

COMMERCIAL DRIVER'S LICENSE/ALCOHOL & DRUG TESTING

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I. Policy

The Federal Highway Administration mandates that employees who are required to possess a commercial driver's license (CDL) in order to operate certain motor vehicles as a part of their job must participate in a drug/alcohol testing program. CDL holders may be subject to the following testing situations:

- 1. Random testing,
- 2. For cause testing,
- 3. Post accident testing,
- 4. Return to duty testing, or
- 5. Follow-up testing.

This directive states the guidelines of the federal drug/alcohol testing program. Occupational Medical Services (OMS) is responsible for coordinating the department's participation in this federal program. (CALEA 26.1.1, 61.1.5.a)

II. Random Testing

- A. Random testing will be conducted on a daily basis by OMS. Employees to be tested will be selected from the pool of all county employees required by their duties to hold a CDL.

B. Procedure

- 1. OMS will notify the Commander, Special Operations Division(SOD), if an employee of the department has been selected for random testing.
- 2. The Commander, SOD, or designee, will immediately notify the district/unit commander, or designee, of the selected employee.
- 3. The selected employee will be notified just prior to testing. The employee must sign the following forms (the MCP 6 is optional):
 - a. MCP 4, "Authorization to Obtain Specimen for Drug/Alcohol Testing" (see Appendix A).
 - b. MCP 5, "Authorization for the Release of Information Relating to Drug/Alcohol Testing" (see Appendix B).
 - c. MCP 6, "Medical Questionnaire for Employees Subject to Drug/Alcohol Testing" (see Appendix C). (Optional)
- 4. The selected employee must take the above three signed forms (the MCP 6 is optional) and the following forms to the collection site (see section VII):
 - a. The laboratory's "Consent Form" (available in the district/unit commander's office), and
 - b. Department issued photo identification.
- 5. The supervisor will direct the employee to the appropriate collection site.
- 6. The employee will provide a breath test for alcohol testing and a urine sample for drug testing. If the selected employee is not performing CDL duties on the random test date, only a drug test will be administered.
- 7. In the event that an alcohol breath test is administered and no alcohol is detected, the employee will return to the work site and show a copy of the alcohol and urine collection form to the supervisor.
- 8. In the event that an alcohol test is administered and alcohol is detected, a supervisor will be contacted by the lab to arrange for safe transportation for the employee. The supervisor will consult with the district/unit commander concerning the need for placing the employee on

administrative leave or in an alternate duty status and for conducting an administrative investigation. (CALEA 52.1.8)

9. Copies of the alcohol test results will be mailed to OMS.
10. When a drug/alcohol screen is positive, the Medical Review Officer at OMS will notify and interview the employee regarding the results. The employee may have representation during this interview. The employee and the Chief of Police will be notified in writing of a positive result.
11. If the employee is unavailable to test, OMS will be notified and another employee will be selected.

III. For Cause Testing

- A. "For cause" testing of CDL holders is authorized under Federal regulations only if the supervisor's observations are made just before, just after, or while the employee is performing functions requiring a CDL. If the observations are not made during this time frame, refer to FC 371, "Employee Substance Abuse Program," for guidance.
- B. When an employee who is performing a job which requires a CDL is suspected of being in violation of the CDL substance abuse policy, the supervisor will begin recording, in writing, any observations concerning the employee's behavior, appearance, and/or other factors. Whenever possible, two supervisors at the work site should observe the employee or review the information about the employee. Supervisors will not interrogate the officer in determining "reasonable suspicion." If it is determined that "reasonable suspicion" exists that the employee is in violation of the CDL substance abuse policy, the employee's supervisor will immediately relieve the employee of all duties. The employee will not be permitted to operate a vehicle or come into contact with the public. One supervisor will stay with the employee at all times. (CALEA 26.1.5)
- C. The supervisor will then contact an executive officer who will respond to the location of the employee immediately. The executive officer will confer with the supervisor(s) and review the written observations of the supervisor(s) to determine if "reasonable suspicion" exists that the employee is in violation of the CDL

substance abuse policy. If the executive officer determines there is "reasonable suspicion," the executive officer will immediately notify the Office of Internal Affairs (OIA). Any further investigation will be handled by OIA.

- D. If OIA determines a drug/alcohol test will be administered, the employee must be placed in an appropriate leave status or assigned appropriate light duties until the results of the test are known. If the results of the test are negative, any sick leave, annual leave, or compensatory time that the employee used will be restored. An employee placed on leave without pay will be reimbursed for lost wages and benefits if the test is negative. (CALEA 52.1.8)

IV. Post Accident Testing

This testing is only for those accidents involving an employee who is performing a duty which requires a CDL.

- A. Fatal Accidents: Following an accident involving the loss of human life, each surviving employee on duty in the vehicle involved must be tested for drugs and alcohol.
- B. Non-Fatal Accidents: If the accident does not involve the loss of human life, drug and alcohol testing of an employee on duty in the vehicle is required if the employee received a citation under state or local law for a moving traffic violation.
- C. Alcohol Tests: Testing of surviving employees must be conducted as soon as practical within eight hours after the accident.
- D. Drug Tests: Drug testing of surviving employees must be conducted as soon as practical within 32 hours after the accident.
- E. The supervisor will consult with the district/unit commander concerning the need for placing the employee(s) on administrative leave and for conducting an administrative investigation. (CALEA 52.1.8)
- F. Employees will remain available for testing after an accident and will not consume any alcohol after an accident until testing is completed.

G. Testing Procedures

1. The employee will sign all forms as listed in section II.B.3. The supervisor will provide copies of these forms to the employee. The MCP 6 is optional.
2. A supervisor will drive the employee to the collection site and stay with the employee throughout this entire procedure.
3. After testing, the supervisor will arrange for safe transportation home for the employee.
4. Breath alcohol results will be reported to the supervisor and the employee immediately. Drug test results will be reported by OMS to the employee and the Chief of Police, usually within five working days.

V. **Return to Duty Testing**

- A. An employee who has a breath alcohol concentration of 0.02 or above or who refuses to be tested for alcohol must be removed from the safety-sensitive position. If a decision is made that the employee will be allowed to return to that position, the employee will not be allowed to perform safety-sensitive functions until the employee is tested and has a breath alcohol concentration of less than 0.02.
- B. An employee who violates the controlled substance prohibitions, who has a confirmed positive drug test result, or who refuses to be tested must be removed from the safety-sensitive position. If a decision is made that the employee will be allowed to return to that position, the employee will not be allowed to perform safety-sensitive functions until the employee is tested and has a negative urine test for drugs.
- C. If recommended by a substance abuse professional, an employee will be tested for drugs and alcohol prior to returning to duty.

VI. **Follow-up Testing** (CALEA 52.1.7.a)

- A. Employees may be subject to periodic drug/alcohol tests under the following circumstances:
1. The employee refused to take a test;
 2. The employee has a confirmed positive drug/alcohol test result; or
 3. The employee's drug/alcohol abuse has been confirmed either by the employee's

admission of such abuse or other objective evidence of such abuse; and

The department has determined that the employee will be subject to disciplinary action or will not be allowed to return to full duty unless the recommended treatment has been completed and demonstrated successful.

- B. During follow-up testing, an employee may be subject to periodic drug/alcohol urine tests for a period of not less than 12 months and no greater than 60 months. Usually the time for periodic urine tests for alcohol abuse alone shall not exceed 18 months. Follow-up tests will be reported as confirmed positive for alcohol if the urine alcohol concentration is above 0.02, the established cutoff level for the test.

VII. **Location of Collection Site**

The collection site is:

Diagnostic Assays Services
9290 Gaither Road
Gaithersburg, MD 20877
Phone: (301) 840-9220

During weekends, holidays, and after 1630 hours, call to arrange to meet a technician at the site.

VIII. **Tests by Other Authority**

In the event that a test was conducted by department personnel or another law enforcement agency's personnel to measure the blood alcohol content of the affected employee (i.e., breathalyzer for criminal traffic charges or for an administrative investigation), an alcohol test at the collection site will still be administered. Also, a test for drugs will still need to be conducted at the collection site following the procedures above. The test conducted by department personnel or another law enforcement agency's personnel can be considered in disciplinary action.

IX. **Refusal to Take Drug or Alcohol Test**

- A. An employee is considered to have refused to take a drug or alcohol test if the employee:
1. Fails to provide adequate breath for alcohol testing without a valid medical excuse.

2. Fails to provide adequate urine for drug testing without a valid medical explanation.
 3. Refuses to sign the testing form, or engages in other conduct that clearly obstructs the testing process.
- B. A refusal to take a drug or alcohol test is considered the same as a verified positive drug test result or an alcohol concentration of 0.02 or greater. An employee who refuses to be tested for drugs or alcohol must be removed from the safety-sensitive position and referred to a substance abuse professional for evaluation.
- C. The district/unit commander will be consulted concerning the need for placing the employee on administrative leave and for conducting an administrative investigation. (CALEA 52.1.8)

X. Employee Rights

- A. An employee subject to any type of drug/alcohol testing must be advised of the following, prior to the collection of the specimen:
1. The reason(s) for requiring the test,
 2. If the employee refuses to be tested, that the employee may be subject to disciplinary action,
 3. The name and address of the laboratory that will perform the test, and
 4. That, if the result of the test is confirmed as positive, the employee is entitled to have a test conducted on the same specimen by a different certified laboratory at the employee's own expense.
- B. For additional information, FOP members should refer to the current FOP contract. All other employees, refer to Montgomery County Government Administrative Procedure 4-11.

XI. Proponent Unit: Special Operations Division

Lt. Col. Thomas D. Evans
Acting Chief of Police