a return-to-duty alcohol test following an alcohol test result greater than 0.04.
 - e. They were not evaluated by a substance abuse professional and passed a return-to-duty controlled substance test following a positive test result for a controlled substance.

D. Troop Commanders and Bureau/Office Directors shall notify the Department CDL Coordinator upon assigning an

individual to operate a CMV, by submitting Department Correspondence, via email, to the Health and Safety resource account, at RA-SPHEALTH-SAFETY@pa.gov.

- E.** Personnel who operate a CMV:
1. Acknowledge receipt of informational material provided which explains the requirements, policies, and procedures of the controlled substance and alcohol testing program.
 2. Sign necessary forms to allow for the testing of controlled substances or alcohol.
 3. Possess and present photographic identification at test sites.
 4. Report **any involved crash** to a supervisor, as soon as practicable.
 5. Comply with a supervisor's direction to submit to testing for a controlled substance or alcohol.
 6. Question their physician about a prescribed drug's adverse effect on their ability to safely operate a CMV.
 - a.** If the physician indicates the prescribed drug may impair the CMV operator's ability to safely operate a CMV, the **individual shall submit Department Correspondence at or before the start of their next scheduled work shift, through channels, to their Troop Commander or Bureau/Office Director. The correspondence shall contain the name of the prescribing practitioner, medication involved, date of the prescription, dosage, frequency of use, expected duration of use, and what side effect(s) may occur as a result of taking the prescribed medication.**
 - b.** **Within three days, the Troop Commander or Bureau/Office Director shall submit a copy of the individual's Department Correspondence concerning prescribed medication to the attention of the State Police Medical Officer, via the Health and Safety resource account, at RA-SPHEALTH-SAFETY@pa.gov.**

- c. **The State Police Medical Officer shall determine whether the prescribed medication may have an adverse effect(s) on the individual's fitness for duty. The Department CDL Coordinator shall notify the Troop Commander or Bureau/Office Director of the State Police Medical Officer's determination.**
- d. **The individual's original correspondence concerning prescribed medication shall be maintained in the Troop/Bureau/Office confidential medical file.**

27.06 TYPES OF TESTS REQUIRED

- A. **Pre-Employment: Applicants selected for CDL-covered positions are to be given a conditional offer of employment or promotion, pending negative results from drug testing conducted by the drug and alcohol testing contractor.**
- B. **Random:**
 - 1. The **Department** CDL Coordinator will be contacted by the Commonwealth CDL Coordinator when an individual has been randomly selected for controlled substance and/or alcohol testing.
 - 2. The **Department** CDL Coordinator shall notify the supervisor of the selected individual to be tested and the location where the individual should report for testing.
 - 3. The **Department** CDL Coordinator shall direct the supervisor to:
 - a. Provide the selected CDL individual with all necessary forms.
 - b. Advise the selected CDL individual of their duty to **provide** photographic identification for the test.
 - c. Instruct the selected CDL individual to immediately report to the testing site.
 - d. Ensure the selected CDL individual has no foreknowledge of selection.

4. **CDL** personnel selected for random controlled substance and/or alcohol tests are to be tested within 72-hours of their supervisor receiving notification, **and immediately upon notification by their supervisor.**
 - a. If the person selected is on leave, the test is to be performed **immediately upon** their return to work.
 - b. **Personnel may only be scheduled for a random alcohol test immediately before, during, or immediately after the performance of safety-sensitive duties. Personnel may be scheduled for a random drug test at any time, including while they are on call.**
- C. Reasonable Suspicion:
1. Personnel arousing the reasonable suspicion of a trained supervisor of a violation of the alcohol or controlled substance prohibitions shall be required to immediately submit to an alcohol or controlled substance test. The suspected person shall be transported to and from the testing site and **shall** not be permitted to perform safety-sensitive **duties for a 24-hour period**, unless a negative test result is received. The supervisor who required the reasonable suspicion test **shall prepare and sign a Reasonable Suspicion Checklist (Appendage A).**
 2. A test for alcohol under reasonable suspicion is only authorized if the supervisor's observation of a violation of the alcohol prohibition is made immediately before, during, or immediately after a time when the person is required to operate a CMV or perform a safety-sensitive function.
 - a. The test should be administered within two hours of the supervisor's observation of the **individual's** behavior which led to the alcohol test.
 - b. If a test is not administered within two hours following the observation, the supervisor **shall document on the Reasonable Suspicion Checklist** why the alcohol test was not administered in that period.

- c. In the event that a person has not been tested within eight hours of the supervisor's observation, no test shall be conducted, and the supervisor **shall document on the Reasonable Suspicion Checklist** why the alcohol test was not administered.

D. **Post-Crash:**

1. If personnel operating a CMV are involved in a **crash** that results in a **fatality or bodily injury to any person who immediately receives medical treatment away from the scene of the crash**, or receive a **traffic citation** for a moving violation arising from the **crash**, they must be tested for alcohol and controlled substances as soon as practicable.
 - a. The CMV operator shall immediately notify a supervisor of their involvement in any **crash**.
 - b. Supervisors receiving this information shall promptly arrange the necessary alcohol and controlled substance tests.
 - c. **The CMV operator involved in the crash shall be transported to and from the testing site and shall not be permitted to perform safety-sensitive duties for a 24-hour period, unless a negative test result is received.**
2. It should be recognized that under no circumstances should necessary medical attention for injured people be delayed in order for alcohol and controlled substance tests to be administered. This includes allowing the CMV operator to leave the scene of a **crash** to obtain assistance in responding to the **crash**.
3. The post-**crash** alcohol test should be administered within two hours of the **crash**.
 - a. If a test is not administered within two hours following the **crash**, the supervisor **shall document on the Reasonable Suspicion Checklist** why the alcohol test was not administered in that period.

27.07 PROCEDURES

Following a positive test result for alcohol or a controlled substance, CDL personnel shall be:

- A. Immediately prohibited from participating in safety-sensitive **duties** until authorized by the **Department** CDL Coordinator.
- B. Advised of the resources available to them concerning evaluating and resolving problems associated with the misuse of alcohol or use of controlled substances.
- C. Evaluated by a **SEAP** substance abuse professional to determine what, if any, assistance the **individual** needs in resolving problems associated with the misuse of alcohol or use of controlled substances.
- D. Required to take and pass all **subsequent alcohol and controlled substance** tests.
- E. Subject to disciplinary action.

27.08 DISCIPLINARY ACTION

The Department views violations of the alcohol and controlled substance prohibitions as serious offenses. The appropriate level of discipline shall be determined on a case-by-case basis. The **Department** CDL Coordinator shall:

- A. **Ensure a BlueTeam entry is submitted in accordance with AR 4-25, Internal Investigations, for CDL personnel who test positive for alcohol or a controlled substance, in relation to this regulation.**
- B. Contact the Member Assistance **Program Office** and assist **with** obtaining any necessary evaluations and/or referrals with a substance abuse professional **for CDL personnel who test positive for alcohol or a controlled substance.**