

I. Employees Directly Affected by This Policy

All employees, including temporary employees, in the job classifications listed in Attachment B are covered by this policy and are subject to all of the provisions of this policy. Covered employees perform safety sensitive functions such as the operation of commercial motor vehicles which are defined as: **Commercial Motor Vehicle:** Means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property in the motor vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designed to transport 16 or more passengers, including the driver; or
- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Material Regulations.

A driver is considered to be performing a safety-sensitive function during any period in which s/he is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

II. Prohibited Conduct

The following conduct is prohibited:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
2. Being on duty or operating a commercial motor vehicle while possessing alcohol, unless the alcohol is manifested and transported as part of a shipment;
3. Using alcohol while performing safety-sensitive functions;

4. Performing safety-sensitive functions within four (4) hours after using alcohol;
5. Using alcohol during the eight (8) hours following an accident, or until s/he undergoes a post-accident alcohol test, which ever occurs first;
6. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions when using any controlled substances, except 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.
7. Reporting for duty, remaining on duty or performing a safety-sensitive function, if tested positive for controlled substances.
8. Refusing to submit to any alcohol or controlled substances test required by this policy.

Refuse(al) To Submit (to an alcohol or controlled substances test): Means that a driver:

- a. Fails to provide adequate breath for alcohol testing without a valid medical explanation after s/he has received notice of the requirements for breath testing in accordance with the provisions of this policy; or
- b. Fails to provide an adequate urine sample for controlled substances testing without a genuine inability to provide a specimen (as determined by a medical evaluation) after s/he has received notice of the requirements for urine testing in accordance with the provisions of this policy; or
- c. Engages in conduct that clearly obstructs the testing process.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988, APO Section II, #30, and Cabrillo College BP5200, AR5200.

III. Consequences for Employees Found to Have Alcohol Concentration Levels of 0.02 or Greater but Less Than 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his or her safety sensitive position for at least 24 hours. The employer will then retest the employee. The employee's alcohol concentration must indicate a concentration below 0.02 before s/he may be returned to his/her safety-sensitive position.

IV. Circumstances Under Which Drug and/or Alcohol Testing Will be Imposed on Covered Employees

A. Pre-employment Testing

1. All applicants for classifications which are covered by the DOT regulations (see "Covered Employees" above) as well as all employees who transfer to such classifications will be required to submit to pre-employment/pre-duty drug testing. Applicants will not be assigned to safety-sensitive positions or will not be allowed to assume duties if test results do not indicate an alcohol concentration of less than 0.04 or if results do not indicate a negative outcome on a drug test. If a pre-employment/pre-duty alcohol test result under this section indicates an alcohol content of 0.02 or greater, but less than 0.04, the provision of section III (above) shall apply.

B. Post-accident Testing

1. Post-accident drug and alcohol testing will be conducted on employees following a vehicle accident. Post accident drug and alcohol testing will be conducted on employees where an employee subject to this policy:
 - (a) was involved in an accident while performing safety-sensitive functions and the accident resulted in the loss of human life; or
 - (b) receives a citation from law enforcement for a moving violation arising from the accident if (i) the accident involved bodily injury to a person who receives

immediate medical assistance away from the scene of the accident; or (ii) if one or more of the vehicles incurs disabling damage, requiring it to be towed.

2. Post-accident alcohol tests shall be administered within two (2) hours following an accident and no test may be administered after eight (8) hours. A post-accident drug test shall be conducted within 32 hours following the accident. A driver who is subject to post-accident testing must remain available or the employer may consider the driver to have refused to submit to testing. The driver subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident, or until s/he submits to an alcohol test, which ever comes first.
3. Nothing in this policy shall be construed as to require the delay of necessary medical attention for injured people following an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

C. Random Testing

1. A random alcohol test will be administered to at least 25% of the total number of covered employees per year. A random drug test will be administered at least 50% of the total number of covered employees per year. Some employees may be tested more than once a year, while others are not tested at all depending on the random selection.
2. The percentage of random tests are subject to annual changes by directive from the FHWA.
3. The employer will contract with a vendor to provide computerized random selection services. Under the random selection process, each covered employee shall have an equal chance of being tested each time selections are made.

D. Reasonable-suspicion Testing

1. Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as blurry eyes, slurring, or alcohol on the breath. The supervisor may not rely on long-term signs such as absenteeism or tardiness to support the need for a reasonable suspicion test.

The reasonable suspicion alcohol test will be administered within two (2) hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight (8) hours following the observation.

The supervisor will prepare a written report explaining the circumstances under which a test for controlled substances was conducted within 24 hours of the observation or receipt of the results of the test, which ever comes first.

E. Return-to-duty/Follow-up Testing

1. A covered employee who has violated any of the prohibitions of this policy (see Section II) must submit to a return-to-duty test before s/he may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test.
2. If the District determines that a covered employee needs assistance in resolving problems associated with alcohol or drugs abuse, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six (6) unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation. Upon the advice of the substance abuse professional, the employer may require addi-

tional follow-up testing for a period not to exceed sixty (60) months from the date of the employee's return to duty.

V. Record Retention and Reporting of Results

For the process on retention and reporting of test results, see Attachment "D".

VI. Alcohol and Drug Detection Procedures

- A. Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). A screening test will be conducted first. A test result of 0.02 is a negative test; alcohol concentration of 0.02 or higher will require a second confirming test.
- B. Drug testing will be conducted pursuant to the procedures set forth by the District's DOT testing provider.

VII. Refusal to Submit to an Alcohol and/or Drug Test

No driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post-accident, random, reasonable suspicion or follow-up tests. A covered employee who refuses to submit to any required drug/alcohol testing shall not be allowed to perform safety-sensitive functions.

VIII. Consequences of Positive Results

A failed drug test or a failed alcohol test will be considered a violation of this policy and will subject an employee to disciplinary action up to and including dismissal for a single violation, subject to paragraph XI below.

Upon report of a positive test, the employee will be immediately relieved of safety-sensitive duties and placed on a leave of absence pending an investigation by the District with a report to the Superintendent regarding the recommended action. However, prior to testing, the employee is encouraged to approach his/her supervisor or the Director of Personnel in the event the employee has a problem with alcohol misuse and/or drug use. In such case the

employee shall be permitted to attend a program of rehabilitation and, if needed to complete the program, shall be granted a leave of absence, in accordance with the SEIU Collective Bargaining Agreement, District policy and the Education Code regarding leaves of absences, in order to attend such a program. Leave requests must be submitted according to the provisions of the labor agreement, District policy and the Education Code. Such leaves will be coordinated with the provisions of the Family and Medical Leave Act, if appropriate. The employee shall provide the District with the documentation of enrollment in a program of rehabilitation. Additionally, the District may require periodic confirmation of the employee's continued participation in the program. Upon successful completion of the program, the employee shall provide the District with proof of completion.

Substitute and probationary personnel will be permanently removed from their positions following a single failed drug test and/or alcohol test. Applicants who have received conditional offers of employment who test positive for alcohol or drugs as described above shall not be employed in a covered classification. Regardless of employment status, the District will refer persons who test positive to a Substance Abuse Professional (SAP), as prescribed by the DOT regulator and in accordance with the District's agreement with the DOT testing provider, to determine whether the individual needs assistance resolving problems associated with substance abuse, including referral of the individual for any necessary treatment, at the individual's expense.

If a covered employee is not terminated, the employee:

- A. Must be removed from performing any safety-sensitive function.
- B. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his/her alcohol or drug abuse. The employer is not required to pay for this treatment; however, the employee may utilize the medical insurance plan, if eligible.
- C. Shall not be returned to his/her former safety-

sensitive position until s/he submits to a return-to-duty controlled substance and/or alcohol test (which ever test the employee failed) which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test.

- D. Will be required to submit to unannounced follow-up testing after s/he has been returned to his/her safety sensitive position.

IX. Alcohol and Controlled Substances Information and Resources

- A. As required by the DOT regulation, the employer shall provide educational material explaining the requirements of this policy. Accompanying this policy are fact sheets published by the Federal Transit Administration which address the effects of alcohol and controlled substances for which tests are conducted under this policy which the employer will make available to covered employees.
- B. Each covered employee will receive this information and will sign a form indicating that s/he has received this information. A copy of this form will be kept the employee's personnel file.

X. Denial of Employment

An applicant shall be denied employment if s/he:

- A. Refuses to submit to testing.
- B. Tampers, alters, substitutes, adulterates, destroys, attempts to falsify or falsifies any controlled substance sample, specimen, document, report or memorandum pertinent to a drug test.
- C. Interferes with or attempts to interfere with procedures, equipment or personnel in the course of collecting controlled substance specimens.

XI. Discipline/Rehabilitation

- A. Procedures for processing disciplinary action as a result of this policy will conform to Cabrillo College Personnel Rules and Regulations, appropriate Memorandum of Understanding or other relevant rules or policies.

- B. Any employee who tampers, alters, substitutes, adulterates, destroys, attempts to falsify or falsifies any alcohol or controlled substance sample or specimen, document, report or memorandum pertinent to a drug or alcohol test shall be subject to discipline up to and including termination.
- C. Any employee who interferes with or attempts to interfere with the procedures, equipment or personnel in the course of collecting controlled substance specimens or alcohol testing samples shall be subject to discipline up to and including termination.
- D. Any employee who refuses to submit to testing shall be subject to discipline up to and including termination.
- E. When an employee undergoes a random alcohol or controlled substances testing and there is a verified positive result, the employee will be offered rehabilitation on a one-time basis, provided all of the following conditions are met: (1) the employee agrees, in writing, to enter and complete the treatment program specified by a substance abuse professional; "substance abuse professional" means an individual approved by the employer who is a licensed FHA physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselor Certification Commission), with knowledge of an clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. The employer is not required to pay for the rehabilitation program; however, eligible employees may utilize the Employee Assistance Program or medical insurance plan; (b) the employee attains a verified return-to-work negative test for alcohol and/or controlled substances; (3) the employee agrees, in writing, to be subject to unannounced frequent follow-up testing pursuant to Section IV-E; (4) the employee signs a "last chance" agreement, prepared by the employer, indicating any subsequent violations of this policy shall result in the employer issuing a notice of intent for termination of employment. Failure to accept the employer's offer of rehabilitation shall result in the employer issuing a notice of intent for termination of employment.
- F. When an employee undergoes alcohol or controlled substances testing (other than random) and there is a verified positive result, the employee shall be subject to discipline, up to and including termination. The severity of discipline shall depend upon the extent of the violations of the employer's rules, policies and procedures. If said disciplinary action is other than termination, the rehabilitation provisions as described in Section XI-E will apply. If available, the employer may temporarily assign the employee to a non-safety-sensitive function pending the outcome of the proposed rehabilitation program.
- G. An employee who fails to or refuses to complete the treatment program prescribed by the substance abuse professional, shall be subject to discipline up to and including termination.
- H. An employee who tests positive for alcohol or controlled substances after completion of a rehabilitation program, shall be subject to discipline up to and including termination.
- I. Any employee in violation of any other provisions of this policy not included in this section, shall be subject to discipline up to and including termination.

XII. Resources for Assistance

The employer recognizes alcohol abuse/chemical dependency as an illness and a major health problem. The employer also recognizes substance abuse as a potential health, safety and security problem. Employees needing help in dealing with such problems are encouraged to contact the Personnel Department for information regarding assistance.

XIII. Miscellaneous Provisions

Any other conditions or interpretation of the policy shall be based upon the regulations established by the Department of Transportation.

Attachment A DEFINITIONS

1. **Alcohol:** Means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl and isopropyl alcohol.
2. **Alcohol Concentration:** Means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an EBT (or evidential breath testing device).
3. **Commerce:** Means (a) any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and a place outside such state, including a place outside of the United States and (b) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in section (a) of this definition.
5. **Consortium:** Means an entity, including a group or association of employers or contractors, that provides alcohol or controlled substances testing as required by this policy, or other DOT alcohol or controlled substances testing rules, and that acts on the behalf of the employers.
6. **DOT Agency:** Means an agency (or “operating administration”) of the United States Department of Transportation (DOT) administering regulations requiring alcohol and/or drug testing in accordance with 49 CFR Part 40.
7. **Driver:** Means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.
8. **EBT (or evidential breath testing device):** Means EBT approved by the National Highway Traffic Administration (NHTSA) for the evidential testing of breath and placed on the NHTSA’s “Conforming Products List of Evidential Breath Measurement Devices” (CPL).
9. **Employer:** Means any person (including the United States, a state, District of Columbia or a political subdivision of a state) who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. The term employer includes an employer’s agents, officers and representatives. As used herein, the term “employer” specifically means the Entity first named above.
10. **FHWA:** Means the Federal Highway Administration.
11. **Medical Review Officer (MRO):** Means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test results together with his or her medical history and any other relevant biomedical information.
12. **On-Duty Time:** Means all time from the time a driver begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work.
13. **Safety-Sensitive Function(s):** Means any of those on-duty time functions which include:
 - a. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; or

- b. All time inspecting equipment or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; or
- c. All time spent at the driving controls of a commercial motor vehicle in operation; or
- d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth; or
- e. All time loading or unloading a 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; or
- f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

14. Substance Abuse Professional (SAP):

Means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

15. Use of (Using) Alcohol: Means the consumption of any beverage, mixture, preparation, including any medication, containing alcohol.

**Attachment B
COVERED EMPLOYEE
CLASSIFICATIONS**

Director of Maintenance and Operations
Maintenance Technician (Mechanic)
Utility Maintenance Worker (Driver)

Some positions within the above-listed job classifications do not require the incumbent to perform "safety sensitive functions" as set forth in this policy.

The Personnel Department maintains, and will make available upon request, a list of the specific positions within the above-listed classifications that are covered under the Federal Transportation Employee Testing Act of 1991.

**Attachment C
EMPLOYER REQUIREMENTS,
NOTICES AND PROHIBITIONS**

1. Except as expressly provided in this policy, nothing in this policy shall be construed to affect the authority of the employer, or the rights of drivers, with respect to the use or possession of alcohol, the use of controlled substances, including authority and rights with respect to testing and rehabilitation.
2. Before performing an alcohol or controlled substances test under this policy, the employer shall notify a driver that the alcohol or controlled substances test is required under this policy. The employer shall not falsely represent that a test is administered under this policy.
3. If the employer has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the employer shall not permit the driver to perform or continue to perform safety-sensitive functions.
4. If the employer has actual knowledge that a driver possesses unmanifested alcohol, the employer shall not permit the driver to drive or continue to drive a commercial motor vehicle.
5. If the employer has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, the employer shall not permit the driver to perform or continue to perform safety-sensitive functions.
6. If the employer has actual knowledge that a driver has used alcohol within four (4) hours, the employer shall not permit a driver to perform or continue to perform safety-sensitive functions.
7. The employer shall not permit a driver who refuses to submit to a post-accident, random,

- reasonable suspicion or follow-up alcohol or controlled substances test to perform or continue to perform safety-sensitive functions.
8. If the employer has actual knowledge that a driver has used a controlled substance, the employer shall not permit the driver to perform or continue to perform a safety-sensitive function.
 9. If the employer has actual knowledge that a driver has tested positive for controlled substances, the employer shall not permit the driver to perform or continue to perform safety-sensitive functions.
 10. The employer shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if the employer has determined that the driver has engaged in any "Prohibited Conduct." For purposes of this policy, a commercial motor vehicle means a commercial motor vehicle in commerce and a commercial motor vehicle in interstate commerce as defined in Part I of this policy.
 11. The employer shall not permit a driver who has engaged in any "Prohibited Conduct" of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of Sections XI and XII of this policy (referral, evaluation and treatment by a Substance Abuse Professional).

Attachment D

RECORD RETENTION AND REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM

1. The employer shall comply with the Federal Motor Carrier Safety Regulations Title 49 - Transportation, Chapter III - Federal Highway Administration Department of Transportation, Subtitle B - Other Regulations Pertaining To Transportation, Subchapter A - General Regulations, Part 382.401, which delineates the requirements of record retention, the period of retention, the types of

records to be maintained and the location of the records.

2. The employer shall comply with the Federal Motor Carrier Safety Regulations Title 49 - Transportation, Chapter III - Federal Highway Administration Department of Transportation, Subtitle B - Other Regulations Pertaining To Transportation, Subchapter A - General Regulations, Part 382.403, which delineates the form, content and timing of the employer's annual calendar year statistical summary information required to be prepared and submitted, if requested, by/to the FHWA.

ACCESS TO FACILITIES AND RECORDS

1. Except as required by law or expressly as required in this section, the employer shall not release driver information that is contained in records required to be maintained under §382.401.
2. A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The employer shall promptly provide the records requested by the driver. Access to the driver's records shall not be contingent upon payment for records other than those specifically requested.
3. The employer shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT Agency, or any state or local officials with regulatory authority over the employer or any of its drivers.
4. The employer shall make available copies of all results for employer alcohol and/or controlled substances testing under this policy and any other information pertaining to the employer's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT Agency, or any state or local officials with regulatory authority over the employer or any of its drivers.

5. When requested by the National Transportation Safety Board as part of an accident investigation, the employer shall disclose information related to the employer's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.
6. Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
7. The employer may disclose information required to be maintained under this policy pertaining to a driver, the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substances test administered under this policy, or from the employer's determination that the driver engaged in "Prohibited Conduct" (including, but not limited to, disciplinary proceedings (see XI), a workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver).
8. The employer shall release information regarding a driver's records as directed by the specific, written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the driver's consent.

**MEDICAL REVIEW OFFICER
NOTIFICATIONS TO THE EMPLOYER AND
RECORD RETENTION FOR CONTROLLED
SUBSTANCES**

1. The Medical Review Officer may report to the employer using any communication device, but in all instances a signed, written notification must be forwarded within three business days of completion of the Medical Review Officer's review, pursuant to CFR

49 Part 40. A Medical Review Officer shall report to the employer clearly:

- a. That the controlled substances test being reported was in accordance with CFR 49 Part 40;
 - b. The name of the individual for whom the test results are being reported;
 - c. The type of test indicated on the custody and control form (i.e., random, post-accident, etc.);
 - d. The date and location of the test collection;
 - e. The identities of the persons or entities performing the collection, analysis of the specimens and serving as the Medical Review Officer for the specific test; and
 - f. The verified results of a controlled substances test, positive, negative, test cancelled, or test not performed, and if positive, the identity of the controlled substance(s) for which the test was verified positive.
2. A Medical Review Officer shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for a verified positive controlled substances test results.
 3. A Medical Review Officer shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and cancelled controlled substances test results.
 4. No person may obtain by a Medical Review Officer, and no Medical Review Officer shall release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph shall prohibit a Medical Review Officer from releasing, to the employer or to officials of the Secretary of Transportation, any DOT Agency, or any state or local officials with regulatory authority over the controlled substances testing program under this policy the information delineated in paragraph 1 of this section.

EMPLOYER NOTIFICATIONS

1. The employer shall notify a driver of the results of a pre-employment controlled substances test conducted under this policy, if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application. The employer shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The employer shall also inform the driver which controlled substance or substances were verified as positive.
2. The designated management official shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with the Medical Review Officer who has been unable to contact the driver.
3. A Medical Review Officer is required to report to the employer that the Medical Review Officer has made all reasonable efforts to contact the driver but has failed to contact the driver. The employer shall, as soon as practicable, request that the driver contact the Medical Review Officer prior to dispatching the driver or within twenty-four (24) hours, whichever is earlier.
4. The designated management official shall immediately notify the Medical Review Officer that the driver has been notified to contact the Medical Review Officer within twenty-four (24) hours.

RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCES TEST INFORMATION BY PREVIOUS EMPLOYERS

1. The employer may obtain, pursuant to a driver's written consent, any of the information concerning the driver which is maintained by the driver's previous employers.
2. The employer shall obtain, pursuant to a

driver's consent, information on the driver's alcohol test with an alcohol concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested.

3. The information in paragraph 2 of this section must be obtained and reviewed by the employer no later than fourteen (14) calendar days after the first time a driver performs safety-sensitive functions for the employer, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions. The employer will not permit a driver to perform safety-sensitive functions after fourteen (14) days without having made a good faith effort to obtain the information as soon as possible.
4. If the driver stops performing safety-sensitive functions for the employer before expiration of the fourteen (14) day period or before the employer has obtained the information in paragraph 2 of this section, the employer must still obtain the information.
5. The employer shall maintain a written confidential record of the information obtained under number 2 of this section. If, after making a good faith effort, an employee is unable to obtain the information from a previous employer, a record must be made of the efforts to obtain the information and retained in the driver's qualification file.
6. The employer must provide to each of the driver's employers within the two (2) preceding years the driver's specific, written authorization for release of the information in paragraph 2.
7. The release of any information under this section may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The employer must maintain a written, confidential record with respect to each past employer contacted.
8. The information in number 2 of this section may be provided directly by the prospective

employee, provided the employer assures itself that the information is true and accurate.

9. The employer may not use a driver to perform safety-sensitive functions if the employer obtains information on the driver's alcohol test with an alcohol concentration of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent Substance Abuse Professional evaluation and/or determination under §382.401(c)(4) and compliance with §382.309.
10. The employer need not obtain information under number 2 of this section generated by previous employers prior to the starting dates specified in 42 CFR §382.115.

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