

Drug and Alcohol Abuse

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DISCLAIMER

Nothing contained in the drug and alcohol abuse or drug and alcohol testing policy described herein shall be held or construed to create a promise of employment or future benefits, or a binding contract between Fermilab/FRA and its employees.

As in the past, Fermilab/FRA reserves the right, in its sole and absolute discretion, to amend, modify or terminate, in whole or in part, any or all of the provisions of the drug and alcohol abuse or drug and alcohol testing policy described herein. Further, Fermilab/FRA reserves the exclusive right, power and authority, in its sole and absolute discretion, to administer, apply and interpret the drug and alcohol abuse or drug and alcohol testing policy described herein, and to decide all matters arising in connection with the operation or administration of such policy.

I. Drug and Alcohol Abuse

It is strictly prohibited to manufacture, distribute, dispense, possess, or use any illegal drug or controlled substance while on the Laboratory premises. Being under the influence of alcohol while performing Laboratory business or while on the premises is also prohibited. The consumption of alcohol onsite is prohibited unless Laboratory management explicitly authorizes it. Employees in violation of the policy are subject to appropriate [disciplinary action](#) up to and including [termination](#). Additionally, Fermilab/FRA reserves the right to require an employee to undergo a medical evaluation under appropriate circumstances.

In its commitment to maintain a drug free environment, Fermilab/FRA has established a drug-free awareness program designed to inform its employees about the dangers of drug abuse in the workplace, the Laboratory's policy of maintaining a drug-free workplace, the Laboratory's employee assistance program, and the penalties imposed for violations of this policy.

II. Definitions

"Drug free workplace" means a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the federal Drug Free Workplace Act of 1988.

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the

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Controlled Substances Act (21 U.S.C. 812).

"Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentences, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

III. Drug and alcohol testing

The Laboratory is determined to eliminate the use of illegal drugs, alcohol, and controlled substances at our work sites. The purpose of this program is to improve job safety on all projects. The program is designed solely for the benefit of our employees to provide reasonable safety on the job and protection from offending individuals. In addition, this program attempts to meet our responsibility to the public, whom we serve. The Laboratory may require a blood test, urinalysis, breath analysis or other recognized drug/alcohol testing procedure when and if the employee:

- Has had an accident.
- Smells of alcohol on breath.
- Is observed to exhibit behavior such as (but not limited to): loss of physical control; marked change of affect, i.e. giddiness, irritability, inattention, sleepiness, slurred speech; or other commonly recognized behaviors suggestive of intoxication.
- Is required to submit to testing as part of an Employee Assistance Treatment Plan.
- Is reasonably suspected of having used or consumed drugs or alcohol while on the job or on the site in violation of this policy.
- Is employed to work in a testing designated position.

Employees who refuse to submit to testing will be subject to disciplinary action up to and including [termination](#) of employment.

IV. Prescription drugs

Employees taking prescription or over-the-counter medication during or immediately preceding work are responsible for being aware of any potential effect such drugs may have on their reactions, judgment, or ability to perform their duties, and, if [impairment](#) is possible, reporting such use to the Medical Office prior to reporting to work. If medication poses a safety threat to the employee or others or would affect performance or judgment, then the employee may be required to take [sick leave](#) or leave of absence or comply with other appropriate action determined by the Lab.

Medications prescribed for another individual, not the employee, shall be considered to be illegally used and subject the employee to discipline.

V. DOE Workplace Substance Abuse Program

In addition to above requirements of the Drug Free Workplace Act of 1988 the Department of

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Energy has issued specific work conditions that apply to all FRA employees engaged in the performance of a Department of Energy contract as follows:

Employee Responsibilities

Each employee must receive a copy of the Drug and Alcohol Policy, which shall be provided through the official intranet posting of this policy and by any other means as may be appropriate, and each such employee:

1. Agree as a condition of employment to abide by the terms of the Drug and Alcohol policy
2. Must notify the Head of WDRS (Human Resources) in writing of a conviction under a criminal drug statute for a violation occurring on the DOE owned or controlled site no later than 10 calendar days after such conviction;

Laboratory Responsibilities

Provide supervisors and employees training concerning problems of substance abuse, including illegal drug use, and the availability of assistance through the employee assistance program and referrals to other resources, and the penalties that may be imposed upon employees for drug-related violations occurring on the DOE owned or controlled site;

Notify the DOE contracting officer within 10 calendar days after receiving notice from an employee or otherwise receiving actual notice of an employee's conviction of a drug related offense occurring on a DOE owned or controlled site;

Impose one of the following actions, with respect to any employee who is convicted of a drug-related violation occurring in the workplace, within 30 calendar days after receiving such notice of conviction under paragraph (a)(4) of this section;

- (i) Taking appropriate personnel action against such employee, up to and including termination; or
- (ii) Offer such employee, consistent with the contractor's policies, an opportunity to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency. If the employee does not participate in such a rehabilitation program, the contractor must take appropriate personnel action, up to and including termination, in accordance with the contractor's policies.

Commit to make a good faith effort to maintain a workplace free of substance abuse through implementation of the above paragraphs;

The drug policy applies to subcontractor personnel and other persons on assignment at the Laboratory. Violation or refusal to abide by this policy can result in the Laboratory barring such personnel from the Laboratory facilities.

Testing designated position program requirements

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Categories Subject To Testing

Employees performing any of the following safety-sensitive functions are subject to the drug and alcohol testing requirements as outlined in 49 CFR Parts 40 and 382, and to any new federally mandated changes to this program.

- Applicants for testing designated positions before final selection for employment (post offer/pre-hire).
- Employees required by the Laboratory to obtain and maintain commercial drivers licenses (CDLs) (collectively referred to as “CDL employees
- Fire fighters
- Clearance holders

DISCLAIMER

In the event of a conflict, the provisions of CFR 707.5 take precedence over the drug and alcohol testing policy for safety sensitive position provisions of these policies or any other Fermilab form or guidance document

VI. DRUG AND ALCOHOL TESTING POLICY FOR SAFETY-SENSITIVE POSITIONS

1. Definitions

“**Accident**” means an incident involving a motor vehicle that results *in*: (1) a fatality; or (2) a driver receiving a citation for a moving traffic violation and: (a) bodily injury to a person who immediately receives emergency medical treatment away from the accident scene; or (b) disabling damage to a vehicle that requires the vehicle to be towed away from the accident scene. CDL employees should immediately tell their supervisors about every accident, even if the accident does not meet this definition.

“**Adulterated specimen**” means a urine specimen that contains a substance that is not normally present in human urine, or contains a substance, which is normally present but is at a concentration so high that it is not consistent with human urine.

“**Alcohol**” means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl or isopropyl alcohol. The term includes beer, wine, spirits and medications such as cough syrup that contain alcohol.

“**CDL**” means a minimum of a Class B commercial drivers license with an air brake endorsement.

“**CMV**” means a motor vehicle that has a weight rating of 26,001 pounds or more, is designed to transport 16 or more passengers, including the driver, or is used in the transportation of hazardous materials required to be placarded.

“**Dilute specimen**” means a urine specimen which has creatinine and specific gravity values that are too low to meet DOT standards.

“**Driver**” or “**CDL driver**” or “**CDL employee**” means an employee who either: (i) voluntarily agrees to maintain a CDL for the performance of his job; or (ii) is required by the Laboratory to obtain and maintain a CDL.

“**Drug**” means the types of drugs as listed in 49 C.F.R. Part 40.

“**Drug test**” means a test for the types of drugs described in 49 C.F.R. Parts 40 and 382.

“**Laboratory**,” with an upper case “L,” means Fermilab. “Testing laboratory” with a lower case “l,” means a federally certified testing laboratory used to test urine samples for the presence of drugs.

“**Medical Review Officer**” or “**MRO**” is a licensed physician who has knowledge, training, and clinical experience regarding substance abuse disorders and who will, among other things, review CDL employees’ positive drug test results and evaluates any medical explanations for such results.

“**Performing a safety-sensitive function**” means any and all time when a driver is actually working or required to be ready to work until the time the driver is relieved from work and all responsibility for performing work, including all time: driving or remaining ready to drive a CMV; loading or unloading a CMV, assisting or supervising the loading or unloading of a CMV, attending a CMV being loaded or unloaded, or giving or receiving receipts for the loading or unloading of a CMV; waiting to be dispatched, loaded or unloaded; inspecting or servicing a CMV; repairing, obtaining assistance for, or attending a disabled CMV; performing required duties after an accident; and, all other duties while the driver is in or on a CMV.

“**Refuse to cooperate**” means to obstruct the collection or testing process. It includes not promptly proceeding to a collection site and providing specimens when told to do so, failing to remain at the testing site until testing is complete; providing an adulterated, dilute or substituted urine specimen; failing to cooperate with a properly-observed or monitored collection; failing to attempt to provide specimens; failing to provide breath or urine specimens sufficient for testing, unless a legitimate medical explanation is established; failing to cooperate in a medical examination or evaluation directed by the testing laboratory; failing -to sign Step 2 of the DOT Breath Testing Form; and any other conduct which obstructs or interferes with testing.

“**Substance abuse professional**” or “**SAP**” is a licensed physician or licensed or certified health care professional who has knowledge and training regarding CDL employees’ violations of DOT drug and alcohol regulations and makes recommendations regarding education, treatment, follow-up testing, and aftercare.

“**Substituted specimen**” means a urine specimen, which has creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

“**Test positive for alcohol**” means to take an alcohol test that result in an alcohol concentration of .04 or more (grams of alcohol per 210 liters of breath).

“**Test positive for drugs**” means to take a drug test that results in a concentration of any drug(s) that exceeds the cutoff levels that are set forth in 49 C.F.R. Part 40 and are subject to change by the

U.S. government.

Prohibitions

- A. Employees in safety sensitive positions may not report for or remain on duty if they have an alcohol concentration of .04 or more; or are using any drug (unless the use is pursuant to instructions by their doctors or other licensed health care professionals that it will not adversely affect their ability to operate a vehicle safely).
- B. Employees in safety sensitive positions may not perform a safety-sensitive function if they are using alcohol or have used alcohol during the prior four (4) hours.
- C. Employees in safety sensitive positions may not use alcohol for eight (8) hours after an accident involving a Laboratory vehicle unless they have taken a post-accident test.
- D. Employees in safety sensitive positions may not refuse to cooperate in a drug or alcohol test required by this policy or DOT rules.
- E. Employees in safety sensitive positions may not use a prescribed or non-prescription drug whose container warns that it may cause drowsiness or interfere with the ability to drive safely unless they inform the Laboratory's Medical Department.

Employees in safety sensitive positions also remain subject to all other applicable state and Federal motor carrier safety rules and regulations.

2. Circumstances (besides pre-employment) that CDL/ Safety sensitive employees are subject to mandatory testing

- A. **Post-accident:** If a CDL/safety sensitive employee is in an accident involving a Laboratory vehicle that results in a fatality, or is ticketed by law enforcement or Laboratory security after an accident that results in bodily injury to a person who immediately receives emergency medical treatment away from the accident scene or damage to a vehicle that requires the vehicle to be towed away from the accident scene, the CDL employee must take an alcohol test within two (2) hours and a drug test within thirty-two (32) hours. The CDL employee must notify his/her direct supervisor as soon as safely possible after any such, accident.
- B. **Random:** Each year, at least 10% of the Laboratory's CDL/safety sensitive employees will have to take random alcohol tests (or at such other rates determined by the FMCSA); at least 50% will have to take random drug tests (or at such other rates determined by the FMCSA). Names will be chosen by a scientifically valid method, such as a random number table or a commercially purchased computer-based random number generator (i.e., as opposed to one created in the Laboratory). These tests will be unannounced, spread throughout the year, and all CDL/safety sensitive employees will have an equal chance of selection.
- C. **Reasonable Suspicion:** If a CDL driver or safety sensitive employee is reasonably suspected of using drugs or alcohol in violation of this Article, by a supervisor or other Laboratory official who has been trained in the detection of alcohol and drug abuse, the driver must take a drug and/or alcohol test.

All supervisors and Employer representatives designated to determine whether reasonable suspicion exists to require an employee to undergo drug and/or alcohol testing shall receive specific training on the physical, behavioral, speech and performance indicators of probable

alcohol misuse and use of controlled substances as required by DOT regulations.

- D. **Return-to-duty and follow-up:** If a CDL driver or safety sensitive employee violates Section 4, Prohibitions subsections A-D, but is not discharged, the CDL driver/safety sensitive employee must pass a drug and/or alcohol test before the CDL driver/ safety sensitive employee can return to duty. The CDL driver will also have, at a minimum, six (6) unannounced follow-up tests during the next year, and additional possible unannounced follow-up tests as required by the SAP in accordance with 49 CFR §40.307.

3. Consequences of Positives and Violations

- A. If a CDL/ safety sensitive employee tests positive or violates any provision of Section 4, Prohibitions (other than subsection E), the CDL/ safety sensitive employee will be immediately removed from the performance of any safety-sensitive functions, advised of available resources for evaluating and resolving drug-alcohol problems, and be referred to the SAP. The first time this occurs the CDL/ employee provided the employee has at least two years of service shall be suspended without pay until he/she enters into a last-chance agreement with the Laboratory, (as provided for in Appendix A.) provides documentation from the SAP that he/she is successfully participating in and/or has completed any and all treatments, evaluations, counseling, and/or rehabilitation programs, passes a return-to-duty tests, and has been approved by the SAP to return to work. The minimum suspension shall be one week. CDL employees who have less than two years of service who test positive or violate any provision of Section 4, Prohibitions (other than subsection E) will be discharged.

If a CDL/ safety sensitive employee refuses to enter into a last-chance agreement, violates a last-chance agreement, fails to provide documentation from the SAP verifying the CDL/ safety sensitive employee's successful participation in and/or completion of any and all treatments, evaluations, counseling and/or rehabilitation programs, fails to pass return-to-duty tests, or violates any provision of Section 4, Prohibitions again, the CDL/ safety sensitive employee will be discharged.

- B. If a CDL/ safety sensitive employee takes any alcohol test that results in an alcohol concentration of .02 or more, but less than .04, the CDL employee will immediately be removed from the performance of safety-sensitive functions for at least twenty-four (24) hours, or the start of the CDL employee's next regular shift (whichever is later). Should the CDL employee within the next two (2) years have an alcohol test that results in an alcohol concentration of .02 or more, but less than .04 the employee will be advised of available resources for evaluating and resolving drug-alcohol problems, be referred to the SAP, and/or disciplined, up to and including discharge subject to contractual just cause requirements.
- C. If a CDL/ safety sensitive employee violates subsection E of Section 4, Prohibitions, the employee will receive a warning letter. Should the employee violate subsection E of Section 4, Prohibition a second time within a two (2) year period the employee will be subject to a three day suspension. A third violation will subject the employee to greater discipline in accordance with contractual just cause principles. The CDL employee may also be subject to reasonable suspicion testing.

- D. If a test is canceled or invalid, a CDL/ safety sensitive employee will not be disciplined because of the test results.

Nothing herein shall limit the Laboratory's rights, subject to contractual just cause principles, to additionally discipline employees for conduct which provides an independent basis for disciplinary action even though the employee's violation of Section 4 of this Article may have played a role in the misconduct.

4. Suspensions and Violations

CDL employees who have their driver's licenses suspended, revoked, canceled, who are disqualified or lose their right to operate a CMV for any period of time, must notify Human Resources before the end of the business day following the day the CDL employee receives notice of the suspension, revocation, cancellation, disqualification or lost privilege.

CDL employees who are convicted of violating a state or local law relating to motor vehicle traffic control (other than parking violations) must notify Human Resources within thirty (30) days after the date of conviction.

CDL employees who fail to notify the Laboratory that their driver's licenses have been suspended, revoked or canceled, that they are disqualified or have lost their right to operate a CMV for any period of time, or that they have been convicted of violating a state or local law relating to motor vehicle traffic control (other than parking violations), may be subject to appropriate disciplinary action up to and including termination of employment subject to contractual just cause requirements.

CDL employees who are convicted of driving a CMV under the influence of alcohol or drugs, leaving the scene of an accident involving a CMV, or a felony involving the use of a CMV, shall be disqualified from driving of a CMV for at least one year. Depending on the circumstances, the driver may also be subject to appropriate disciplinary action up to and including termination of employment subject to contractual just cause requirements. CDL employees must provide notify the Laboratory in writing as soon as possible but within 10 calendar days of drug related arrest, conviction or receipt of positive drug test.

5. Summary of Alcohol Collection and Testing Procedures

- A. All alcohol testing under this Section will be conducted in accordance with applicable DOT/FMCSA regulations. All equipment used for alcohol testing must be on the NHTSA Conforming Products List and be used and maintained in compliance with DOT requirements. A Breath Alcohol Technician (BAT) or Screening Test Technician (STT) who meets the respective requirements of 49 CFR Part 40, Subpart J will collect breath samples. STT's, however, can only conduct alcohol screening tests. Law enforcement officers who have been certified by state or local governments to conduct breath alcohol testing are deemed to be qualified as Breath Alcohol Technicians. The training shall be specific to the type of Evidential Breath Testing (EBT) device being used for testing. The Employer shall, to the extent not otherwise contained herein, provide the employees with material containing the

- information required by Section 382.601 of the Federal Motor Carrier Safety Regulations.
- B. If a CDL employee is subject to alcohol testing, the CDL employee will be sent or driven to a Laboratory designated testing site where the CDL employee will have to verify his/her identity, certify that he/she has been correctly identified on Step 2 of the DOT Alcohol Testing Form, and otherwise cooperate in the site's normal breath specimen collection procedures.
 - C. A screening test will be done first. If the screen, test result is less than .02, the CDL employee will have passed the alcohol test, and the technician will notify the Laboratory in a confidential manner.
 - D. If the result is .02 or greater, the CDL employee will have to take a confirmation test after waiting 15-30 minutes. During that waiting period, the CDL employee should not eat, drink, smoke, put anything in his/her mouth, or belch (to prevent an accumulation of mouth alcohol that may lead to an artificially high reading).
 - E. Before and after the confirmation test, the BAT will run air blank tests to ensure that the EBT is working correctly.
 - F. For the confirmation test, the CDL employee must exhale into a mouthpiece until the BAT directs the CDL employee to stop. The BAT will then show the CDL employee the displayed and printed results. The results of the confirmation test, not the screen test, are determinative, and will be communicated by the technician to the Laboratory in a confidential manner. A result under .02 means the CDL employee passed. If the result is .02 or more, or the CDL employee refuses to cooperate, the CDL employee is subject to the consequences described above in Section 6.
 - G. The parties agree that in the event of further federal or state legislation, or federal or state regulations (IAC or CFR) providing for revised methodologies or requirements (as opposed to DOE contract requirements, requests or mandates), those revisions shall, to the extent they impact this Agreement, unless mandated, be subject to mutual agreement by the parties.
 - H. All alcohol testing, including procedures for if an employee fails to provide a sufficient breath or saliva specimen, shall be conducted in conformity with the DOT alcohol regulations.

6. Summary of Drug Testing Collection and Procedure

- A. If a CDL/ safety sensitive employee is subject to drug testing, the CDL employee will be sent or escorted to a Laboratory designated collection site where the CDL employee will have to verify his/her identity and otherwise cooperate in the site's normal urine specimen collection procedures. The CDL employee's urine specimen will be collected by a trained collection site person ("CSP") in accordance with DOT regulations, using a Drug Testing Custody and Control Form ("CCF"). The employee should ensure that the entries on the CCF are accurate and that his/her specimen is identified with the same number as appears on the CCF.
- B. The CDL/ safety sensitive employee will be given a wrapped or sealed collection container and allowed to provide a urine specimen in private unless: the CDL employee submits a specimen which is abnormally cold or hot; the CDL employee has attempted to tamper with a specimen; CDL employee's original test result was cancelled because the test of the split specimen could not be performed; the CDL employee's prior specimen was invalid; or the CDL employee is taking a return-to-duty test or a follow-up test.
- C. If the CDL/ safety sensitive employee does not provide a large enough specimen (at least 45 ml), the CSP will discard the specimen (except where the specimen was out of the acceptable

temperature range or showed evidence of tampering), direct the CDL employee to drink up to forty (40) ounces over a period of up to three (3) hours, or until the CDL employee provides an adequate specimen, whichever occurs first. If the CDL employee still does not provide an adequate specimen, testing will stop and the CDL employee will be directed to obtain an evaluation by a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the CDL employee's failure to provide a sufficient specimen. The CDL employee must obtain the evaluation within five (5) days. If the physician reports to the MRO, that a medical condition has, or it is highly probable a legitimate medical condition could have, prevented the CDL employee from providing a sufficient specimen, the test will be cancelled, and no further action will be taken. If there is not an adequate basis to determine that a medical condition has, or it is highly probable that a medical condition could have prevented the CDL employee from providing a sufficient specimen, the CDL employee will be deemed to have refused to cooperate.

If the CDL/ safety sensitive employee refuses to attempt to provide a new specimen, the CSP will terminate the collection and notify the Laboratory that the CDL employee has refused to cooperate.

Failure to provide a sufficient urine specimen (45mL) or not being able to provide a urine specimen shall not be grounds for discipline unless: (i) the employee refuses to undergo an evaluation by a licensed physician acceptable to the MRO within five (5) business days; (ii) the employee test positive; or (iii) the CDL employee is deemed to have refused to cooperate. Only then will the employee be subject to the terms of Section 6A, of this Article.

- D. It is recognized that the Specimen Collector is required to check for sufficiency of specimen, acceptable temperature range, and signs of tampering, provided that the employee's right to privacy is guaranteed and in no circumstances may observation take place while the employee is producing the urine specimens, unless required by DOT regulations. If it is established that the employee's specimen is outside of the acceptable temperature range or has been intentionally tampered with or substituted by the employee, the employee will be required to immediately submit an additional specimen under direct observation.
- E. If the CDL/ safety sensitive employee does provide an adequate specimen, it will be poured into two containers, which will be sealed and labeled with a unique specimen number in the CDL employee's presence. The CDL employee then will be told to initial the specimen containers. The CDL employee and the CSP also will fill out and sign portions of the CCF that identifies the CDL employee and the CDL employee's specimen.
- F. Both specimen containers will be sent in a sealed plastic bag to a federally certified testing laboratory for analysis. The testing lab will check the CCF and the CDL employee's specimen for any correctable or fatal flaws. The testing lab will also conduct validity testing to determine if a primary specimen is adulterated, diluted, or substituted. The testing laboratory shall perform physiologic determinations for creatinine, specific gravity, pH, and any substances that may be used to adulterate the specimen. If the testing laboratory suspects the presence of an interfering substance/adulterant that could make a test result invalid, but the initial laboratory is unable to identify it, the specimen must be sent to another HHS certified laboratory that has the capability of doing so. Any findings by the testing laboratory that indicate that a specimen is adulterated as a result of the fact that it contains a substance that is

not expected to be present in human urine; a substance that is expected to be present is identified at a concentration so high that it is not consistent with human urine; or has physical characteristics which are outside the normal expected range for human urine shall be immediately reported to the Laboratory's Medical Review Officer (MRO). If the specimen is suitable for testing, the testing lab will run a screen test on it. If the screen test is negative, the lab will report the CDL employee has passed the drug test. If the screen test is positive, the testing lab will analyze the CDL employee's specimen using gas chromatography/mass spectrometry. The testing lab will send the test results to the MRO.

- G. The MRO is a licensed physician who, among other things, is responsible for ensuring the accuracy and integrity of the drug testing process. If the CDL employee has a confirmed positive, adulterated, substituted or invalid drug test result, the MRO will contact the CDL employee by telephone at the numbers listed on the CCF. The CDL employee should promptly cooperate with the MRO. If the MRO determines that there is a legitimate medical explanation for a positive, adulterated, or substituted test result, the MRO will report a negative test result to the Laboratory. If the CDL employee does not provide a legitimate medical explanation for a positive test result, the MRO will verify the test result as positive.

If the CDL/ safety sensitive employee does not provide a legitimate medical explanation for an adulterated or substituted test result, the MRO will report to the Laboratory that the CDL employee has refused to take a drug test. Invalid test results will be canceled and, depending on the circumstances, may subject a CDL employee to additional testing.

- H. If the CDL/ safety sensitive employee wants the split specimen to be tested by another certified testing lab, the CDL employee should tell the MRO within seventy-two (72) hours of notice of the CDL employee's test results. The Laboratory will require the CDL employee to pay for or reimburse the Laboratory for the costs of the split specimen testing. If the second testing lab fails to reconfirm a positive test or that the specimen was adulterated or substituted, the MRO will cancel the test results and the CDL employee will be reimbursed by the Laboratory for the cost of the split specimen testing. If the split specimen is not available for testing, the CDL employee will be required to provide another specimen under direct observation. If the second testing lab confirms a positive or that the specimen was adulterated or substituted, the CDL employee will be subject to the consequences described in Section 6. After completing the medical review process, the MRO will disclose the test results to the Laboratory. The CDL employee can get a copy of the results from the Laboratory.
- I. All specimens deemed positive, adulterated, substituted, or invalid by the testing laboratory, according to the prescribed guidelines, must be retained at the testing laboratory for a period of one (1) year.
- J. The parties agree that in the event of further federal or state legislation, or federal or state regulations providing for revised methodologies or requirements, those revisions shall, to the extent they impact this Agreement, unless mandated, be subject to mutual agreement by the parties.
- K. All drug testing shall be conducted in conformity with DOT rules under 49 CFR Part 382, and 49 CFR Part 40. This includes, but is not limited to, chain of custody and split specimen procedures.

7. Prescription and Non-prescription Medications

If an employee is taking a prescription or non-prescription medication in the appropriate described manner he/she will not be disciplined so long as the employee informed the Laboratory's medical department to the extent, if any, required by Section 4, Subsection E of this Article. Medications prescribed for another individual, not the employee, shall be considered to be illegally used and subject the employee to discipline.

8. Paid-for Testing Time

Employees subject to testing and selected for alcohol or urine drug testing (other than return to duty testing) shall be compensated at the regular straight time hourly rate of pay in the following manner provided that the test is negative:

1. For all time at the collection site.
2. For travel time both ways between the Laboratory's facility and the collection site.
3. The Laboratory will make every effort to schedule the employee to go for the alcohol or urine drug testing during the employee's shift, provided the collection site is open during the employee's shift.
4. The Laboratory shall provide transportation to and from the testing location.

9. Voluntary Request for Assistance

The Laboratory shall take no adverse employment action against any CDL/ safety sensitive employee who voluntarily seeks treatment, counseling or other support for an alcohol or drug related problem, other than the Laboratory may require reassignment of the employee with his regular rate of pay if he is unfit for duty in his current assignment. However, the protection afforded by this Section shall not be available if the request follows an order to submit to testing, the automatic pendency of an order to submit to testing (e.g., post-accident test), having already been caught in violation of Section 4 or if the employee acted in violation of rules of conduct which otherwise provide an independent basis for disciplinary action. The foregoing is conditioned upon:

- a. The employee agreeing to appropriate treatment as determined by the SAP;
- b. The employee discontinues his abuse of alcohol or prescription medication or use of illegal drugs;
- c. The employee completes the course of treatment prescribed, including an "after-care" group as directed by the SAP;
- d. The employee agrees to submit to unannounced testing during hours of work as directed by the SAP, during the period of "after-care."

Employees who do not agree to or act in accordance with the foregoing shall be subject to discipline, up to and including discharge. This policy shall not be construed as any obligation on the part of the Laboratory to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employees' current use of alcohol or drugs prevents such individual from performing the duties of his assigned position or whose continuance on active status would constitute a direct threat to the property and safety of others. Such employee shall be afforded the opportunity, at his option, to use accumulated paid leave or take an unpaid leave of absence

pending treatment.

10. Confidentiality

Information and records relating to CDL/ safety sensitive employees' test results and medical information shall be kept confidential and maintained in files separate from employee personnel files. Such records and information may be disclosed to CDL employees or any other third party designated in writing by a CDL employee, the MRO, a SAP, a physician or other health care provider responsible for determining the medical qualifications of a driver under a DOT safety regulation, to and among the Laboratory's employees on a need to know basis consistent with HIPAA, to the decision maker in a grievance, administrative proceeding, lawsuit, or other legal proceeding, the DOT, the DOE, the National Transportation Safety Board, or as required or otherwise permitted by law.

The drug policy applies to subcontractor personnel and other persons on assignment at the Laboratory. Violation or refusal to abide by this policy can result in the Laboratory barring such personnel from the Laboratory facilities.

Date policy last reviewed: August 2015