



**MAINE OIL DEALERS ASSOCIATION
TECHNICAL BULLETIN #16.9**

***DRUG AND ALCOHOL TESTING
FOR TRUCK DRIVERS***

March, 1997

Cross-Reference: Technical Bulletin #5.4
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The Federal Highway Administration has expanded the regulations requiring drug testing of truck drivers to include **all** drivers holding a CDL and has added alcohol testing to the program. DOT's rules require that petroleum marketers conduct reasonable suspicion, random, post-accident, return -to-duty and follow-up testing for both alcohol and drugs, pre-employment testing for drugs only.

In May of 1995, DOT issued a final rule suspending the FHWA's pre-employment alcohol testing requirements. In May of 1996, FHWA issued a notice of proposed rulemaking, which, if adopted, would make pre-employment testing voluntary for covered employers. It is not necessary to perform pre-employment testing as of today.

In 1990, the Maine Legislature amended the State law governing drug testing to do away with the exemption for intrastate truck drivers. Maine drivers subject to federal requirements are also subject to the rehabilitation requirements in the State law.

Most companies join a consortium that provides the required services. Information about MODA's consortium is included in this bulletin.

Applicability

This rule applies to **all** drivers holding a Commercial Drivers License (CDL) who operate a commercial motor vehicle requiring a CDL in interstate or intrastate commerce.

Deadlines

January 1, 1995 - Companies with 50 or more drivers must comply.

January 1, 1996 - Everyone else must comply.

Prohibition

No driver may drive if he or she is under the influence of drugs or alcohol, tests positive for drugs or alcohol, or refuses to take a test for drugs or alcohol. No driver may drive within four hours of using alcohol. No driver may operate a commercial vehicle while possessing alcohol (except a manifested load).

Technically, a driver cannot perform any "safety-sensitive function" if impaired. A "safety-sensitive function" is defined in §382.107 as the first seven on-duty functions as listed in the §395.2 definition of "on duty time" to include trucking and driving related jobs. There are no loopholes.

Tests Required

There are five different tests required.

The drug test uses a urine sample to test for marijuana, cocaine, amphetamines, opiates, and PCP. The test must be done in accordance with 49 CFR Part 40. The guidelines require that a positive test be confirmed by a gas chromatography/mass spectrometry (GC/MS) test. This is to avoid mistakenly identifying someone as a drug user due to a false positive test result. Positive, confirmed results for drugs are then verified by an MRO, who then reports to the employer.

The alcohol test is a breath test using a device ("evidential breath testing device" or EBT) approved by the USDOT and performed by a trained technician ("Breath Alcohol Technician" or BAT). The initial test is a screening test. A result of less than 0.02 is considered negative. A result of 0.02 or more requires a confirmation test. A result of 0.04 is a positive test. A driver with a confirmed test result between 0.02 and 0.04 must be removed from duty for 24 hours, but is not considered to be in violation of the rule.

The five required tests are:

Pre-employment Testing

An applicant that a carrier intends to hire or use must be tested as a pre-qualification condition. The applicant must be notified prior to the sample collection that the sample will be tested for drugs. You will probably want to include this as part of a pre-employment physical. From an expense standpoint, you may want to make testing one of the final steps in the employment process, because if the drug test is positive, the laboratory must follow up with a GC/MS test whether you hire the applicant or not. There is an exception (§382.301(c)) to the pre-employment drug testing requirement if the driver has been in a drug testing program within the previous 30 days, was tested within the past 6 months or randomly tested within the past 12 months, and if the employer ensures that no prior employer has knowledge of violations of this or any USDOT agency drug testing rule. A split sample is required so that the driver can request a second opinion at a different lab if the primary sample tests positive.

For alcohol, the pre-employment testing has been delayed and is likely to be voluntary only.

Random Testing

PLEASE NOTE THAT RANDOM TESTING REQUIRES A CERTAIN NUMBER OF TESTS, NOT A CERTAIN NUMBER OF DRIVERS TESTED. THIS DISTINCTION IS IMPORTANT BECAUSE IN A VALID RANDOM TESTING PROGRAM THE SAME DRIVER COULD BE TESTED MORE THAN ONCE. THE PROGRAM IS DESIGNED SO THAT YOU NEVER KNOW WHEN YOU MIGHT GET PICKED.

Random drug testing must be done at a rate that equals 50% of the drivers employed by a company or in a testing pool (consortium). The testing rate for alcohol is 25%. In the future, the Federal Highway Administration may vary the random testing rate for alcohol between 10% and 50% depending upon the violation rates seen in test results they collect.

Reasonable Suspicion Testing

If there is a reasonable suspicion that a driver has used drugs or alcohol, the driver must be tested immediately. The suspicion must be based upon specific, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The witness must be a supervisor who has received the training required for supervisors to detect probable drug or alcohol use by observing a person's behavior.

Post-Accident Testing

Tests for drugs and alcohol are required as soon as possible after an accident involving a commercial motor vehicle if there is the loss of a human life or if the driver receives a citation for a moving violation. An alcohol test must be done within 2 hours and a drug test must be done within 32 hours; if not given, a record must be kept of the reasons why. A driver is not allowed to

use alcohol for 8 hours following an accident or until tested, whichever happens first.

Follow-up/Return to Duty Testing

Before a driver may return to work after violating this rule, he or she must have a return to duty test to show that they are not in violation. In addition, the driver is subject to at least 6 unannounced follow-up tests in the first 12 months following the return to duty. Additional follow-up testing may be required by a substance abuse professional.

Refusals and Allowed Defense

Any person who refuses to be tested shall not be allowed to operate a commercial motor vehicle. A refusal is treated as a positive test.

A driver may use a controlled substance pursuant to a doctor's instructions if the doctor has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial vehicle. A carrier may require that drivers notify the carrier of any therapeutic drug use.

Owner/Operator and Leased Drivers

Drivers subject to testing include not only a carrier's employees, but also any contract drivers. It is the carrier's responsibility to include these drivers in its drug-testing program or assure itself that the driver participates in another program that meets these rules. This assurance must include contacting the other program and obtaining in writing at a minimum:

- a) the name and address of the program,
- b) verification that the driver participates in the program,
- c) verification that the program conforms to 49 CFR Part 40,
- d) verification that the driver is qualified under these rules,
- e) the date of the driver's most recent test, and
- f) the results of any tests taken within the previous six months and any violations of the rule.

You have to re-check every six months to be sure that the contract driver is still in the program.

Administration and Recordkeeping

The rule requires that six types of records be kept by each employer.

- 1) *Records related to the collection process.* These include laboratory records as well as documents related to reasonable suspicion or post accident testing decisions. This includes an annual summary of your program.
- 2) *Records related to a driver's test results.* These include documents provided by the lab or the medical review officer, documents regarding refusals, and information provided by a driver to dispute test results.
- 3) *Records related to other violations of this rule.*
- 4) *Records related to evaluations.* These include a substance abuse professional's evaluation and a driver's compliance.
- 5) *Records related to education and training.* You are required to provide each driver with educational materials that explain this rule, your policies and procedures demonstrating compliance, and information about the effects of alcohol and controlled substances on an individual's health, work, and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervening when a problem is suspected. *You need to designate one person to answer drivers' questions about the materials.* The driver is required to sign a receipt for the materials and the employer is required to keep the original receipt on file.
- 6) *Records related to drug testing.* Information about your consortium, laboratory, medical review officer, and so forth.

Records must be kept for the following periods:

Five Years

- Driver alcohol test results of 0.02 or greater.
 - Verified positive drug tests.
 - Refusals.
 - Calibration documentation.
- Driver evaluation and referrals.
- The annual calendar year summary.

Two Years

- Collection process records.
- Training records.

One Year

- Negative tests results.

If a company uses a consortium, it will generate most of these records.

Access to Records: Test results must be kept in a secure location with controlled access. They cannot be released without the driver's approval.

The Medical Review Officer cannot release the results of the tests to anyone without the employee's written authorization, except to provide the carrier with the information that must be kept in the file. The carrier cannot release this information about any current or former employee without that employee's written authorization.

Reports

For each calendar year, the employer must prepare an annual summary by March 15 prescribed by the regulations in §382.403 and on an FHWA form. These reports are not filed with the FHWA unless requested.

Training for Supervisors

Any person who has the authority to determine if there is a reasonable suspicion to require a drug or alcohol test must have at least 60 minutes of training on alcohol misuse and an additional 60 minutes on controlled substances covering physical, behavioral, speech, and performance indicators of use or misuse. This training must be documented.

Referral, Evaluation, Treatment, and Return to Duty

The employer must advise each driver who has violated the rule of the resources available to the driver to evaluate and resolve any problems associated with misuse of alcohol or use of drugs. The advice should include the names, addresses, and phone numbers of substance abuse professionals.

A driver who has violated this rule must be evaluated by a substance abuse professional. The substance abuse professional will determine what, if any, assistance the driver needs. Before returning to duty, the driver must pass a return-to-duty drug or alcohol test (or both) and be evaluated by a substance abuse professional to determine that the driver properly followed the rehabilitation program. The driver is also subject to follow-up tests as recommended by the substance abuse professional, but no less than 6 tests in the first 12 month after returning to duty.

This section does not apply to drivers who fail a pre-employment test or those who refuse to take a test.

Federal law does not require the employer to pay the costs of the evaluation and treatment, but Maine law may. (See the section on Maine law below.) Employers should consider their company policy and also review their company health insurance policy to determine what benefits to offer.

Requirements of Maine Law

The State of Maine has a very strict drug testing law that has the effect of discouraging drug testing. The Legislature believes that rehabilitation is effective and benefits the public. Most of the Maine law deals with items covered by the federal rules, so only the rehabilitation and the penalty sections apply to motor carriers and their drivers.

Rehabilitation Opportunity. Maine law states that you may use a confirmed positive drug test result to discharge an employee, discipline an employee, or change an employee's work assignment, **but first**, you must provide an opportunity for the employee to participate in a rehabilitation program for up to six months. If the employee does not want to take advantage of the opportunity, or if it is the second time the employee has tested positive, you may discharge, discipline, or reassign the employee.

Rehabilitation Costs. If the employee chooses to attend a rehabilitation program, and if you have an employee assistance program (EAP) that includes counseling or rehabilitation services, the employee goes at your expense. If your EAP does not offer these services, or if the employee prefers to enter a different program, and if you have 20 or more employees, all costs of the program above and beyond what is covered by a group health plan must be split equally by the employee and the employer, and the employer must assist in financing the employee's share through payroll deductions "if necessary".

For employers with less than 20 employees, no payment is required other than the normal health insurance coverage.

Failure to Complete Rehabilitation. If an employee fails to comply with the rehabilitation program, the treatment provider is required to notify the employer, and the employer is then free to take whatever action it chooses.

Medically Disqualified. Maine law states that a person who is prohibited from driving as a result of a USDOT drug test is "medically disqualified". As long as an employee is medically disqualified, an employer is not required to keep up the employees pay and benefits, or to attempt to find another position for the employee at the same rate of pay, benefits, and seniority.

Successful Completion of Rehabilitation. Once an employee has successfully completed rehabilitation, and is medically qualified, you are not required to allow the employee to drive. However, you are required to attempt to find suitable work for the employee. The employee must be paid the same rate, receive the same benefits, and keep the same seniority while awaiting reassignment, and in the new position "unless conditions unrelated to the employee's positive test result make that reinstatement or reassignment impossible".

The MODA/Affiliated Healthcare Systems Drug and Alcohol Testing Consortium

Federal rules allow groups of companies to band together to meet these requirements. While it is up to each company to determine where each company will go to procure these services or if they will handle it in-house, the Maine Oil Dealers Association has found a company capable of providing these services. MODA has arranged special rates for its members with Affiliated Healthcare Systems based on the total number of drivers using this company's services.

For drug testing services Affiliated Healthcare provides the collection site, the collector, the medical review officer, the laboratory, and the recordkeeping required to help you meet these requirements. For alcohol testing services Affiliated has developed a network of providers capable of providing all required testing and reporting services. They will also provide the educational materials that you must provide.

You can contact them at:

Affiliated Healthcare Systems
Mr. Miles Theeman
30 Summer Street, Suite 1
Bangor, Maine 04401 1-800-648-2727

NOTE: THE MAINE OIL DEALERS ASSOCIATION DISCLAIMS ANY RESPONSIBILITY FOR THE ACTIONS OF AFFILIATED HEALTHCARE SYSTEMS, THEIR AGENTS OR ASSIGNS.

Conclusion

Employers are strongly admonished to consult corporate legal counsel in the application of the Federal and State rules regarding this issue.

Copies of the federal regulation, the Maine law, and a model corporate drug and alcohol testing policy is attached. **Each company must review their individual corporate policy with their legal counsel to determine if any such policy meets each individual company's needs.** Copies of the 40 page Part 40 are available from MODA upon request. That is the section that governs the technical aspects of testing. If you have any questions, please contact the MODA office.

MODEL CORPORATE DRUG AND ALCOHOL TESTING POLICY

The following document represents a Model Corporate Drug and Alcohol Testing Policy. In providing this guide the Maine Oil Dealers Association disclaims any responsibility associated with the use, implementation, or execution of this policy. Any company instituting such a policy is strongly admonished to consult with corporate legal counsel before instituting such policies.

You should read this carefully to make sure you understand what it says and what it means for your company. You must amend this policy to include such things as your company name and the contact person.

SAMPLE ALCOHOL AND CONTROLLED SUBSTANCE ABUSE POLICY

I. PHILOSOPHY

[COMPANY NAME] believes its people are the most vital asset and key ingredient in a prosperous company. Each of us employed by [COMPANY NAME] is employed at will and has an obligation to report for work "fit for duty" and to remain "fit for duty" throughout the work day. This means that each of us has the responsibility to care for ourselves so that we can work using all of our skills and abilities. This responsibility means that employees shall not come to work impaired in any way by drugs or alcohol, nor become so impaired during the workday. Impairment of performance may be the direct effect of drugs or alcohol, or the indirect effect of a hangover, "crashing," or withdrawal.

We acknowledge that some individuals may become dependent on alcohol or drugs. We support the effort of those who restore themselves to a healthy condition and continued employment. Our Company is convinced that an alcohol and substance-abuse-free work environment is essential to a safe and productive Company.

II. PURPOSE

It is the intention of this policy to identify and eliminate alcohol and substance abuse and its potential effects upon individual employees, co-workers, customers, and our company. Our concern is that employees be in a condition to perform their duties safely and effectively, in the interest of their fellow workers, themselves, our customers, and the public. The presence of drugs and alcohol on the job, and the influences of these substances on employees during working hours, are inconsistent with this objective. This policy is intended to meet and comply with 49 C.F.R. Part 382 of the Federal Motor Carrier Safety Regulations and the Omnibus Transportation Employee Testing Act of 1991.

III. OVERVIEW

A. What Alcohol Use is Prohibited by Federal Rules?

Because alcohol is a legal substance, the federal rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions (such as driving a commercial motor vehicle) is prohibited:

- While having an alcohol concentration of 0.04 or greater as indicated by an alcohol breath test
- While using alcohol
- Within four hours after using alcohol.

In addition, refusing to submit to an alcohol test and using alcohol within eight hours after an accident or until tested (for employees required to be tested) are prohibited.

B. How Will Alcohol Testing Be Done?

The federal rules require breath testing using evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration" (NHTSA). Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted after a waiting period of not less than 15

minutes and not more than 20 minutes. The employee and the individual conducting the breath test (called a breath alcohol technician (BAT)) complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test result determines any actions taken. Testing procedures that ensure accuracy, reliability and confidentiality of test results are outlined in the Department of Transportation's Part 40 rule. These procedures include training and proficiency requirements for BATS, quality assurance plans for the EBTs (including calibration) , requirements for a suitable test location, and protection of employee test records.

C. What are the Consequences of Alcohol Misuse?

To further safeguard transportation safety, commercial motor vehicle drivers who have any alcohol concentration (defined as 0.02 or greater, but less than 0.04) in their breath, when tested just before, during or just after performing safety-sensitive functions, must be removed from performing such duties for 24 hours.

Employees who engage in prohibited alcohol conduct (such as having an alcohol concentration of 0.04 or greater) must be immediately removed from safety-sensitive functions. Employees who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a substance abuse professional and have complied with any treatment recommendations to assist them with an alcohol problem.

If an employee's behavior or appearance suggests alcohol misuse, a "reasonable suspicion" alcohol test must be conducted. If a breath test cannot be administered, a driver must be removed from performing safety-sensitive duties for at least 24 hours.

D. Are Employee Testing Records Confidential?

Yes! Employee alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer and the substance abuse professional. Any other release of this information is only with the employee's consent. If an employee initiates a grievance, hearing, lawsuit or other action as a result of a violation of these rules, the employer may release relevant information to the decisionmaker. If an employee is licensed, documented, or certified by a DOT agency, relevant information may be released to the decisionmaker in any DOT agency revocation or suspension action.

E. How is Drug Testing Done?

Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy, and the "collector" seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification, and integrity are not compromised. Federal law requires that drug-testing procedures for commercial motor vehicle drivers include split specimen procedures. This means that each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis. This split specimen procedure essentially provides the employee with an opportunity for a "second opinion."

F. What Drugs are Tested For?

All urine specimens are analyzed for the following drugs:

- 1) Marijuana (THC metabolite)
- 2) Cocaine
- 3) Amphetamines
- 4) Opiates (including heroin)
- 5) Phencyclidine (PCP)

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation helps ensure that over-the-counter medications or preparations are not reported as positive results.

G. Who Reviews and Interprets the Laboratory Results?

All drug test results are reviewed and interpreted by a physician known as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO contacts the employee (in person or by telephone) and conducts an interview to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. For all the drugs except PCP, there are some limited, legitimate medical uses for the drugs that may explain the positive test result. If the employee provides appropriate documentation and the MRO determines that it shows legitimate medical use of the prohibited drug, the drug test result is reported as negative to the employer.

H. What Drug Use is Prohibited?

The drug rules prohibit any unauthorized use of controlled substances. Illicit use of drugs by safety-sensitive employees is prohibited on or off duty. Other federal regulations require truck drivers to report any medical use of controlled substances.

I. What are the Consequences of a Positive Drug Test?

As with an alcohol misuse violation, a safety-sensitive employee must be removed from safety-sensitive duty if he/she has a positive drug test result. The removal cannot take place until the MRO has interviewed the employee and determined that the positive drug test resulted from the unauthorized use of a controlled substance. An employee cannot be returned to safety-sensitive duties until he/she has been evaluated by a substance abuse professional or MRO, complied with recommended rehabilitation, and has a negative result on a return-to-duty test. Follow-up testing to monitor the employee's continued abstinence from drug use may be required.

IV. DRUG AND ALCOHOL TESTING POLICY

A. Application

This policy applies to applicants and employees who drive commercial motor vehicles for the company and are required to possess a commercial drivers license as well as other "safety sensitive" positions. This includes any employee who may drive a commercial motor vehicle with a gvw over 26,000 lbs., or placarded hazardous material trucks as determined by FHWA and Maine Bureau of State Police.

B. Pre-Employment Testing of Applicants

1. At the time physical examinations are given before employment, drug and alcohol testing shall also be given for all positions requiring a Commercial Drivers License.
2. Applicants for employment will be advised at the time of application that, as part of the final evaluation process, there will be drug and alcohol tests by the Company's designated physician or technician. The pre-employment physical and drug and alcohol testing shall be paid for by the Company.
3. If the drug screen is positive, the sample will be further tested by the laboratory via GC/MS to confirm the results before any results are returned to the Medical Review Officer (MRO). The MRO will only advise the Company of a positive drug test when the results are confirmed and verified.
4. A final offer of employment will be made only after the results of the physical examination, and the drug and alcohol tests, are known.
5. If the laboratory results sent to the MRO are a confirmed positive drug test, the **MRO** shall give the individual an opportunity to discuss the result before verifying the results to the Company.
6. An applicant will be told of the results of the final drug test, if requested within 60 days of being notified of the disposition of his/her application.
7. An applicant who declines to submit to the tests will no longer be considered for employment.
8. An applicant who has an MRO verified positive test for either alcohol or drugs will not be offered employment.

C. Random Drug and Alcohol Testing of Employees

Random drug and alcohol testing for [COMPANY NAME] employees is required for all drivers holding a Commercial Drivers License who may drive a commercial motor vehicle. The tests are paid for by the Company and will include a urine sample for drug substances and a breath test for alcohol. [If the MRO verifies the a drug test as a confirmed positive, or the Breath Alcohol Technician confirms a positive test for alcohol, the following applies:

1. For Drugs. By law, the company is responsible for conducting random, unannounced drug tests. The total number conducted each year must equal at least 50% of the safety-sensitive employees. Some employees may be tested more than once each year; some may not be tested at all depending on the random selection. Random testing for drugs does not have to be conducted in immediate time proximity to performing safety-sensitive functions. Once notified of selection for testing, however, an employee must proceed to a collection site to accomplish the urine specimen collection.

2. For Alcohol. Random alcohol testing must be conducted just before, during, or just after an employee's performance of safety-sensitive duties. The employee is randomly selected for testing. The testing dates and times are unannounced and the tests are conducted with unpredictable frequency

throughout the year. Each year, the number of random tests for alcohol conducted by the employer must equal at least 25% of all the safety-sensitive employees. These rules provide for adjustments to the annual random testing rate based on the violations (alcohol tests 0.04 or greater and refusals to test) in the trucking industry.

D. Post-Accident Testing

Drivers are required to submit to drug and alcohol testing as soon as possible after an accident involving a commercial motor vehicle when the accident results in a loss of life or the driver receives a citation for a moving violation. An alcohol test must be done within 2 hours and a drug test must be done within 32 hours after the accident. A driver is not allowed to use alcohol for 8 hours following an accident or until tested, whichever happens first.

If an employee refuses to submit to a drug or alcohol test following a reportable accident, the employee will be dismissed.

E. Reasonable Suspicion Testing

When an employee is observed by a trained Company supervisor or official and is suspected to be under the influence of drugs or alcohol, this shall constitute reasonable suspicion requiring immediate drug and/or alcohol testing and suspension from duties pending further investigation.

F. Return to Duty/Follow Up Testing

Before a driver may return to work after a confirmed positive test for drugs or alcohol, he or she must have a return to duty test to show that they are not in violation. In addition, the driver is subject to at least 6 unannounced follow-up tests in the first 12 months following the return to duty. Additional follow-up testing may be required by a substance abuse professional.

Any further confirmed positive test or refusal to be tested will result in dismissal.

G. Action Upon Positive Test of an Employee

1. An employee shall be notified by the Company of any random, reasonable suspicion or post accident drug test that is verified as positive.

2. The Company will advise the employee of the resources available to evaluate and resolve any problems associated with misuse of alcohol or use of drugs. The advice will include the name, address, and phone number of one or more substance abuse professionals.

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3. The employee must be evaluated by a substance abuse professional. The substance abuse professional will determine what, if any, assistance the driver needs. Before returning to driving duties, the driver must pass a return-to-duty drug or alcohol test (or both) and be evaluated by a substance abuse professional to determine that the driver properly followed the rehabilitation program. The driver is also subject to follow-up tests as recommended by the substance abuse professional, but no less than 6 tests in the first 12 month after returning to duty.

Until such time as the evaluation and recommendations are completed, the employee may be assigned to available work that is not safety-sensitive or placed on temporary sick leave, if available. If the employee has no available sick leave, the employee may use vacation time or may choose to be placed on a leave of absence without pay.

The employee is obliged to follow the recommendations of the substance abuse professional, which may involve in-patient or outpatient counseling. Counseling shall be the financial responsibility of the affected employee and the employee may be eligible for benefits under the employee's health insurance plan. (Companies with more than 20 employees should review the requirements of Maine law on pp. 5 & 6 of the MODA Technical Bulletin #16.9, which may require the employer to pay a portion of the counseling expense.)

An employee who refuses, withdraws from, or is unsuccessful in recommended treatment, will be dismissed.

4. Any subsequent confirmed positive test will result in dismissal.
5. Refusal to take a random drug or alcohol test will result in dismissal.

H. Company Disciplinary Procedures

An employee who has had a positive, verified drug or alcohol test continues to be subject to the disciplinary and dismissal procedures of the Company. If the employee's behavior, action, or performance are otherwise subject to discipline or discharge, a confirmed positive test for drugs or alcohol shall not excuse these actions, and the Company continues to reserve the right to assess whatever disciplinary or discharge actions it deems appropriate.

I. Contact

If you have any questions about this policy, contact:

-
-
-
-

Name: _____

Address/Office: _____

Telephone: _____

MAINE LAW
[26 MRSA §685]

FEDERAL REGULATION
[49 CFR PART 382]