

Town of Kernersville Safety and Health Policy and Procedure Manual	Commercial Driver's License Policy Section 0040	Date 3/98	Revised 8/22
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I. Introduction

The purpose of this policy is to prohibit employees performing safety sensitive functions (driving requiring a commercial driver's license, CDL) from possessing alcohol or controlled substances at work, using alcohol four hours before work and having alcohol or controlled substances in the body or bloodstream while at work. The provisions of this policy outline the procedures to be used by employees and their supervisors, subject to this act.

II. Standard

U.S. Department of Transportation, Omnibus Transportation Employee Testing Act of 1991.49 CFR Part 382 and 49 CFR Part 40.

III. Employees and Job Functions Covered by this Policy

Drivers required to maintain a Commercial Driver's License (CDL) as part of their job are subject to this policy and required testing for alcohol and controlled substances. A CDL is required for driving vehicles with a gross weight rating of 26,001 or more pounds, or for those designed to transport 16 or more passengers, including the driver. A CDL is also required for driving vehicles used to transport hazardous materials and require placarding in accordance with the Hazardous Materials Transportation Act.

Safety sensitive functions covered by this policy include the following functions for covered employees: waiting to be dispatched; inspecting equipment or servicing a commercial motor vehicle; driving a commercial motor vehicle; associated loading or unloading of a vehicle; and/or repairing, obtaining assistance or remaining in attendance with a disabled vehicle or being in an accident.

IV. Responsibilities

CDL drivers are considered to hold a safety sensitive positions and the Safety Administrator will add these employees to the testing program. The cost of testing and screening will be the responsibility of the employee's department. The supervisor of employees covered by this policy must ensure that it is adhered to and that they perform their responsibilities as described. Employees covered by this policy must perform their responsibilities as described or be subject to disciplinary action.

The Safety Administrator shall be responsible for coordinating testing and screening activities in accordance with the requirements. Test results and records will be kept in the Human Resources Office and be kept confidential in accordance with the Act.

V. Prohibited CDL Driver Conduct

Drivers covered by this policy are prohibited from engaging in conduct that would impair their ability to perform their job functions safely. The following types of conduct are specifically prohibited by this policy:

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- Alcohol Concentration:** No driver will report to work or remain at work requiring safety sensitive functions while having an alcohol concentration of 0.04 or greater. Furthermore, the Town will not allow a driver to report or remain at work while having an alcohol concentration greater than 0.02.
- Alcohol Possession:** No driver will be on duty or operate a commercial motor vehicle while the driver possesses alcohol.
- On-Duty Alcohol Use:** No driver will use alcohol while performing safety sensitive job functions.
- Pre-Duty Alcohol Use:** No driver shall perform safety sensitive functions within four hours after alcohol use.
- Alcohol Use Following an Accident:** No driver required to take a post-accident alcohol test, required by this policy, will consume alcohol within eight hours following the accident unless the driver has been tested or absolved.
- Positive Test for Controlled Substances:** No driver shall report to work, remain at work or perform safety sensitive functions after having tested positive for controlled substances unless he/she has followed the procedures outlined in this policy with respect to the return to work process.
- Controlled Substance Use:** No driver shall report to work or remain at work when required to perform safety sensitive functions when the driver uses any controlled substance. An exception is permitted, if the use is pursuant to the instructions of a physician, who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Refusal to Submit to Required Alcohol/Controlled Substance Testing: Any driver who refuses to submit to any test required by this policy or refuses to cooperate with the requirements outlined in this policy shall be subject to disciplinary action up to and including dismissal. Upon a refusal or positive test, the Safety Administrator will notify the NC DOT of these actions.

VI. Testing

Testing shall be conducted in accordance with the 49 CFR Part 382 and 49 CFR Part 40 and may include breath alcohol testing and DOT Panel 5 drug panel testing for controlled substances. The five drugs (controlled substances) tested for will include: marijuana, cocaine, amphetamines, opiates and phencyclidine. Employees covered by this policy will only be subject to alcohol testing, while they are performing, about to perform or immediately after they have performed covered functions. Employees covered by this policy are

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subject to controlled substance testing at all times while at work.

A. New Applicants

Applicants for positions which require a CDL will be tested for controlled substances, post offer and prior to assuming safety sensitive duties covered by this policy. Personnel will secure applicant's prior testing results from former employers. Applicants who test positive or for whom attempts to capture prior test results are unsuccessful will be removed from consideration.

B. Random Testing

Random testing of employees covered by this policy may be conducted immediately before, during or immediately after performing work covered by this policy. Ten percent of all covered employees must be tested for alcohol and fifty percent must be tested for controlled substances each year. The agency providing the testing services will perform the random selection of employees to be tested.

C. Post-Accident

Post-Accident testing will be conducted on any surviving driver who was performing safety sensitive functions with respect to the vehicle if:

- the accident involved a fatality or an injury requiring medical treatment other than first aid,
- the accident resulted in disabling damage to a vehicle requiring it to be towed from the scene,
- the accident results in medical treatment of persons away from the scene of the accident or
- the driver receives a citation under state or local law for a moving violation arising from the accident.

Testing for drugs and alcohol shall occur, if possible, within two hours of the accident. If the employee is unable to be tested within two hours, reasons for the delay shall be documented. If an alcohol test required by this section is not administered within eight hours or a required drug test is not performed within thirty-two hours of the accident, attempts to conduct the tests shall cease and the reason for the inability to conduct the alcohol/drug tests shall be documented. The covered employee may not use alcohol within eight hours after an accident unless he/she has been tested or released.

D. Reasonable Suspicion

If two trained supervisors reasonably suspect alcohol misuse or controlled substance use by a covered employee before, during or after driving, then the supervisor must arrange for the employee to be tested. The supervisor must also arrange for safe transportation of the employee to the testing site and/or home. The employee may not return to safety sensitive duties until test results are received.

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E. Prior to Return to Duty

Covered employees who have previously had a positive breath alcohol or drug test, must be tested and/or released by a Substance Abuse Professional before returning to work in accordance to the Town's Substance Abuse Policy. The employee is also subject to the conditions of the last chance assistance agreement.

VII. Positive Test Results

If a test comes back from the laboratory positive, the employee will be contacted by the testing contractor and informed of the result. The testing contractor will request the employee provide any relevant medical information that could show why the test was positive, other than illegal drug or alcohol use.

In accordance with the law, all samples when taken will be split into two samples in the presence of the employee. If a test were to report back positive on the primary sample, and after being given a period of seventy-two hours for medical explanation, the employee may choose to have the split sample tested, at his/her cost. At this time the laboratory will also inform the employer of the test results. If the results of the split sample are negative, there will be no cost to the employee.

When the Safety Administrator is contacted and notified of the positive test results, appropriate action must be taken immediately. The supervisor must ensure the employee is removed from the job which requires performing safety sensitive duties. Appropriate disciplinary action must be taken by the supervisor including, but not limited to suspension or dismissal. If applicable, HR and the supervisor will refer the employee to the Employee Assistance Program (EAP), which will serve as the Substance Abuse Professional and make any recommendations for treatment that may allow the employee to return to work. An employee may not return to safety sensitive work until evaluation by the Substance Abuse Professional is complete and any recommendations or required treatments are completed to the satisfaction of the substance abuse professional. When making this referral, the supervisor is to inform the EAP that the employee is being referred in accordance with this policy. The Town is not required to pay for any treatment for the employee, nor does the employee's job have to be held for the employee.

IX. Recordkeeping

Confidential records will be maintained within the Human Resources Office and will only be released upon written approval of the employee or the requirements set forth in the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse. These records will be maintained for the employee's length of employment plus ten years.

X. Resources Available for Assistance

The Employee Assistance Program is available to all Town employees. This program provides confidential counseling and referral services for employees who have personal problems associated with alcohol and/or controlled substances which may be affecting their work.