

**U. S. DEPARTMENT OF TRANSPORTATION AND
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION REGULATIONS
(49 CFR PART 40 and 49 CFR PART 382)**



**SUBSTANCE ABUSE
AND ALCOHOL MISUSE
POLICY AND PROCEDURES**

Omaha Track, Inc.

Effective Date: October 20, 2017

Table of Contents

Introduction	1
I General	
A. Policy and Purpose.....	2
B. Omaha Track Responsibilities	2
C. Notification	3
D. Implementation	3
II Requirements	
A. Categories of Drivers Subject to Testing.....	4
B. Participation as a Requirement of Employment	5
C. Required Hours of Compliance	5
D. Prohibited Behavior	6
E. Circumstances for Testing	6
F. Behavior that Constitutes a Refusal to Submit to a Test	8
G. Consequences with an Alcohol Concentration of 0.02 but less than 0.04....	9
H. Consequences of a Positive Test.....	9
III Testing Procedures	
A. Urinalysis Drug Testing.....	10
B. Evidential Breath Testing	15
IV Record Management, Results Reporting and Confidentiality	
A. Retention of Records.....	19
B. Management Information System (MIS) Reporting.....	20
C. Access to Facilities and Records.....	20
D. Medical Review Officer Notification	20
E. Employee Notification	20
F. Release of Test Information by Previous Employer	21
V Employee/Supervisor Education and Substance Abuse Professional Referral	
A. Employee Education	23
B. Supervisor Training	23
C. Substance Abuse Professional (SAP) Referral	23

Appendices

A Omaha Track Drug and Alcohol Free Workplace Policy

B Responsible Parties

C Definitions

Substance Abuse and Alcohol Misuse Policy and Procedures

Introduction

It is the intention of Omaha Track, Inc. (Omaha Track) to comply fully with 49 CFR Part 40 et seq. U.S. Department of Transportation Procedures for Transportation Workplace Drug and Alcohol Testing Programs effective August 1, 2001 as well as 49 CFR Part 382 et seq. of the Federal Motor Carrier Safety Administration's Controlled Substances and Alcohol Use and Testing Rule effective August 17, 2001. These Regulations are available on the internet at **www.dot.gov/ost/dapc** and **www.fmcsa.dot.gov**. Copies of both regulations will be available for inspection and review by contacting the Omaha Track's Designated Employer Representative (DER).

Regulation 49 CFR Parts 40 and 382, to be implemented together, state the drug and alcohol testing and program requirements for Commercial Driver License (CDL) drivers/operators, as explained in the Regulations and in this Policy. When the Department of Transportation's Regulations are amended and official guidance or interpretations are published, this Policy will be considered to be automatically amended to be consistent with those amendments, official guidance/interpretations. Omaha Track reserves the right to apply the amended requirements upon their effective date without giving prior notice to drivers and/or applicants, unless the notice is required by the Department of Transportation or other applicable law. The Omaha Track Designated Employer Representative (DER) will maintain records of the required changes and make them available upon request.

The Federal regulations take precedence over state or local law for all designated DOT safety-sensitive employees. State law that applies to criminal conduct is not preempted. If any part of this Policy is inconsistent with federal or state law, such law will control over the Policy solely with respect to the inconsistent provision and shall have no effect on the remainder of the Policy.

I. General

A. Policy and Purpose

1. Omaha Track is committed to maintaining the health and safety of all employees. Omaha Track also has an obligation to its employees, clients, customers and to the general public to provide a safe workplace. The use of controlled substances or the misuse of alcohol by employees is contrary to these high standards. Omaha Track recognizes that the use of illegal drugs, the illegal use of legal drugs, and/or the misuse of alcohol may compromise a person's health and job performance, is a safety hazard for the individual and his/her fellow workers, and may harm the Omaha Track business operations and the public at large.
2. The U. S. Department of Transportation (DOT); the U.S. DOT Federal Motor Carrier Safety Administration (FMCSA) regulations, 49 CFR Part 40 and 49 CFR Part 382, respectively; and apply to individuals who perform the safety-sensitive functions defined in the regulations and employed by Omaha Track.

This Policy and program is designed to meet the DOT/FMCSA requirements and to establish the Omaha Track Drug-Free Workplace.

3. Appendix A contains the Omaha Track Drug-Free Workplace Policy as it pertains to all employees. Appendix A also states the disciplinary actions that will be taken when an employee violates the requirements established in the FMCSA or company policy.

B. OMAHA TRACK Responsibilities

1. **Designated Employer Representative (DER)** – Omaha Track will name a responsible person (DER) for overall management of this Policy. **Appendix B contains the name and telephone number of all OMAHA TRACK responsible parties.** The DER and other Omaha Track designated individuals will be responsible for the implementation and management of the controlled substance and alcohol use and testing Policy and Procedures. The DER and the company's third-party program administrator will be responsible for providing oversight of Omaha Track's program to ensure all company and regulatory requirements are met. All program records will be maintained by the DER or his/her designated representative. Prior to inclusion in the program, all affected employees will be made aware of the provisions of this Policy.
2. **Supervisors, Drivers and Omaha Track Officials** – Responsible Omaha Track supervisors, officials and employees will receive training and education concerning this Policy and the requirements of 49 CFR Part 40 and 49 CFR Part 382, respectively. Supervisors and responsible officials will receive the required training in order to allow them to make reasonable suspicion testing decisions. Employees/drivers will receive the required training on the administration of the program and the health effects of use/misuse of alcohol or controlled substances.

3. **Notice of Test(s)** – Before performing each alcohol or controlled substances test under this Policy, Omaha Track will notify the driver if the alcohol or controlled substances test is required by the FMCSA Regulations. The driver/employee will not be required to sign a consent to test statement.
4. **Testing Procedures** – Omaha Track will ensure that all alcohol or controlled substance testing conducted under this Policy is conducted in accordance with 49 CFR Part 40 procedures.

C. Notification

Omaha Track's Controlled Substances and Alcohol Use and Testing

Policy and Procedures shall be included with the appropriate company material provided to drivers. Omaha Track's Policy will be posted in prominent locations that are readily accessible to all drivers. All drivers will be provided a complete copy of the company's Policy and Procedures, and information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, and referral.

D. Implementation

This Policy was implemented on October 10, 2017.

II. Requirements

A. Categories of Drivers Subject to Testing

1. FMCSA regulations apply to every person and to all employers of such persons who operate a commercial motor vehicle (CMV) in commerce in any State, and are subject to:
 - a. The commercial driver's license (CDL) requirements
 - b. The Licencia Federal de Conductor (Mexico) requirements; or
 - c. The commercial driver's license requirements of the Canadian National Safety Code.
2. An employer who employs himself/herself as a driver must comply with both the requirements that apply to Omaha Truck under Part 382 and the requirements that apply to drivers under that same Part 382. An employer who employs only himself/herself as a driver must implement a random alcohol and controlled substances testing program with two or more covered employees in the random selection pool.
3. Applicants seeking positions as drivers or applicants that wish to be transferred to a safety-sensitive position are also subject to the FMCSA requirements. Applicants are considered employees within the meaning of 49 CFR Parts 382 and 40.
4. The categories of drivers covered include any person (volunteer or paid) who operates a CMV and is required to have a CDL. This includes, but is not limited to,
 - a. Full-time, regularly employed drivers
 - b. Leased drivers
 - c. Independent owner-operator contractors (employed directly or leased)
 - d. Casual, intermittent, or occasional drivers.
5. The following employers and their drivers do not have to comply with Part 382:
 - a. Those required to comply with the alcohol and/or controlled substances testing requirements of the Federal Railroad Administration alcohol and controlled substances testing regulations;
 - b. Those required to comply with the alcohol and/or controlled substances testing requirements of the Federal Transit Administration alcohol and controlled substances testing regulations;
 - c. Those who a state must waive from the requirements of Part 383. These individuals include active duty military personnel; members of the reserves; and members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training and national guard military technicians (civilians who are required to wear military uniforms), and active duty U.S. Coast guard personnel; or
 - d. Those who a state has, at its discretion, exempted from the requirements of Part 383 of the FMCSA such as:

- (1) Operators of a farm vehicle which is
 - (a) Controlled and operated by a farmer;
 - (b) Used to transport agricultural products, farm machinery, farm supplies, to or from a farm;
 - (c) Not used in the operation of a common or contract motor carrier; and
 - (d) Used within 241 kilometers (150) miles of the farmer's farm.
- (2) Firefighters or other persons who operate commercial motor vehicles which are necessary for the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulation.

B. Participation as a Requirement of Employment

Participation in the Omaha Track controlled substances and alcohol testing program is a requirement for each applicable current driver and other employees in positions that Omaha Track has classified as safety sensitive. Therefore, the participation in the program is a condition of employment.

C. Compliance Workday

Drivers and other employees who may not have the title of driver, but who sometimes operate a CMV, must be included in the Omaha Track program. These employees are subject to drug and alcohol testing when they are at work and performing "safety-sensitive functions." These functions are defined as:

1. 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 Omaha Track. This includes employees who are "eligible" at work to drive a CMV at any time, e.g., sales persons, clerks, administrative support, supervisors.
2. All time inspecting equipment as required by Part 392.7, "Equipment, Inspection, and Use," and 392.8, "Emergency Equipment and Use," or otherwise inspecting, servicing, or conditioning any CMV at any time.
3. All driving time, which is any time spent at the driving controls of a CMV in operation.
4. All time, other than driving time, in or upon any CMV, except time spent resting in a sleeper berth (if applicable).
5. All time loading or unloading a vehicle, supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance for, or remaining with a disabled vehicle.

Furthermore, a driver must not consume alcohol while on duty, eight hours prior to on duty time, and up to eight hours following an accident or until he/she undergoes a Post-accident test, whichever occurs first.

A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the ability to safely operate a CMV.

D. Prohibited Behavior - Alcohol

Alcohol is a legal substance; therefore, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited as follows:

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02 or greater or if the driver tests positive for controlled substances.
2. Being on duty or operating a commercial motor vehicle (CMV) while the driver possesses alcohol or illegal drugs, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
3. Using alcohol or illegal drugs while performing safety-sensitive functions.
4. When required to take a Post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a Post-accident test, whichever comes first.
5. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion or follow-up testing requirements.
6. Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses alcohol and/or any controlled substance except when instructed by a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV. The Company may require a driver to inform the Company of any therapeutic drug use.

E. Circumstances that Require Testing

1. **PRE-EMPLOYMENT TESTING.** All applicants for employment on a permanent or temporary basis as CMV drivers who require CDLs, or current employees who wish to remain CDL drivers, must be given pre-employment tests for controlled substances. A Pre-employment test is also required each time a driver returns to work after a layoff period when the driver has not been subjected to random controlled substances testing for more than 30 days or has been employed by another entity.

2. **REASONABLE SUSPICION TESTING.** FMCSA regulations require testing of a driver if a trained supervisor has reasonable suspicion that the driver has used a controlled substance or has misused alcohol. A supervisor's decision to conduct a Reasonable Suspicion Test must be based on specific (an identifiable event/observation), contemporaneous (the event/observation and initiation of the test must be in the same time frame), articulable (must be able to clearly describe the event/observation) observations concerning the appearance, behavior, speech, or body odor of the driver. Reasonable Suspicion alcohol testing is permissible only if the supervisor's observations are made during, just preceding, or just after the driver is performing safety-sensitive functions or is attempting to perform safety-sensitive functions. A driver may be tested for controlled substances under reasonable suspicion based on observations at any time the driver is on duty.

If the Company has actual knowledge that a driver is using alcohol or has used a controlled substance while performing safety-sensitive functions, the Company will not permit the driver to perform or continue to perform safety-sensitive functions.

3. **POST-ACCIDENT TESTING.** The FMCSA regulations require testing in specific accidents that involve a CMV that requires a driver who holds a CDL. A DOT reportable accident is defined as an occurrence involving a CMV operating on a public road that results in:
 - a. A fatality.
 - b. The driver being issued a citation and:
 - i. There was an injury that resulted in the immediate medical treatment of a participant away from the scene of the accident.
 - ii. As a result of the accident, one or more motor vehicles incurred disabling damage that required one or both to be transported away from the scene by a tow truck or another vehicle.

Any driver involved in an accident or incident will be subject to Post-accident testing regardless of fault.

Post-accident Tests must be performed as soon as possible. Controlled substances tests must be performed within 32 hours following the accident. Alcohol tests should be performed within 2 hours and must be performed within 8 hours of the accident. If unable to conduct the alcohol test within 2 hours, a record will be maintained stating the reason a test was not promptly administered. If unable to conduct the alcohol test within the 8 hour period, no further attempts to administer the test will be undertaken and a record of the reasons the test wasn't administered will be maintained.

Drivers subject to post-accident testing shall remain readily available for such testing or they may be deemed to have refused to submit to testing. Drivers subject to post-accident testing must refrain from using alcohol for 8 hours following the accident or until completing a post-accident alcohol test, whichever comes first.

TREAT INJURIES FIRST. Accident victims' health and safety are always a higher priority than conducting an alcohol or controlled substances test.

4. **RANDOM TESTING.** The FMCSA regulations require random testing for all drivers subject to the CDL requirements. Random testing identifies drivers who use controlled substances or misuse alcohol who might otherwise escape notice and avoid testing. The random testing is done on different dates and at different times to prevent drivers from coordinating their controlled substances and alcohol use to the random testing schedule. Random testing is considered to be the strongest deterrent to drivers' use of drugs and alcohol.
5. **RETURN-TO-DUTY TESTING.** If Omaha Track's Policy allows an individual to return to work in a safety-sensitive function following certain prohibited conduct—a verified positive controlled substances test result, an alcohol result of 0.04 or greater, a refusal to submit to a test, or any other activity that violates provisions of the rule—that driver must first be evaluated by a Substance Abuse Professional (SAP), participate in any treatment program prescribed, and pass a controlled substances and/or alcohol Return-to-duty Test. The driver must have a verified negative controlled substances test result or an alcohol test result of less than 0.02 to return to a safety-sensitive function.
6. **FOLLOW-UP TESTING.** Once allowed to return to duty, a driver for whom treatment was recommended must be subject to unannounced follow-up testing for at least 12 months, but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the driver has returned to duty. Follow-up testing is separate from and in addition to the regular random testing program. Drivers subject to follow-up testing must remain in the standard random pool and must be tested when selected.

F. Behavior that Constitutes a Refusal to Submit to a Test

A refusal to submit to a test includes: refusing to take the test; inability to provide sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation; tampering with or attempting to adulterate the specimen; interfering with the collection procedure; not immediately reporting to the collection site; failing to remain at the collection site until the collection process is complete; having a test result reported by an MRO as adulterated or substituted; or leaving the scene of an accident without a valid reason before the tests have been conducted.

A refusal to test is treated like a positive test and the individual must be immediately removed from his/her safety-sensitive position. Termination of employment will follow a refusal to test.

G. Consequences for Drivers with an Alcohol Concentration of 0.02 or Greater, but Less Than 0.04

No action shall be taken under DOT or FMCSA authority against the driver based solely on test results of alcohol concentration results of less than 0.02.

Any driver who has an alcohol concentration of 0.02 or greater, but less than 0.04 shall not perform or continue to perform safety-sensitive functions until 24 hours following the administration of the test. No other action will be taken under FMCSA or DOT authority against the driver based solely on test results showing an alcohol concentration of less than 0.04. However, the driver will be terminated as stated in the Omaha Track Drug and Alcohol Free Workplace policy.

H. Consequences of a Positive Test

1. Alcohol. Drivers who engage in prohibited alcohol conduct must be immediately removed from safety-sensitive functions. Drivers who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a Substance Abuse Professional (SAP) and complied with any treatment recommendations to assist them with an alcohol problem. To further safeguard transportation safety, drivers who have any alcohol concentration between 0.02 and 0.39 when tested just before, during or just after performing safety-sensitive functions must be removed from performing such duties and will be terminated under the Omaha Track Drug & Alcohol Workplace Policy.
2. Drug. A driver 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 driver and determined that the positive drug test resulted from the unauthorized use of a controlled substance. A driver cannot be returned to safety-sensitive duties until he/she has been evaluated by a Substance Abuse Professional (SAP), has complied with recommended rehabilitation, and has a negative result on a Return-to-duty drug test. Follow-up testing to monitor the driver's continued abstinence from drug use is also required.

If a trained supervisor feels there is reasonable suspicion to perform a test and it cannot be done – thus no result is available to use for decision making – the driver must be removed from performing safety-sensitive duties for at least 24 hours.

III. Testing Procedures

A. Urinalysis Drug Testing

The United States Department of Transportation, along with the United States Department of Health and Human Services, and the Department of Labor have established program and procedure requirements that are generally accepted as the “gold standard” for drug and alcohol testing programs. These are the Procedures listed in this handbook.

1. The Specimen Collection Process and Safeguards

Once an employee is notified that he/she has been identified as requiring a test, he/she should proceed **immediately** to the collection site; **the generally accepted time for transportation is 15-30 minutes**. If the employee is identified under reasonable suspicion a ride will be provided. Once the employee arrives at the collection site, the following steps should be followed:

- The collector will have prepared the collection site by ensuring all collection supplies are available, the area is properly secured, water sources are secured and a bluing agent has been placed in the toilet.
- The collector will request that the employee present an acceptable picture ID. If the employee cannot produce positive identification, the collector must contact the Designated Employer Representative (DER) to verify the identity of the employee. The employee may also ask the collector to provide identification.
- The collector must have an approved Custody and Control Form (CCF). The DOT mandates the type of form for testing of transportation workers.
- The collector explains the basic collection procedures to the employee and reviews the instructions on the back of the CCF with the employee.
- The collector ensures that the required information is provided at the top of the CCF (the laboratory name and address; a pre-printed specimen ID number which matches the ID number on the specimen bottle seals; Omaha Track’s name, address, telephone, fax number; employee SSN or employee ID number; reason for test; drug test to be performed, collection site information and the Medical Review Officer’s (MRO) name, address, phone & fax number.)
- The collector asks the employee to remove any unnecessary outer clothing (e.g., coat, jacket, hat, etc.) and to leave any briefcase, purse, or other personal belongings he or she is carrying with the outer clothing. The employee may retain his or her wallet.
- The collector directs the employee to empty his or her pockets and display the items to ensure that no items are present that could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee places the items back into the pockets and the collection procedure continues.
- The collector instructs the employee to wash and dry his or her hands, under the collector’s observation, and informs the employee not to wash his or her hands again until after the employee provides the specimen to the collector. The employee must

not be allowed any further access to water or other material that could be put into the specimen.

- The collector either gives the employee or allows the employee to select the collection kit or collection container. Either the collector or the employee, with both present, then unwraps or breaks the seal of the kit or collection container.
- The collector directs the employee to go into the room used for urination, and provide a specimen of at least 45 ml. The employee is instructed not to flush the toilet, and to return with the specimen as soon as possible after completing the void.
- After the employee gives the specimen to the collector, the collector must check the temperature of the specimen, check the specimen volume, and inspect the specimen for adulteration or substitution.
- If temperature, volume, and the inspection are within acceptable ranges, the collector unwraps/opens the specimen bottles.
- The collector then pours at least 30 ml. of urine from the collection container in a specimen bottle and places the lid/cap on the bottle. This will be the primary specimen or “A” bottle. The collector then pours at least 15 ml. of urine into a second bottle and places the lid/cap on the bottle. This will be the “B” bottle used for the split specimen. Should the “A” specimen test positive, the employee will have the option to have the split or “B” specimen tested to confirm the positive test result.
- The collector then removes the tamper-evident seals from the CCF and places them on each bottle, ensuring that the seal labeled “A” is placed on the primary bottle with at least 30 ml. of urine and that the seal labeled “B” is placed on the bottle of 15 ml. of urine. The employee is then asked to initial the seals. The employee must be present to observe the sealing of the specimen bottles. The collector can then tell the employee that he/she can wash their hands.
- The collector directs the employee to read, sign, and date the certification statement and provide date of birth, printed name, and day and evening contact telephone numbers in Step 5 on Copy 2 of the CCF.
- The collector completes the collector’s portion of the chain of custody on the CCF by printing his or her name, recording the date and time of the collection, signing where indicated, and entering the specific name of the delivery or courier service transferring the specimen to the laboratory.
- The collector then ensures that all copies of the CCF are legible and complete. The collector removes Copy 5 from the CCF and gives it to the employee.
- The collector places the specimen bottles and Copy 1 of the CCF inside the appropriate pouches of the leak-resistant plastic bag, and seals both pouches. The collector then informs the employee that he/she may leave the collection site.
- The collector places the sealed plastic bag in an appropriate shipping container designed to minimize the possibility of damage during shipment and turns the container over to the shipping service to be transported to the laboratory.
- The collector then sends Copy 2 of the CCF to the MRO and Copy 4 to the DER. The collector retains Copy 3 of the CCF.

It should be noted that the entire collection process is designed to ensure the integrity of the specimen and assure the individual that the specimen being shipped to the laboratory is indeed his/her own. Under DOT guidelines, the collector must be trained and certified to do the collection. This certification must be renewed every 5 years. Throughout the process, only sealed/sterile containers are utilized and the individual is allowed to observe their unsealing and resealing. The employee is also present and observing every step the collector is taking. Indeed, the employee actually acknowledges the integrity of his/her collection by observing the process and then signing or initialing that it has been accomplished properly.

2. The Laboratory Drug Testing Process

The DOT requires that only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) may be used. All certified laboratories will follow the procedures and processes outlined in this manual.

Once the laboratory receives the specimen from the collection site, safeguards such as those found in the collection process are in place to ensure the privacy of the individual and the integrity of the testing process. Essentially all of the processes in the laboratory work from a bar code system that, for all intents and purposes, eliminates the possibility of human error.

There are always two different tests before a specimen can be verified as positive. Those processes are referred to as an initial screening test and a completely separate confirmation test. The following briefly describes these two test processes.

a. The Initial Drug Test

An important safeguard of the drug testing process is the establishment of “cut-off” levels for each drug. This simply means that research has demonstrated that when the amount of drug found in a given specimen is at, or above, the established “cut-off” level, that level could not have been reached by other than intentional ingestion.

Every specimen must first be analyzed using a type of chemical testing called immunoassay testing. The testing chemicals themselves must have been approved for commercial distribution by the Food and Drug Administration (FDA). In this case, the initial immunoassay test is used to eliminate or “screen out” “negative” specimens from further consideration, and to identify the “presumptive” positive specimens that require a separate confirmation test. A specimen is considered “negative” if it contains no drug or its concentration of a drug is less than the cut-off level for that drug or drug class.

b. The Confirmation Test

All specimens identified as positive on the initial test must be confirmed positive using gas chromatography/mass spectrometry (GC/MS) before a positive result can

be reported. GC/MS is a combination of two different analytical techniques. Gas chromatography physically separates the various substances that have been extracted from a specimen. Mass spectrometry is the technique used to provide a positive identification of substances that were separated by the gas chromatograph. This separation and measurement process will give a precise measurement of the amount of drug present in the specimen. The measurements are in parts per billion and extremely accurate.

c. Certified Laboratory Safeguards

To further ensure that the integrity of the testing process is maintained, laboratories conducting the tests are required to be “certified” by the U.S. Department of Health and Human Services. These “certified” laboratories must pass an initial inspection of their equipment and procedures before certification and then are subject to two compliance inspections each year. Should a laboratory fail to pass an inspection, it is required to correct any deficiencies and, depending on the deficiency, may lose its certification and ability to conduct DOT drug testing.

Because a positive drug test can have a significant impact on an individual and his career, the federal government has gone to great lengths to ensure the accuracy and safety of the drug testing process. In addition to establishing the standards for testing previously described, additional safeguards have been built into the testing system. These safeguards are collectively called “validity” testing. This testing requires the laboratory to perform additional tests to ensure that the specimen is indeed human urine and that it has not been tampered with or adulterated with a foreign substance. The following tests are required on urine specimens:

- **Specific Gravity** – This test measures the concentration and amount of substances dissolved in the urine. If the concentration of solids in the urine is not above the regulated pre-determined level, the specimen is considered either dilute or substituted. This result may trigger the requirement for additional testing.
- **Creatinine** – If the amount measured in urine is below the regulated level, the specimen is considered either diluted or substituted. This result may trigger the requirement for additional testing.
- **Nitrite** – If the concentration of this chemical is above the established regulated cut-off level, the specimen will be considered adulterated. This result may trigger the requirement for additional testing.
- **pH ≤ 3 or ≥ 11** – If the specimen is outside of these pH parameters, it will be considered adulterated. (pH is a measure of the level of acidity in the urine.) This result may trigger the requirement for additional testing.
- **Substances not normally found in urine** – If a chemical substance in the specimen is interfering with the testing process and prevents the laboratory from making a determination concerning presence or absence of drugs, the specimen may be considered adulterated. The laboratory may then conduct additional tests

to determine what the substance is and/or send it to another certified laboratory for testing.

3. The Medical Review Process

The DOT mandates that the laboratory test results be reported out to a Certified Medical Review Officer (MRO) who is responsible for interpreting the test results, consulting with the donor if needed, and reporting them to the DER. A Certified Medical Review Officer is a Medical Doctor (MD) or a Doctor of Osteopathy (DO) specifically trained in the interpretation of test results. This includes knowledge of substance abuse disorders and appropriate medical training, so that this professional is able to interpret and evaluate an individual's confirmed positive test result, in tandem with his medical history and any other relevant biomedical information.

The MRO performs the following functions:

- Receives all of the results of controlled substances tests from the laboratory.
- Reviews the CCF to ensure its accuracy.
- Reviews and interprets an individual's confirmed positive, adulterated, substituted, or invalid test result by reviewing the individual's medical history, including any medical records and biomedical information provided, and affording the individual an opportunity to discuss the test result. The MRO decides whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- Reports each verified test result to the DER.
- Maintains all necessary records and sends the test results to the DER.
- Protects the individual's privacy and testing program confidentiality.
- Contacts the individual directly (i.e., actually talks to the individual), on a confidential basis, to determine whether the individual wants to discuss the test result and provide a legitimate reason for the positive test. In making this contact, the MRO must explain to the individual that, if he declines to discuss the result, he will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.
- Notifies individuals who have verified positive tests that they have 72 hours in which to request a test of the split specimen. If requested, directs the original testing laboratory, in writing, to ship the split specimen to another certified laboratory for analysis.
- If, after appropriate review, the MRO concludes that no legitimate medical reason exists for a confirmed positive test, and that the CCF and laboratory procedures were correct, the MRO must report the verified positive test and the identity of the substance(s) to Omaha Track.

4. The Substance Abuse Professional (SAP)

Under DOT rules, any individual who has a verified positive controlled substances test result or has refused to be tested must be immediately removed from his safety-sensitive position. In addition, he must be advised of the resources available to evaluate and resolve

problems associated with controlled substances use, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. The individual must also be evaluated by a SAP who shall determine what assistance the employee needs in resolving problems associated with controlled substances use.

Under DOT rules, an SAP evaluation is required when an employee has violated DOT drug and alcohol regulations. Employers are not required to provide an SAP evaluation or any subsequent recommended education or treatment for an individual who has violated the DOT drug and alcohol regulations. However, if the employer offers the employee an opportunity to return to his DOT covered duties, the employer must ensure, before the individual again performs that duty, that the employee receives an evaluation by an SAP and that the employee successfully complies with the SAP's evaluation recommendations.

B. Evidential Breath Alcohol Testing

The DOT mandates alcohol testing of covered safety-sensitive employees in certain situations.

1. The Evidential Breath Testing (EBT) Device

An EBT is a breath testing device that is capable of measuring a person's blood alcohol concentration. It must be capable of conducting an air blank and performing an external calibration check. The EBT must:

- Produce a printed result in triplicate.
- Print a unique and sequential identifying number for each completed test, which the Breath Alcohol Technician (BAT) and the employee are able to read before each test, and then print the number on each copy of the result.
- Print, on each copy of the result, the manufacturer's model or name for the device, the device's serial number, and the time the device performed the test.
- The EBT must have a manufacturer-developed quality assurance plan approved by the National Highway Traffic Safety Administration (NHTSA).

To protect the integrity of the test and to ensure accurate results, the procedures for conducting an alcohol test are rigorous. Alcohol tests are considered invalid when the following occur:

- The external calibration check of the EBT produces a result outside the allowed tolerance levels.
- The BAT does not wait 15 minutes between the screening and confirmation tests.
- A valid air blank test that registers 0.00 is not performed before each confirmation test.
- The alcohol test form with the attached EBT printout is not completed correctly. Employee, Saliva Test Technician (STT), and BAT signatures, and relevant STT and BAT remarks are not included.

- The EBT fails to print the confirmation results, the sequential test number displayed by the device is not the same as the number on the printout, or the alcohol concentration displayed on the EBT is different from that which is printed out on the result.

2. The Collection Process

Alcohol tests should be conducted at a site that provides privacy to the employee being tested. The testing site must be secured, with no unauthorized access at any time when the Alcohol Screening Device (ASD) and/or the Evidential Breath Testing (EBT) Device is unsecured or when testing is occurring. The BAT must conduct only one test at a time and must not leave the testing site while the preparations for testing or the test itself are in progress.

The following procedures must be used in conducting the test:

- The employee must provide positive identification to the Saliva Test Technician (STT) or BAT. The identification can be in the form of a company photo identification card, a driver's license, or identification by an Omaha Track representative.
- The BAT/STT must explain the testing procedures to the employee.
- The employee and BAT/STT must complete, date, and sign the alcohol testing form indicating that the employee is present and is providing a saliva or breath sample.
- The BAT will inform the employee of the need to conduct a screening test. The BAT must open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.
- The BAT will instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until an adequate amount of breath has been obtained.
- Following the screening test, the BAT must show the employee the result displayed on the EBT or the printed result.
- If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test is reported to the Omaha Track as a negative test.
- If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.
- The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.
- The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his mouth. The BAT will also instruct the employee not to belch (to the extent possible).
- The BAT will conduct an air blank test on the EBT before the confirmation test is administered. This test ensures there is neither residual alcohol in the device nor any alcohol in the air in the room.

- The confirmation test is conducted using the same procedures as the EBT screening test utilizing a new mouthpiece.
- The BAT will sign and date the form. The employee must sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater.
- The BAT will transmit all results to the DER in a confidential manner.
- The DER will notify Human Resources who coordinate with the manager to notify the employee of his/her employment status and information for a SAP referral.

3. The Initial Alcohol Test

Although a completely different process, the alcohol testing program also requires two separate tests to confirm a positive result. The initial sample must be collected through an Evidential Breath Testing Device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA), an approved saliva device, or a non-evidential breath test device (alcohol screening device [ASD]). All screening tests must be performed by either a trained Breath Alcohol Technician (BAT), or a Saliva Test Technician (STT) that is trained and credentialed.

For tests conducted on a saliva device, the following invalidates the result:

- The result is read before 2 minutes or after 15 minutes from the time the swab is inserted into the device.
- The device does not activate.
- The device is used for a test after the expiration date printed on its package.
- The STT fails to note on the alcohol testing form that the test was conducted using a saliva device.

4. The Confirmation Alcohol Test

The confirmation test must be conducted between 15 and 30 minutes after the end of the screening or initial test. The confirmation test must be performed using an Evidential Breath Testing device (EBT) that has been classified as such by NHTSA. The test must be performed by a certified BAT.

Alcohol and controlled substances testing shall be conducted in accordance with the procedures set forth in the DOT regulations 49 CFR Part 40 as amended and interpreted by official guidance from time to time.

Regulation 49 CFR Part 40 is available for review upon request to the DER. The regulation contains the procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver.

IV. Record Management, Results Reporting, and Confidentiality

A. Retention of Records

1. General requirements
 - a. Omaha Track shall maintain all alcohol and controlled substances testing information including test results and other appropriate records in a secure location with controlled access.
 - b. The DER shall maintain a secured file system that will contain the alcohol and controlled substances testing records. Files shall be maintained as confidential. Employee files shall be handled on a strict “need to know” basis.
2. Period of retention of records
 - a. The following records shall be maintained by Omaha Track or its DER for a period of five years.
 - (1) Records of alcohol test results with results indicating an alcohol concentration of 0.02 or greater;
 - (2) Records of verified positive controlled substances test results;
 - (3) Documentation of refusal to take a required alcohol or controlled substances tests;
 - (4) Driver evaluations and referrals;
 - (5) Calibration documentation for evidential breath testing (EBT) equipment;
 - (6) Records related to the administration of the alcohol and controlled substances testing programs; and
 - (7) A copy of each annual calendar year summary report.
 - b. Records related to the alcohol and controlled substances collection process (except calibration of EBT equipment) and training shall be maintained for a minimum of two years.
 - c. Records of negative and canceled controlled substances and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.
3. The following specific types of records shall be maintained:
 - a. Records related to the collection process, specifically:
 - (1) Collection logbooks, if used;
 - (2) Documents related to the random selection process;
 - (3) Calibration documentation for EBT devices;
 - (4) Documentation of Breath Alcohol Training (BAT);
 - (5) Documentation related to determination for reasonable suspicion testing;
 - (6) Documents related to decisions for post-accident testing;

- (7) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or urine specimen for testing; and
 - (8) Consolidated annual calendar year-end summaries.
- b. Records related to a driver's test results, specifically:
- (1) The employer's copy of the alcohol test form, including the results of the test;
 - (2) The employer's copy of the controlled substances test chain of custody and control form;
 - (3) Documents sent by the medical review officer to the Omaha Track;
 - (4) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test;
 - (5) Documents presented by a driver to dispute the result of an alcohol or controlled substances test;
 - (6) Records generated in connection with verifications of prior employers' alcohol or controlled substances test results.
- c. Records related to evaluations:
- (1) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and
 - (2) Records concerning a driver's compliance with recommendations of the substance abuse professional.
- d. Records related to education and training including:
- (1) Material on alcohol misuse and controlled substances use awareness, including a copy of Omaha Track's Policy and Procedures;
 - (2) Documentation of provision to each driver of information related to alcohol misuse and controlled substances misuse, training, and referral, including the driver's signed acknowledgement for educational materials and a copy of Omaha Track's controlled substances and alcohol use and testing Policy and Procedures;
 - (3) Documentation of training to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion; and
 - (4) Certification that training conducted complies with the training requirements required by the DOT.
- e. Records related to drug testing, specifically:
- (1) Agreements with collection site facilities, laboratories, medical review officers, and/or third-party program administrator;
 - (2) Name and positions of officials and their role in the company's alcohol and controlled substances testing program(s);
 - (3) Laboratory statistical summaries; and

- (4) The company's controlled substances and alcohol use and testing Policy and Procedures.

f. Location of records

All records shall be maintained at Omaha Track's principal place of business and shall be made available for inspection at that location after a request has been made by an authorized representative of the FMCSA.

B. Management Information System (MIS) Reporting

If requested by DOT, Omaha Track shall prepare an annual calendar year summary of the results of its alcohol and controlled substances testing programs performed under FMCSA requirements and submit such information by March 15 of the following year.

C. Access to Facilities and Records

1. Except as provided by law or expressly authorized by DOT and FMCSA regulations, the company shall not release driver information unless directed by the specific, written consent of a driver authorizing release of the information to an identified person.
2. Upon written request to the DER, a driver may obtain copies of any records pertaining to the driver's alcohol or controlled substances tests.
3. Omaha Track shall permit access to all facilities and records related to controlled substances and alcohol testing when requested by the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over Omaha Track or any of its drivers.
4. Records shall be made available to a subsequent employer upon receipt of a written request from the driver.

D. Medical Review Officer Notifications

Medical review officers shall report the results of controlled substances tests to Omaha Track in accordance with the requirements of 49 CFR Part 40. Regulation 49 CFR Part 40 is available for review from the Company DER.

E. Employee Notification

1. Omaha Track shall notify a driver (applicant) of the results of a Pre-employment Controlled Substance Test if the driver requests such results in writing within 60 calendar days of being notified of the disposition of the employment applicant.

2. Omaha Track shall notify a driver of results of Random, Reasonable Suspicion and Post-Accident Tests for controlled substances if the test results are positive. The company will also inform the driver which controlled substances were verified as positive.
3. The DER or a designated Omaha Track official shall make reasonable efforts to contact each driver to discuss results of a Controlled Substances Test, if the medical review officer has been unable to contact the driver.
4. The DER or designated Omaha Track official shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer.

F. Release of Test Information by Previous Employers

1. After obtaining the driver's written consent, Omaha Track must check on the drug and alcohol testing record of employees it is intending to have perform safety-sensitive duties. This requirement applies to new employee drivers and employee drivers who transfer into a safety-sensitive position.
2. Omaha Track will request DOT-regulated employers who have employed the driver for any period during the two years before the date of the driver employee's application to transfer the following information:
 - a. Alcohol tests with a result of 0.04 or higher alcohol concentration;
 - b. Verified positive drug tests;
 - c. Refusals to be tested (including verified adulterated or substituted drug test results);
 - d. Other violations of DOT agency drug and alcohol testing regulations;
 - e. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of the DOT return-to-duty requirements (including Follow-up Tests). If the previous employer does not have information about the return-to-duty process, the employee driver must provide this information to Omaha Track.
3. The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under 49 CFR Part 40 or other applicable DOT agency regulations.
4. Omaha Track may not use an employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions unless it has obtained or made and documented a good faith effort to obtain all of the foregoing information.
5. Omaha Track must ask the employee-driver whether he or she tested positive, or refused to test, on any Pre-employment drug or alcohol Test administered by another employer to which the employee applied for, but did not obtain, safety sensitive transportation work covered by any DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, Omaha Track

must not and will not use the employee to perform safety-sensitive functions unless and until the employee documents successful completion of the return-to-duty process. Omaha Track's Drug and Alcohol Free Workplace Policy (Appendix A) on this subject, if any, will also apply.

6. Omaha Track must not and will not have a covered person perform safety-sensitive functions if Omaha Track obtains information indicating he/she has tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test, unless Omaha Track has evidence the driver has been evaluated by a Substance Abuse Professional, completed the required assistance, intervention or treatment required, passed a Return-to-duty Test, and been subject to follow-up testing.

V. Employee/Supervisor Education, and SAP Referral

A. General Information and Employee Education

1. Prior to the start of alcohol and controlled substances testing under this Policy and procedure, and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle, a copy of this Policy and procedure and additional educational/informational materials will be provided.
2. Information provided to drivers will include material concerning the effects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation and referral.
3. The Omaha Track Policy and Procedures and informational materials provided to drivers will also be made available to representatives of various employee organizations.
4. Supervisors or designated Omaha Track officials shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of the company's controlled substance and alcohol use and testing Policy and Procedures and related informational materials. The signed statements shall be maintained by Omaha Track.

B. Training for Supervisors

1. All of Omaha Track's supervisors and personnel designated to determine whether reasonable suspicion exists to require a driver to undergo testing for alcohol misuse and/or controlled substance use shall receive at least 60 minutes of training on alcohol misuse and receive at least 60 minutes of training on controlled substance use.
2. Training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

C. Substance Abuse Professional Referral, Evaluation, and Treatment

1. Omaha Track will advise each driver who has been engaged in conduct prohibited by this Policy of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of Substance Abuse Professionals (SAPs) and counseling and treatment programs, (Appendix B).
2. A driver who has been engaged in prohibited conduct under this Policy and Procedures will not return to duty in a safety-sensitive function until the driver undergoes a Return-to-duty alcohol Test with a result indicating an alcohol concentration of less than 0.02 if

the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance. **Omaha Track's Drug and Alcohol Free Workplace Policy (Appendix A).**

In addition, each driver shall be evaluated a second time by a Substance Abuse Professional (SAP) to determine that rehabilitation prescribed has been properly followed, and shall be subject to unannounced follow-up alcohol and controlled substances testing as directed by the SAP.

3. Omaha Track will provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to the Company, with names, addresses, and telephone numbers. Omaha Track cannot charge the employee any fee for compiling or providing this list. Omaha Track may provide the list itself or through its C/TPA or another service agent.
4. Omaha Track will comply with all requirements of 49 CFR Part 40 Subpart regarding Substance Abuse Professionals and the Return-to-Duty Process. Regulation 49 CFR Part 40 is available for review from the Omaha Track's DER.

Appendix A

Omaha Track Drug and Alcohol Free Workplace Policy

Omaha Track considers drug and alcohol abuse a serious matter which will not be tolerated. The Company absolutely prohibits employees from using, selling, possessing, or being under the influence of illegal drugs, alcohol, or controlled substances or prescription drugs not medically authorized while at their job, on Company property, or while on work time. Therefore, it is the Company's policy that:

1. Employees shall not report to work under the influence of alcohol, illegal drugs, or any controlled substance or prescription drug not medically authorized.
2. Employees shall not possess or use alcohol, illegal drugs, or any controlled substance or prescription drug not medically authorized while on company property or on company business.

The Company also cautions against use of prescribed or over-the-counter medication which can affect an employee's ability to perform his/her job safely or the use of prescribed or over-the-counter medication in a manner violating the recommended dosage or instructions from the doctor. Employees must have a valid prescription for any prescription medication used by employees while working for the Company. You must inform your supervisor prior to working under the influence of a prescribed or over-the-counter medication that may affect your ability to perform your job safely. If the Company determines that the prescribed or over-the-counter medication does not pose a safety risk, you will be allowed to work. Failure to comply with these guidelines concerning prescription or over-the-counter medication may result in disciplinary action, up to and including termination of employment.

A violation of this policy will result in disciplinary action up to and including termination of employment.

A. Drug & Alcohol Testing

Omaha Track requires all new hires successfully complete a pre-employment drug test prior to their starting with the Company. Additionally, Omaha Track reserves the right to send employees for random, reasonable suspicion, and for cause drug and alcohol testing at the Company's discretion. The results of all drug and alcohol testing are treated confidentially. Employees who refuse to submit to drug and alcohol testing or test positive will be terminated from employment. Information will be provided in their termination letter on how to contact Omaha Track's employee assistance program for further information for rehabilitation and counseling services and referrals. Terminated employees may be considered for rehire in the event that they successfully complete a qualified treatment program.

B. Definition of Reasonable Suspicion

Reasonable suspicion for drug and alcohol testing is determined by management with the concurrence of Human Resources, and is based on facts providing a reasonable basis to believe that an employee's faculties may be impaired on the job, or that an employee may have used or possessed illegal drugs or otherwise violated the Drug & Alcohol Free Workplace policy. This determination may be based on a variety of factors, including but not limited to:

1. Direct observation, or reliable reports from coworkers or others
2. Possession of drugs or alcohol on the premises, or use of drugs or alcohol at work, prior to work, or on break during work hours
3. Behavior, speech, or other physical signs consistent with drug or alcohol impairment
4. A pattern of abnormal conduct or erratic behavior, which is not otherwise satisfactorily explained
5. Unexplained accidents or property damage which appear to be consistent with drug or alcohol impairment
6. A combination of some of the above factors, and/or other factors in the judgment of management

If there is a reasonable basis to believe that an employee has used illegal drugs on the job or on company premises but it cannot be determined which employee within a department or group is responsible, management may send the entire department or group for testing. Management's determination of whether reasonable suspicion exists shall be discretionary and shall be final.

Nothing contained in this policy shall be deemed to require management to call for an alcohol or drug test in any circumstance; the decision of whether or not to require a drug or alcohol test shall be left to management's sole discretion in each case.

C. Testing Process

All drug testing shall be conducted by a qualified testing service provider holding the required licenses and/or credentials in the state in which the testing is conducted. All applicable state requirements for the testing process shall be followed, including the nature of the sample tested (blood, urine, hair, etc.), the drugs for which the sample is tested, confirmatory testing, notification of and opportunity to explain results, and sample and record retention. The applicant and/or employee must sign any consent requested and provide any other requested information; failure or refusal to do so may result in discharge or denial of employment. An employee who is seriously injured and cannot provide a specimen or consent shall provide the necessary authorization to obtain hospital reports and other documents that may indicate whether there were any controlled substances or alcohol in his/her system.

D. Scheduling, Costs, & Paid Time

Testing shall, whenever reasonably possible, be conducted during or immediately before or after a regular work period. The time required to submit to testing shall be considered paid working time. All testing costs are paid by the Company.

Appendix B

Responsible Parties

Designated Employer Representative (DER):

Name: Jessica Dodd, Regulatory Compliance Administrator

Tel: (402) 505-9319

Third Party Administrator:

Name: Comp Choice

Tel: (402) 898-5600

Medical Review Officer (MRO):

Medical review of drug test results will be provided by below listed MRO under contract with USIS.

Name: Dr. Dean K. Wampler, MD (CompChoice)

Tel: (402) 898-5600

SAMHSA Certified Laboratory

Certified laboratory testing will be provided by the below listed laboratory under contract with Omaha Track's C/TPA

Name: Clinical Reference Laboratory

Tel: (800) 445-6917

Substance Abuse Professionals (SAP):

Name: Don Gillespie

Tel: (402) 391-2249

Appendix C

Definitions

Accident – means an occurrence involving a commercial motor vehicle operating on a highway (highway means any road, street, or way, whether on public or private property, open to public travel. “Open to public travel” means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class or registration. Toll plazas of public toll roads are not considered restrictive gates.) which results in:

- (1) A fatality;
- (2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (3) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or another vehicle.

Actual Knowledge – for the purpose of Subpart B of Part 382, means actual knowledge by a Company that a driver has used alcohol or controlled substances based on the Company’s direct observation of the employee, information provided by the driver’s previous Company(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee’s admission of alcohol or controlled substance use, except as provided in Section 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion under Section 382.307.

Adulterated specimen – is a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. If a specimen is reported by the laboratory to the Medical Review Officer to have been adulterated or substituted, the Medical Review Officer will offer the donor/employee/applicant the right to have his or her split specimen tested. If the Medical Review Officer reports that the donor/employee/applicant has a verified adulterated test result, it is considered a refusal to take a drug test. A refusal to take a drug test results in consequences specified under DOT Agency regulations for violation of those DOT agency regulations. The Company’s disciplinary policy and consequences for a positive test for refusal to submit to testing also applies.

Alcohol – is the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) – means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

Alcohol use – means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Breath Alcohol Technician (BAT) – is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Commercial motor vehicle – is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle-

- (1) Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of hazardous materials requiring placards.

Confirmation (or confirmatory) drug test – is a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation test – for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substances testing, means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test – means a second test performed on a urine specimen to further support a validity test result. Validity testing determines whether a specimen is adulterated or substituted. An adulterated specimen means that a) a specimen contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. A substituted specimen means that the specimen's creatinine and specific gravity values are so diminished that they are not consistent with human urine.

Confirmed drug test – means that a confirmation test result is received by an MRO from a laboratory.

Consortium/Third Party Administrator (C/TPA) – means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated Companies. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the Company's drug and alcohol testing programs. This term includes, but is not limited to, groups of Companies who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g.; having a combined random testing pool.) C/TPAs are not "Companies" for purposes of 382 of the FMCSA Regulations.

Chain of custody – the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Custody and Control Form (CCF).

Designated Employer Representative (DER) – is an individual identified by the Company as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

Dilute specimen – is a specimen with creatinine and specific gravity values that are lower than expected for human urine. If a specimen is reported by the laboratory to the Medical Review Officer as a dilute negative, the Company may require the donor/employee/applicant to submit to another unobserved collection immediately. The result from the second collection will become the test of record. A third or further collection is not permitted. Each type test and donor, employee or applicant category will be treated the same under this Policy. Note that a dilute specimen may possibly be due to: 1) a medical condition; 2) the donor normally consumes large amounts of fluid; or 3) the donor hydrated in an attempt to reduce the level of detection on a drug test.

The foregoing notwithstanding, effective May 28, 2003, when the MRO gets a report from the laboratory that the creatinine level in a specimen is greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL, the MRO will report the specimen to the Company as “dilute”, just as if the creatinine concentration were greater than or equal to 5 but less than 20 mg/dL (and also negative or positive, as provided in 49 CFR Part 40.155).

When the MRO gets a report from the laboratory that the creatinine level in a specimen is 2 mg/dL or above but less than or equal to 5 mg/dL, the MRO will report the test as dilute and must also direct the Company to require the employee to undergo an immediate recollection under direct observation. The Company must ensure that this recollection takes place. This procedure for specimens in the 2-5 mg/dL creatinine concentration range will ensure that people who may naturally produce low creatinine levels will not be reported to the Company as having substituted their specimens.

Disabling damage – means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusions – Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions –
 - (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - (ii) Tire disablement without other damage even if no spare tire is available.
 - (iii) Headlight or taillight damage.
 - (iv) Damage to turn signals, horn or windshield wipers which make them inoperative.

DOT Agency – means an agency (or “operating administration”) of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR Parts 199, 219, 382, and 655), in accordance with part 40 of this title.

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.

Drugs – means the drugs for which tests are required under 49 CFR Part 40 and 49 CFR Part 382 FMCSA Regulation are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

Employee – any person who is designated in a DOT agency regulation such as that of the FMCSA as subject to drug testing and/or alcohol testing. **The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing.** For purposes of drug testing, the term employee has the same meaning as the term “donor”.

Employer – means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not EMPLOYERS for the purposes of this part.

Evidential Breath Testing device (EBT) – a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA’s “Conforming Product’s List of Evidential Breath Measurement Devices” (CPL) and identified on the CPL as conforming with the model specifications available from NHTSA’s Traffic Safety Program.

Licensed medical practitioner – means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Medical Review Officer (MRO) – a licensed physician (medical doctor or doctor of osteopathy) qualified to act as an MRO under 49 CFR Part 40 by possessing the required (a) credentials, (b) basic knowledge, and (c) receiving qualification training meeting the requirements of 40 CFR Part 40.

Performing (a safety-sensitive function) – any period in which the driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Refuse to submit (to an alcohol or controlled substance test) means that the driver

- (1) fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the Company. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see Section 40.61 (a) of this title;

- (2) fails to remain at the testing site until the testing process is complete. Provided, that the employee who leaves the testing site before the testing process commences (see Section 40.63 (c) of this title) a pre-employment test is not deemed to have refused to test;
- (3) fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see Section 40.63 (c) of this title) for a pre-employment test is not deemed to have refused to test;
- (4) in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see Sections 40.67 (l) and 40.60 (g) of this title);
- (5) fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see Section 40.193 (d) (2) of this title);
- (6) fails or declines to take a second test the Company or collector has directed the driver to take;
- (7) fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Section 40.193 (d) of this title. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- (8) fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
- (9) is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function – means any of those on-duty functions set forth in 395.2 On-Duty time, paragraphs (1) through (7) as listed below:

- (1) All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the covered person has been relieved from duty by the Company.
- (2) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR's), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- (3) All time spent at the driving controls of a commercial motor vehicle.
- (4) All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
- (5) All time loading or unloading a commercial motor 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.
- (6) All time spent performing the covered person's requirements associated with an accident.
- (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

SAMHSA Certified Laboratory – means a laboratory that is certified by the Substance Abuse and Mental Health Services Administration (laboratories were formerly accredited by NIDA). Currently SAMHSA inspects and regulates such laboratories.

Screening test (or initial test) – (1) in drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. (2) in alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Substance Abuse Professional (SAP) – is a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. To be qualified to act as a SAP under the DOT program, the SAP must be a licensed physician (Doctor of Medicine or Osteopathy), a licensed or certified social worker, a licensed or certified psychologist, a licensed or certified Employee Assistance Professional, or a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Drug Abuse (ICRC). The SAP must also be knowledgeable about and have clinical experience in controlled substances, abuse disorders, including knowledge of the SAP function as it relates to Company interests in safety-sensitive duties. The SAP must also be knowledgeable about Part 40, the current SAP guideline, the DOT agency regulations applicable to the Company for whom the SAP evaluates employees and the SAP must keep current on any changes to these materials. Qualification training and continuing education requirements are also required.

Substituted Test – means a specimen that when tested, shows a creatinine and specific gravity value that are so diminished as not to be consistent with human urine. *Effective May 28, 2003 when the MRO receives a report from the laboratory that the creatinine level in a specimen is less than 2 mg/dL or is “creatinine not detected”, the MRO will report the specimen to the Company as “substituted”.* If a specimen is reported to the Medical Review Officer to have been substituted, the Medical Review Officer will offer the donor / employee / applicant the right to have his or her split specimen tested. If the specimen is determined to have been substituted, the Medical Review Officer will also advise the donor / employee / applicant of specific additional procedural steps that may be taken by the donor / employee / applicant to challenge the result. If the Medical Review Officer reports that the donor/employee/applicant has a verified substituted test result, it is considered a refusal to take a drug test. A refusal to take a drug test results in the consequences specified under the DOT Agency regulations for violation of those DOT agency regulations. The company’s disciplinary policy and consequences for a positive test for refusal to submit to testing also applies.

Verified Test – is a drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.