

DRAFT  
Castroville Community Services District  
ALCOHOL MISUSE & CONTROLLED SUBSTANCES USE POLICY

Castroville Community Services District (the "Company") seeks to promote a Drug Free Workplace and to comply with the Omnibus Transportation Employee Testing Act and the Department of Transportation (DOT) Alcohol and Drug Testing Regulations (the "Regulations"). The Company also seeks to promote for all of its employees a safe, healthful and efficient working environment. Accordingly, the misuse of alcohol by covered employees and the illegal manufacture, distribution, possession, or use of a controlled substance is prohibited in the workplace.

It is the employee's responsibility to notify his/her supervisor before beginning work when he/she is taking medications or drugs, prescription or non-prescription, which the employee knows, or should know, may interfere with the safe and effective performance of duties.

Covered employees must comply with the DOT Drug and Alcohol Testing Regulations.

A copy of the Regulations shall be made available to any covered employee for viewing upon request.

**I. COVERED EMPLOYEES**

Covered employees are those employees who meet the following qualifications:

- A. They possess a Commercial Drivers License (CDL); and
- B. They operate a commercial motor vehicle for the Company that:
  1. Has a gross combination weight rating 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 materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.
- C. The categories of Covered Employees within this Company are classified as Operator I, Operator II and as Trainees who are in training for a position meeting the qualifications of this Section.

## II. SAFETY-SENSITIVE FUNCTIONS

- A. Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.
- B. Safety-sensitive functions shall include:
  - 1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the covered employee has been relieved from duty by the employer;
  - 2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) 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 in operation;
  - 4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of the FMCSRs);
  - 5. All time loading or unloading a 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; and
  - 6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## III. PROHIBITIONS

Along with certain sections including applicants, it is prohibited for covered employees to do the following:

- A. To report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .02 or greater (see Section V for the consequences for a test of .02 or greater but less than .04).
- B. To use alcohol while performing safety-sensitive functions.
- C. To perform safety-sensitive functions within four hours after using alcohol.
- D. To use alcohol for eight hours following an accident for which the employee is required to take a post-accident alcohol test, or until tested.
- E. To report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, unless the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance does not adversely effect the employee's ability to safely operate a commercial motor vehicle.
- F. To report for duty, remain on duty or perform a safety-sensitive function, if the employee or applicant tests positive for controlled substances.
- G. To refuse to submit to a pre-employment controlled substances test, a

post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test, if those tests are required by the drug and alcohol testing rules as described in the Regulations. A refusal to submit to an alcohol or controlled substances test means that a covered employee or applicant:

1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the Regulations;
2. Refuses to complete and sign the second section of the breath alcohol testing form;
3. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the Regulations; or
4. Engages in conduct that clearly obstructs the testing process.

#### IV. COMPANY CONSEQUENCES TO VIOLATING PROHIBITIONS

- A. It is the policy of this Company that any covered employee who violates any of the prohibitions will be subject to termination.
- B. However, on the first offense the following violations may receive the indicated disciplinary action when the violation is the sole basis for disciplinary action:
  1. A confirmation alcohol test with a concentration result of .02 or greater but less than .04 will result in the employee being relieved from duty for 2 days without pay.
  2. A random confirmation alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a random controlled substances test with a verified positive test report will result in the employee being placed on an unpaid 90 day Leave of Absence in which to complete the return-to-duty requirements. While on such Leave of Absence, sick leave and vacation time benefits will not be accrued. The Company makes no representation and does not guarantee that the employee's previous position or any other position will remain available to the employee.
- C. A refusal to submit to a pre-employment controlled substances test or a verified positive test report will result in the applicant being ineligible for a covered position.
- D. An employee who does not make a good faith effort to follow the post-accident procedures as specified under Section X.B. will be relieved from duty for 3 days without pay.
- E. All costs associated with satisfying the return-to-duty requirements shall be the responsibility of the employee, except the services of the Substance Abuse Professional, the Return-to-duty test and any benefits due the employee under the Company's health plan.

V. REGULATORY CONSEQUENCES TO VIOLATING PROHIBITIONS

- A. A confirmation alcohol test with a concentration result of .02 or greater but less than .04 will result in the employee being relieved from duty for 48 hours.
- B. For a confirmation alcohol test with a concentration result of .04 or greater and all other violations of the prohibitions the following consequences shall apply:
  - 1. The employee shall be relieved from performing safety-sensitive functions.
  - 2. The Company shall advise the employee or applicant of the resources available to the employee or applicant 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 and counseling and treatment programs.
  - 3. The employee or applicant shall be evaluated by a Substance Abuse Professional (SAP) who shall determine what assistance the employee or applicant needs in resolving problems associated with alcohol misuse and controlled substances abuse.
  - 4. The employee shall not be reassigned, or applicant assigned, to safety-sensitive duties until the employee or applicant meets the following conditions:
    - a) The employee or applicant is evaluated by a SAP; and
    - b) The employee or applicant participates in a rehabilitation program directed by the SAP and the SAP has decided that the employee or applicant has properly followed the rehabilitation program; and
    - c) The employee or applicant undergoes Return-to-duty alcohol and/or drug tests with a concentration result of less than 0.02 for alcohol and/or a verified negative result for controlled substances.
  - 5. In addition, the employee or applicant shall be subject to unannounced Follow-up alcohol and/or controlled substances tests.

VI. SELF-IDENTIFICATION

- A. A major purpose of the Regulations is to encourage self-identification. The Company allows the covered employee to self-identify as having a concern about their use of alcohol or controlled substances. The employee may take a leave of absence as described in the Company's General Policy.
- B. If an "on-call" covered employee is called to duty and the employee knows or should know that he or she may be in violation of the prohibitions, the employee may decline duty and will not be subject to disciplinary action based solely on declining duty.
- C. If the covered employee is called to duty unexpectedly and the employee knows or should know that he or she may be in violation of the prohibitions,

the employee may decline duty and will not be subject to disciplinary action based solely on declining duty.

- D. Self-identification is available only to covered employees who have not been notified of a random test, reasonable suspicion test, a post-accident test, or any drug or alcohol test required by the Regulations. Self-identification cannot be used by covered employees to avoid the consequences for a positive test or a refusal to test.

## VII. GENERAL PROVISIONS FOR ALCOHOL AND DRUG TESTING

- A. Notice to Covered Employees That Drug and Alcohol Testing Is Required By Federal Law: Before performing an alcohol or controlled substances test under the Regulations, the Company shall notify the employee that the alcohol or controlled substances test is required by federal law. The Company shall not falsely represent to any employee that an alcohol or drug test is required to be administered under federal law when in fact it is not required.
- B. Certificate of Receipt: All covered employees shall receive a copy of the Company's policy and educational materials regarding the DOT alcohol and drug testing program as specified in the Regulations. The educational materials are attached to this policy. The Company shall require all covered employees to sign a statement regarding the receipt of the Company's policy and educational materials.
- C. Notice to Employee Labor Organizations: Should the employees be represented by an employee labor organization, the Company shall provide written notice to representatives of the organization of the availability of these materials.
- D. Covered employees will be tested for the following drugs and/or metabolites: Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine (PCP), and MDMA (Ecstasy).
- E. Covered employees shall be subject to the following types of tests: Pre-employment/Transfer testing, Random testing, Post-accident testing, Reasonable suspicion testing, Return-to-duty testing (after compliance with DOT procedures), and Follow-up testing (in accordance with DOT Regulations).
- F. The Company has designated the Office Manager to answer employee questions about the Company's alcohol and drug testing program and procedures.
- G. In compliance with the record retention requirements under the Regulations, the Company shall maintain records of its alcohol misuse and controlled substances use preventive program in a secure location with controlled access.
- H. In compliance with the access to records requirements under the Regulations:

1. Covered employees are entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The Company shall promptly provide the records requested by the employee.
2. Copies of, or information in these records shall not be otherwise released to any other person except as follows:
  - a) To Company staff who require access to these records to comply with the requirements of federal law and this Company's program;
  - b) To federal, state or local officials with regulatory authority over the Company or any of its covered employees;
  - c) To a subsequent employer upon receipt of a written request from a covered employee only as expressly authorized by the terms of the employee's request;
  - d) To a decision maker in connection with a lawsuit, grievance or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test administered under this Company's program, or from the Company's determination that the covered employee engaged in conduct prohibited by Section III; or
  - e) To a person identified by the covered employee in accordance with the terms of the employee's written consent authorizing such release.
- I. Tests shall be conducted as specified in DOT's Regulations, Title 49 Part 40 and its amendments. Controlled substances testing shall be performed at a DHHS-certified laboratory and alcohol tests shall be performed by a trained breath alcohol technician on a DOT conforming products device. The testing procedures and sequence of events are described in the educational materials provided to the covered employee and attached to this policy.
- J. Verification of breath alcohol technician and the reporting of alcohol test results:
  1. When possible, the alcohol test results will be delivered by telephone, or by the most expedient means possible (eg. in-person, via secured fax, courier).
  2. When the results are received by telephone, the confidential employer representative shall:
    - a) Ask the breath alcohol technician for the pre-designated identification number to establish the validity of the report;
    - b) Provide to the breath alcohol technician a personal identification number to establish that the results are being reported to the proper Company official; and
    - c) Write down all information provided by the breath alcohol technician.

- K. A Medical Review Officer (MRO) shall review all controlled substances tests. Before reporting a test result to the Company as positive, the MRO will attempt to contact the employee directly to discuss the result. If the MRO determines that there is a medically valid reason for the positive result, the test shall be reported as a negative result.
  - 1. If the MRO cannot reach the employee, the MRO shall contact the Office Manager without reporting the result and request that the Office Manager have the employee contact the MRO as soon as possible.
  - 2. Without having contacted the employee directly, the MRO may report the positive result to the Office Manager if:
    - a) The employee expressly refuses to contact the MRO; or
    - b) Seventy-two hours have elapsed since the Office Manager informed the employee that the employee is to contact the MRO; or
    - c) Ten days have elapsed without the Office Manager being able to contact the employee.
  - 3. After any positive verification the employee may petition the MRO to reopen the case for reconsideration.
- L. Drug testing shall be done based on a split specimen procedure of collecting and analyzing urine samples. The specimen take will be divided into primary and split specimens. If the test is positive, the employee shall be relieved of all safety-sensitive functions if the employee has not already been so relieved, and informed of his or her right to request a test of the split specimen. The employee shall have 72 hours which to make that request.

#### VIII. PRE-EMPLOYMENT/TRANSFER TO COVERED POSITIONS DRUG TESTING

- A. Drug testing
  - 1. Prospective covered employees shall undergo testing for controlled substances. The consequences of a verified positive test result shall be the termination of the hiring process.
  - 2. Employees who transfer to covered positions or who return to duty from any leave of absence or layoff of 30 days or more, where the employee has been removed from the testing pool, shall be required to submit to pre-employment testing.
- B. Prospective covered employees may not be required to undergo testing for controlled substances if:
  - 1. The Company can verify that no prior employer has knowledge that the prospective employee violated any part of the Regulations in the past 6 months; and
  - 2. The Company can verify that the prospective employee has participated in a DOT drug testing program within the preceding 30 days and, while participating in that program, was either;
    - a) Tested within the past 6 months; or

- b) Participated in a random selection program for the previous 12 months.
- C. Verification by previous employers
  - 1. As a contingency to consideration for employment prospective employees shall be requested to sign a release for information for each previous employer in the past three years for which DOT testing was required.
  - 2. Within 30 days of performing a safety-sensitive function the Company shall make a good faith effort to receive and record verification that the covered employee is not in violation of the DOT Regulations such that the employee is not allowed to perform safety-sensitive functions.
- D. Consequences: Prospective covered employees shall be subject to the referral, evaluation, and rehabilitation requirements as per Section V and may be subject to disciplinary action under Section IV of this policy if they refuse to submit to a controlled substances test or if they have a controlled substances test with a verified positive test result.

#### IX. RANDOM ALCOHOL AND DRUG TESTING

- A. The Company's random testing procedures are that the covered employee will be informed of a test upon reporting to duty, during duty or toward the end of duty. The employee will then immediately report to the designated testing site. The employee shall follow all instructions given by the testing technician.
- B. Covered employees are required to submit to alcohol and drug testing on a random basis. Based on the average number of covered employee positions in each calendar year, ten percent shall be subject to random alcohol testing and fifty percent shall be subject to random drug testing, at a minimum, or at a rate in compliance with any change by the Federal Highway Administration (FHWA) Administrator to increase or decrease the annual violation rate. The FHWA annual violation rate is based on the reported violation rate for commercial drivers.
- C. The selection of covered employees for random alcohol and drug testing shall be by a scientifically valid method, such as a computer-based random number generator, matched with the covered employees' identifying numbers, such as social security numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.
- D. Random alcohol and drug tests shall be unannounced and the dates for administering tests shall be spread reasonably throughout the calendar year.
- E. A covered employee shall only be tested for alcohol while the employee is performing safety-sensitive functions, or four hours before the employee is to perform safety-sensitive functions, or four hours after the employee has ceased performing such functions.



- F. A covered employee may be tested for controlled substances at any time while the employee is at work for the Company.
- G. A covered employee who is "on-call" shall conform to the Regulations and this policy as though he or she were on duty.
- H. Consequences: Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements as per Section V and may be subject to disciplinary action under Section IV of this policy if they refuse to submit to a random alcohol or controlled substances test or if they have a random alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

X. POST ACCIDENT ALCOHOL AND DRUG TESTING

- A. As soon as practicable following an accident, the Company shall test a covered employee for alcohol and controlled substances, where the accident has resulted in the following conditions:
  - 1. A fatality where the covered employee was performing a safety-sensitive function with respect to the vehicle; or
  - 2. The covered employee received a citation under State or local law for a moving traffic violation arising from the accident; and
    - a) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the accident scene; or
    - b) Any party involved requires immediate treatment for an injury away from the accident scene.
- B. Procedures
  - 1. The covered employee shall notify his or her supervisor as soon as possible following an accident. The covered employee shall refrain from using alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test or a supervisor determines that a post-accident alcohol test is not required as provided below. Any employee leaving the scene of the accident without appropriate authorization prior to submitting to an alcohol or drug test or being released by the supervisor will be considered to have refused to test.
  - 2. The supervisor at the site of an accident shall:
    - a) Determine if the accident is one requiring a post-accident alcohol and drug test.
    - b) If the supervisor at the site affirms that a post-accident alcohol or drug test of the covered employee is required, the supervisor shall take the employee to the designated collection site to take the necessary tests.
    - c) If the covered employee is injured and requires off-site treatment, the supervisor shall escort the employee to a hospital or other appropriate treatment facility. The hospital will be requested to

- collect the necessary specimen or conduct the necessary tests.
- d) The supervisor shall ensure that the covered employee does not perform any safety-sensitive function until the employee is cleared by the post-accident test results.
3. If the covered employee is taken into police custody at the site of an accident and tested for being under the influence of alcohol and/or a controlled substance, and the site supervisor has affirmed that the accident is one requiring post-accident drug testing, the Company will rely on the results of the police tests.
- C. Consequences: Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements as per Section V and may be subject to disciplinary action under Section IV of this policy if they refuse to submit to a post-accident alcohol or controlled substances test or if they have a post-accident alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

## XI. REASONABLE SUSPICION ALCOHOL AND DRUG TESTING

### A. Procedures

1. The Company's decision for a covered employee to submit to a reasonable suspicion alcohol and/or drug test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Such observations can include the employee's activity or inactivity, equilibrium, attention span, mental and physical reactions, slurring of speech, unfocused vision, odor of intoxicants on the breath or clothing of the employee, or any other conduct or behavior of the employee which indicates probable alcohol misuses or use of controlled substances.
2. If possible, the supervisor will obtain the assistance of another supervisor or witness, to observe and document the above behavior or factors.
3. The supervisor shall inform the employee of the facts upon which the reasonable suspicion is based, advise the employee that the supervisor wishes to question the employee about the employee's behavior or conduct on which the reasonable suspicion is based.
4. If the employee refuses to provide an explanation or offers an unsatisfactory explanation, the supervisor will require the employee to undergo the appropriate test.
5. If the employee refuses to submit to the test, the supervisor shall:
  - a) Make arrangements to transport the employee home; or
  - b) Summon law enforcement if the employee insists on driving his/her own vehicle which, in the supervisor's judgment, the employee is not in a condition to safely operate.
6. Covered employees shall not be subject to reasonable suspicion alcohol

and drug testing based solely on the possession of unmanifested alcohol or alcoholic products.

7. Covered employees shall not be subject to reasonable suspicion alcohol and drug testing based solely on third party reports of a violation of prohibitions.
  8. No supervisor shall physically search an employee or an employee's private property (purse, briefcase, car) based on the supervisor's reasonable suspicion.
  9. The supervisor who observes the employee's behavior on which reasonable suspicion testing is based must have received at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The person who decides that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the covered employee.
  10. No reasonable suspicion testing may be done except while the employee is performing safety-sensitive functions, four hours before the employee is to perform safety-sensitive functions, or four hours after the employee has ceased performing such functions.
  11. A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
- B. Consequences: Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements as per Section V and may be subject to disciplinary action under Section IV of this policy if they refuse to submit to a reasonable suspicion alcohol or controlled substances test or if they have a reasonable suspicion alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

## XII. RETURN TO DUTY/FOLLOW-UP TESTING

### A. Return-to-duty test

1. After an employee has completed all of the return-to-duty requirements as described in Section V and has been reinstated in a covered position, the employee shall undergo Return-to-duty alcohol and/or drug tests with a concentration result of less than 0.02 for alcohol and/or a verified negative result for controlled substances.
2. A covered employee who refuses a Return-to-duty test will not be allowed to return to duty.

- B. Follow-up testing
  - 1. The covered employee shall be subject to unannounced Follow-up alcohol and/or controlled substances testing in addition to random testing.
  - 2. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least six tests in the first 12 months following the employee's return to duty.
  - 3. The employee shall undergo follow-up testing for both alcohol and controlled substances if the SAP determines that follow-up testing for both alcohol and controlled substances are necessary for that particular employee.
- C. Consequences: Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements as per Section V and may be subject to disciplinary action under Section IV of this policy if they refuse to submit to a follow-up alcohol or controlled substances test or if they have a return-to-duty or follow-up alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

XIII. This policy is not intended nor should be construed as a contract between the Company and the employee. This policy may be changed at any time at the sole discretion of the Company.

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