

PS1627.01 COMMERCIAL DRIVERS-TESTING CONTROLLED SUBSTANCE/ALCOHOL



U.S. Department of Justice
Federal Bureau of Prisons

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SUBJECT: Commercial Drivers, Testing
for Use of Controlled
Substances and Alcohol

1. PURPOSE AND SCOPE. To establish a program to test commercial drivers for the use of controlled substances and alcohol, in accordance with regulations of the Department of Transportation (DoT) Federal Highway Administration (FHWA).

DoT regulations, under the authority of the Omnibus Transportation Testing Act of 1991, require controlled substance and alcohol education for supervisors and drivers and mandatory testing of the following types for controlled substances and alcohol:

- Pre-duty (driving duty, controlled substance only)
- Random Selection
- Reasonable Suspicion
- Post-accident
- Return-to-duty (driving duty)
- Follow-up

These regulations affect any Bureau driver, staff or inmate, who is required to have a Commercial Drivers License (CDL) to perform his or her duties or work assignment.

While these DoT requirements primarily affect Correctional Services with regard to prisoner transportation, other departments, such as Facilities and Federal Prison Industries, are also affected.

This Program Statement does not in any way preclude or supersede the expectations, provisions, and procedures of the Program Statements on Standards of Employee Conduct and the Drug-free Workplace Program.

2. PROGRAM OBJECTIVES. The expected results of this program are:

a. The public will be protected from undue risk when Bureau commercial vehicles are operated in the community.

b. The safety of staff and inmates on board Bureau commercial vehicles will be increased.

c. Institution security will be enhanced by providing a deterrent to on-duty substance use and impairment.

3. DIRECTIVES AFFECTED

a. Directive Rescinded. None.

b. Directives Referenced

PS 3000.02 Human Resource Management Manual (11/01/93)
PS 3420.08 Standard of Employee Conduct (03/07/96)
PS 3735.03 Drug-Free Workplace (06/14/96)
PS 3792.06 Employee Assistance Program (11/04/93)

Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Pub L. 99-570, 101 Stat. 3207-170 (codified at 49 U.S.C. app. 2701 - 2718)

Section 5 of the Omnibus Transportation Employee Testing Act of 1991, Pub. L. 102-143, Title V, 105 Stat. 917, 952 (1991)

49 CFR Parts 382, et al., Controlled Substances and Alcohol Use and Testing; Rule and Proposed Rule, DoT, Federal Highway Administration

49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs and Alcohol Testing Programs and Proposed Model Specifications for Screening Devices To Measure Alcohol in Bodily Fluids; Final Rule, Proposed Rule, Notice

Executive Order 12564, Drug-Free Federal Workplace, 1986.

Section 503 of the Supplemental Appropriations Act of 1987, Pub L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C., sub sec. 7301 note (1987)

Scientific and Technical Guidelines For Drug Testing Programs, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services (DHHS), as amended

Standards for Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies, Substance Abuse and Mental Health Services Administration, DHHS, as amended

Civil Service Reform Act of 1978, Pub. L. 95-454

The Privacy Act of 1974, as amended (5 U.S.C. Section 552a), prescribing requirements governing the maintenance of records by agencies pertaining to the individuals and access to these records by the individuals to whom they pertain.

4. STANDARDS REFERENCED

a. American Correctional Association Standards for Administration of Correctional Agencies: 2-CO-1C-20

b. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4061

5. DEFINITIONS

a. Accident. According to DoT regulations, a qualifying accident occurs when:

- There is a fatality; or
- The driver receives a citation under state or local law for a moving traffic violation arising from the accident; and there is an injury requiring treatment away from the scene of the accident, or an involved vehicle is unable to leave the accident scene under its own power.

b. Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. Any alcohol contained in prescription and over-the-counter medications is covered by the DoT requirements.

c. Approved Driver List. The approved driver list represents the random selection pool from which all random testing shall be drawn. Commercial drivers may not be used unless they are included on the approved driver list, and are subject to random selection for controlled substance and alcohol testing.

d. Blood Alcohol Concentration (BAC). Measurement of alcohol in volume of breath sample. Expressed in terms of grams of alcohol per 210 liters of breath.

e. Commercial Drivers License (CDL). State-issued motor vehicle license which is supplemental to a standard operator license. A CDL is required by Federal Highway Administration, DoT for the operation of a commercial motor vehicle on any public thoroughfare. Additional CDL criteria imposed by individual states do not affect implementation of this program.

f. Commercial Motor Vehicle (CMV). As defined by the FHWA, and for the purpose of this program, a CMV is a vehicle or combination of vehicles:

- Having 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
- Having a gross weight rating of 26,001 or more pounds; or
- Designed to transport 16 or more passengers, including the driver.

g. Covered Activity (Safety Sensitive Function)

- All time spent at the controls of a commercial motor vehicle;
- All time spent loading or unloading a commercial motor vehicle, to include both passengers and cargo, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or in giving or receiving receipts for shipments or passengers loaded or unloaded;
- All on-duty time spent in readiness to operate a commercial motor vehicle, such as on call to operate a commercial motor vehicle due to another driver's absence, or in the event of an emergency;
- All time spent in correctional supervision of inmates prior to departure, while in transit, or during unloading of inmates;
- All time, other than driving time, spent on or in a commercial motor vehicle;
- All time spent performing the driver requirements associated with an accident;
- All time repairing, obtaining assistance, or remaining in attendance with a disabled vehicle;
- All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

h. Driver, Covered Driver. An employee operating, or who may be required to operate a CMV in the course of his or her Bureau duties; or an inmate operating, or who may be required to operate a CMV in the course of his or her work assignment.

i. Drug. For the purposes of this policy, drug shall refer to those substances controlled by Federal DEA schedules I - IV.

j. Illegal Drug Use. Use of an illegal drug or the use of a prescription drug in violation of federal or local law.

k. Evidential Breath Testing Device. A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath for alcohol, and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices.

l. Medical Review Officer (MRO). A licensed physician (medical doctor [M.D.] or doctor of osteopathy [D.O.]) responsible for receiving laboratory results generated by an employer-controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive laboratory report together with his or her medical history and any other relevant biomedical information.

m. Prohibited Controlled Substance Use. Illegal drug use, or the use of any prescription drug, 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.

n. Refusal to Submit to an Alcohol or Controlled Substance Test. A driver shall be found to have refused to submit to testing if he or she:

- 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;
- Fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement of urine testing; or
- Engages in conduct that obstructs the testing process.

o. Substance Abuse Professional (SAP). A licensed physician (M.D. or D.O.), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge or clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

6. PROGRAM RESPONSIBILITIES

a. Central Office

- The Health Services Division shall provide general supervision and be responsible for all contract expenses associated with the testing program. The Drug-free Workplace Coordinator is responsible for national administration and the Approved Drivers List

(see Section 7). Questions regarding this program should be directed to the National Coordinator at (202) 307-2867, extension 105.

- The Office of General Counsel, Labor Law Branch shall provide advice and guidance concerning reasonable suspicion testing, post-accident testing, random testing, and disciplinary/adverse actions.
- The Human Resources Management Division, Labor-Management Relations Section shall provide advice regarding disciplinary and adverse actions against employees.

b. Institutions

- Local CEOs are responsible for the administration of this program.
- Unless otherwise designated by the CEO, the Health Services Administrator (HSA) shall serve as the local program coordinator.

The local coordinator is responsible for:

- Providing a copy of this Program Statement to, and obtaining an acknowledgment of receipt from each driver placed on the approved list.
- Requesting addition of drivers to the approved driver list.
- Requesting removal of drivers from the approved list.
- Assisting the National Coordinator with random testing.
- Ensuring a contractor escort for on-site alcohol testing.
- Notifying respective supervisors of random alcohol testing.

7. NEW DRIVERS. Employees to be assigned a driving responsibility who obtain their CDL, or who are hired after issuance of this program statement shall require a DoT background investigation prior to performing a DoT regulated task. For inmate drivers, refer to Section 9.

Each driver candidate shall complete a Consent for Release of Information (Attachment A), for each employer for whom the employee performed DoT regulated duties within the prior two years. The supervisor responsible for the driving activity shall complete a Pre-Duty Background Voucher (Attachment B) for each employer listed. If either block eight or nine are answered

"YES," then the individual may be used as a CMV driver only if he or she was seen by a SAP, completed any required treatment, passed a return-to-driving-duty test, and was subject to follow-up-testing.

A copy of each Consent for Release of Information and Pre-Duty Background Voucher shall be transmitted by facsimile machine to the National Coordinator. The original shall be stored by the local program coordinator.

8. APPROVED DRIVER LIST. No individual may be allowed to operate a CMV unless he or she is on his or her institution's approved driver list.

Each supervisor responsible for assigning commercial drivers to driving duty shall notify the local coordinator when an addition to the approved driver list is necessary. Likewise, supervisors shall notify the local coordinator when it is appropriate to remove an individual from the approved driver list.

The National Coordinator shall maintain the approved driver list which shall include current assigned commercial drivers, as well as necessary back-up drivers. As the number of drivers on each institution's approved list will affect the amount of testing required, CEOs are advised to give careful thought to designating only the number of drivers necessary to meet the demands of normal operation, and to accommodate emergency contingency plans.

Each driver on the approved driver list shall be provided with, and must acknowledge receipt of this program statement using the Acknowledgement of Receipt of Notice (Attachment C). A copy of each signed acknowledgement shall be transmitted by facsimile machine to the National Coordinator. The original acknowledgement shall be maintained by the local coordinator.

Local coordinators shall use the Request to Add Drivers to the Department of Transportation Approved Drivers List (Attachment D) to request the addition of drivers to the list. The Request to Remove Driver(s) from the Department of Transportation Approved Driver List (Attachment E) shall be used to request that a driver be removed from the list.

Pre-driving-duty drug testing shall not be required for current Bureau employee or inmate drivers for whom placement on the National Driver List is requested within 45 days of the issuance of this Program Statement. Drivers for whom addition to the Driver List is requested after the initial 45 day window shall be considered as new drivers, and shall be subject to pre-driving-duty drug testing prior to operation of a CMV.

The National Coordinator shall provide to each local coordinator a copy of his or her institution's approved driver list at the

beginning of each quarter, and as requested by the local coordinator.

9. INMATE ISSUES. The DoT requirements make no distinction among the different status of drivers such as employee or inmate. For the purposes of this program, minimum driver requirements and safeguards mandated by the DoT shall be extended to inmate drivers.

No inmate shall be given a CMV driving responsibility without an acceptable DoT background investigation. Each inmate considered for a CMV driver detail shall complete a Consent for Release of Information (Attachment A) for each employer for whom the inmate performed DoT regulated duties within the prior two years.

The work detail supervisor shall complete a Pre-Driving-Duty Background Voucher (Attachment B) for each employer listed. If either block eight or nine are answered "YES," then the inmate may be utilized as a CMV driver only if they:

- were seen by a SAP,
- completed any required treatment,
- passed a return-to-driving-duty test, and
- were subject to follow-up-testing.

A copy of each Consent for Release of Information and Pre-Driving-Duty Background Voucher shall be transmitted by facsimile machine to the National Coordinator. The local program coordinator shall store the original.

Breath alcohol and drug testing of inmate drivers shall be conducted in the same manner as the testing of employee drivers. Inmate drivers shall be subject to DoT drug and alcohol testing only during the hours of a work assignment which calls for, or may likely call for the operation of a CMV.

Inmate drivers shall not be placed on call-out for testing. As necessary, local program coordinators shall contact work detail supervisors to arrange unannounced random testing of inmate drivers. At satellite camps, health services staff may alter specimen collection protocols to accommodate inmate drug testing at an alternate collection site.

An inmate found to have a urine specimen containing one or more of the five identified drugs shall be given the benefit of the medical review procedure. However, the Medical Review Officer shall not speak directly to the inmate, but shall consult with a staff physician regarding the inmate's medical history.

For the purposes of this program only, an inmate found to have a confirmed positive drug test result shall be given 72 hours to request of his or her case manager that the second portion of his or her specimen be retested. The case manager shall contact the National Coordinator regarding such a request. The remainder of

the retest procedures shall be the same as those for an employee found positive (see Section 11.c.).

An inmate driver who refuses, or is found to have a positive result for alcohol or drugs shall be subject to disciplinary action in accord with the Program Statement on Inmate Discipline and Special Housing Units. Such an inmate shall not be reassigned to a driving detail.

10. GENERAL TESTING PROCEDURES. When drug or alcohol testing is to be performed, the driver shall be notified prior to testing that the procedure is conducted under the authority of the Federal Highway Administration, DoT. At no time may this DoT authority be misrepresented as authorization for testing conducted outside of DoT guidelines.

A driver who refuses a DoT alcohol or drug test shall be removed from any driving duties. For the purposes of DoT regulations, a refusal to submit to testing shall bear the same consequences as a positive test finding.

A driver who refuses a DoT alcohol or drug test shall be subject to disciplinary action.

The following two sections of this Program Statement separately address testing for drugs and testing for alcohol.

11. DRUG TESTING. Health Services staff shall collect specimens for drug testing in accordance with the publication, Collector's Procedure Manual: Drug-Free Workplace Program.

Testing shall be conducted in accordance with current DoT guidelines (49 CFR Part 40), and shall test for the presence of THC Metabolite (marijuana), Cocaine Metabolite, Codeine, Morphine, Amphetamines, and Phencyclidine (PCP).

DoT post-accident drug testing must be conducted within 32 hours following a covered accident; however, other types of DoT drug testing may be conducted at any time the driver is on duty.

a. Driver Prohibitions

- Reporting for duty or remaining on duty when the employee has used, or is using any drug (controlled substance), except when instructed by a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.
- Reporting for duty or remaining on duty after testing positive on a DoT drug test.
- Refusing to submit to a DoT required drug test.

b. Types of Drug Testing

(1) Pre-Driving-Duty Testing. Pre-driving-duty testing is required of any driver who:

- has never been on the approved driver list, or
- was previously on the approved driver list, but has been removed for more than 30 days.

Pre-driving-duty drug testing shall not be required for current Bureau employee or inmate drivers for whom placement on the National Driver List is requested within 45 days of the issuance of this Program Statement. Drivers for which addition to the Driver List is requested after the initial 45 day window shall be considered as new drivers, and shall be subject to pre-driving-duty drug testing prior to operation of a CMV.

The required pre-driving-duty drug test may be initiated by arrangement with the local HSA. The test result shall be reported directly to the National Coordinator. When a negative result is received, the institution's request for addition of driver shall be approved effective on the date requested.

Negative Pre-driving-duty drug test results shall be valid for 60 days following collection. As such, pre-driving-duty testing may be initiated up to 60 days prior to effective placement on the National Driver List.

(2) Random Sampling. The National Coordinator shall conduct simple random sampling from the approved driver list in accordance with DoT guidelines (currently a 50 percent annual sampling rate) and notify CEOs, by confidential letter, of the drivers selected for testing.

Laboratory results shall be directed to the Bureau MRO. The MRO shall interpret each test result, contact the donor if necessary, and report all results to the National Coordinator. The National Coordinator shall notify the employee's CEO of test results.

(3) Reasonable Suspicion. Reasonable suspicion drug testing under the authority of the DoT or Executive Order 12564 (Drug-Free Workplace Program Statement) may be ordered only by the CEO or acting CEO. It is recommended that a CEO considering the use of reasonable suspicion testing first consult with a Bureau legal officer regarding the appropriateness of reasonable suspicion testing.

Reasonable suspicion testing under DoT authority shall be ordered only by a CEO, or acting CEO who has received at least one hour of education regarding the physical, behavioral, speech, and performance indicators of probable misuse of a drug. The CEO

must identify for the collector whether testing is performed under DoT authority, or under the provisions of Executive Order 12564.

Within 24 hours after a decision to test, the CEO shall document for the file the facts and circumstances leading up to the test.

If reasonable suspicion of drug use or impairment exists, then the driver may not be allowed to carry out any DoT regulated driving responsibilities.

(4) Post-accident. Post-accident drug testing is required of any covered driver involved in an accident:

- That results in a fatality, or
- When the driver receives a citation under state or local law for a moving traffic violation arising from the accident; and there is an injury requiring treatment away from the scene of the accident, or an involved vehicle is unable to leave the accident scene under its own power.

Bureau Health Services staff shall perform testing at a Bureau institution as soon as possible following a qualifying accident.

Required drug testing may be performed up to 32 hours following the accident. The Health Services collector should be clearly informed that the drug test is conducted under the authority of DoT as it will affect the specimen collection procedure. If no trained Bureau collector is available, testing may be performed at a community contract collection site (contact the National Contractor, Concorde, Inc., at 1-800-966-9790 to make such an arrangement).

If the required drug test is not obtained within 32 hours, then the CEO shall discontinue attempts to obtain a test specimen and document for the DoT why a specimen was not obtained.

Following any post-accident testing, the National Coordinator shall be notified, and a copy of any documentation forwarded.

(5) Return-to-Driving-Duty. Return-to-driving-duty testing shall be coordinated with the National Coordinator. A negative return-to-driving-duty test shall be required prior to the return to driving of an employee who:

- refused to submit to testing, or was found positive on a DoT drug test,
- has been examined by a SAP, and
- has completed any treatment the SAP prescribed.

(6) Follow-up: Follow-up testing shall be coordinated with the National Coordinator. Follow-up testing shall be required of any driver who:

- was required to see a substance abuse professional,
- has passed the required Return-to-driving-duty drug test, and
- has been reinstated to a driving position.

Follow-up testing shall consist of a minimum of six unannounced drug tests during the first 12 months following return to driving duty, and may be continued for up to five years. A positive finding shall prevent the driver's return to driving, and subject the employee to further disciplinary action.

c. Positive Test Results for Drugs. Any employee whose test result confirms the presence of one or more of the five identified drug classes shall be interviewed by an MRO and given the opportunity to provide medical documentation to support the legitimate use of the identified drug.

In the interest of public safety, the MRO shall not delay notification to the Bureau of a positive test result. Once notified of a positive result, the National Coordinator shall immediately contact the appropriate CEO to insure the employee is removed from any covered DoT-regulated activity.

A driver who is informed of a positive finding on a DoT drug test shall be given 72 hours to request from the MRO that the second portion of his or her specimen be retested at another Substance Abuse and Mental Health Services Administration-certified laboratory of the employee's choice.

The Bureau shall pay for the second analysis. A negative finding during re-analysis shall be sufficient to reverse the earlier positive determination. If, on re-analysis the test is negative, then, barring other contributing factors, the driver shall be returned to driving duty, and any adverse action based solely on the positive test shall be removed from the driver's record.

An employee who is found to have a positive result on a DoT drug test shall be immediately removed from any covered driving position and referred to a staff physician, or other substance abuse professional, who shall determine what assistance, if any, the employee needs in resolving problems associated with drug use. To avoid conflict-of-interest concerns, Bureau EAP staff may not perform this evaluation.

An employee who has been found to have a positive DoT drug test shall be subject to disciplinary action according to other Bureau of Prisons' authority.

No employee who has been found to have a positive DoT drug test result may be reinstated to a driving position without:

- Being evaluated by a substance abuse professional;
- Completing any prescribed treatment; and
- Successfully passing a Return-to-driving-duty drug test.

Drivers who meet the above criteria, and are returned to a driving position, shall be subject to a minimum of six unannounced follow-up tests during the following one-year period.

12. ALCOHOL TESTING. Alcohol testing shall be by breath sampling according to criteria established by the National Traffic Safety Advisory Board. Testing shall be conducted only by appropriately certified technicians, and only with approved EBT equipment capable of printing three copies of the test result and the test's sequential identification number.

Because of the Bureau's law enforcement mission, employee drivers are always on call to perform covered activities with little or no notice, especially during an institution disturbance or other emergency; and therefore, may be required to submit to DoT random alcohol testing at any time while on duty.

a. Driver Prohibitions

- Reporting for duty while having a BAC of 0.02 percent or greater.
- Performing a covered activity while possessing alcohol, including prescription or non-prescription medicines containing alcohol, unless the packaging seal is unbroken.
- Using alcohol while performing a covered activity including the use of over-the-counter or prescription medications containing alcohol.
- When required to take a Post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a Post-accident alcohol test, whichever comes first.
- Refusing to submit to an alcohol or drug test as required by DoT regulations.

b. Types of Alcohol Testing

(1) Random Selection Testing. The National Coordinator shall conduct random sampling by institutions that use commercial drivers, that is, when an institution is selected, all of the drivers on that institution's approved driver list shall be subject to testing.

The National Coordinator shall select a test date without specific knowledge of employee schedules regarding leave or other anticipated absence from the institution. The date of testing shall be subject to the CEO's approval.

Employee drivers shall not be called back to duty solely for the purpose of DoT alcohol testing, and drivers on duty but absent from the institution shall be tested only if their return to the institution is geographically feasible and poses no increased security risk.

Because of security concerns in on-site alcohol testing, the local coordinator shall ensure that necessary arrangements are made so that:

- the contractor is admitted onto institution grounds,
- a Bureau escort is assigned to the contractor,
- an area, which provides privacy for the drivers being tested, has been identified for testing, and
- appropriate supervisors are notified of the expected need for post coverage.

Some contractors may have self-contained mobile testing units; however, in most cases the contractor will require that space be provided for testing. If so, minimum space allowing privacy to the employee must be provided. Space in a staff training area, rear service area, or other non-sensitive outbuilding will be acceptable.

The contractor shall be provided a staff escort in accord with established security procedures. An employee subject to testing may not serve as escort until he or she has successfully completed testing.

(2) Reasonable Suspicion Testing. The decision to require a reasonable suspicion alcohol test of a driver rests with the CEO and must be based on specific, clear, timely, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. It is recommended that any CEO considering the use of a reasonable suspicion alcohol test first consult with a Bureau legal officer regarding the appropriateness of testing. The CEO shall prepare a memorandum to the file documenting the facts and circumstances leading up to a decision to test.

DoT reasonable suspicion testing for alcohol use or impairment may be:

- based only on evaluation of the driver during the performance of a DoT covered activity (Section 5.g),
- ordered only by the CEO or acting CEO who has received at least one hour of education covering the physical, behavioral, speech, and performance indicators of probable alcohol misuse,

- performed only by a Breath Alcohol Technician meeting appropriate DoT certification requirements.

If a DoT-approved alcohol test is not administered within:

- Two hours of the decision to test, the CEO shall document for DoT the reason for delay.
- Eight hours of the decision to test, the CEO shall discontinue attempts to test and document for DoT the reason why the test was not administered.

The Bureau's alcohol testing contractor, Concorde, Inc., may be contacted at 1-800-966-9790. Depending on institution location, the contractor may not be able to accommodate the Bureau's request for on-site testing, and it may be necessary that the employee be transported to a nearby test site equipped with DoT-approved EBT equipment and staffed by a certified technician.

If a DoT-approved alcohol test is not administered, but a supervisor has adequate reason to suspect alcohol use or impairment, at a minimum, the driver shall be removed from any driving responsibility for 24 hours. Following the 24-hour suspension the CEO shall determine whether the employee will return to a driving position.

Though it may not be possible to conduct an alcohol test that conforms to DoT guidelines, the employee is still accountable to the same expectations and procedures as apply to any other Bureau employee suspected of on-duty alcohol impairment. Non-DOT alcohol testing and disciplinary action may be pursued under other Bureau policy.

(3) Post-Accident Testing. The decision to undertake a Post-accident alcohol test rests with the CEO of the driver's institution, and shall be based on the information available. Every effort shall be made to abide by DoT requirements; however, when the subject vehicle is transporting inmates, the CEO shall consider any potential risks to public safety and to staff which may arise from detaining the vehicle pending arrival of a contract alcohol tester.

Bureau commercial drivers remain subject to all applicable state and local laws and regulations. If another law enforcement agency undertakes alcohol testing of the driver, it is not necessary that the Bureau repeat the test; however, the CEO shall request a copy of the completed test result.

A covered employee involved in a qualifying accident shall remain available for testing (unless medically unable to do so) and is prohibited from consuming alcohol until he or she has

completed the required alcohol test and is off duty, or until eight hours have lapsed without testing, and he or she is off duty.

If the CEO determines that administration of a post-accident alcohol test does not pose undue risk to Bureau staff, or to the public, the CEO shall insure that the Bureau's contract alcohol testing vendor is contacted, and arrangements made to complete this DoT requirement (The testing contractor, Concorde, Inc., may be contacted at 1-800-966-9790).

If a DoT-approved alcohol test is not administered within:

- Two hours of the decision to test, the CEO shall document for the DoT the reason for delay.
- Eight hours of the decision to test, the CEO shall discontinue attempts to test and document for the DoT the reason why the test was not administered.

Following any post-accident testing, the National Coordinator shall be notified, and a copy of any documentation forwarded.

(4) Return-to-Driving-Duty Testing. Return-to-driving-duty testing shall be coordinated with the National Coordinator. A return-to-driving-duty alcohol test of less than 0.02 BAC is required prior to return to driving duty of any driver who:

- refused to submit to testing, or yielded a BAC of 0.04 percent or greater on a DoT alcohol test,
- was required to see a substance abuse professional, and
- has completed any prescribed treatment.

(5) Follow-up Testing. Follow-up testing shall be coordinated with the National Coordinator. Follow-up testing is required of any driver who:

- was required to see a substance abuse professional,
- has passed a return-to-driving-duty test, and
- is reinstated to a driving position.

Follow-up testing shall consist of a minimum of six unannounced alcohol tests during the first 12 months following return to driving duty, and may be continued for five years following the initial incident.

The test must be completed successfully with a BAC value of less than 0.02 percent. A Return-to-driving-duty alcohol test resulting in a BAC value of 0.02 percent or greater shall cause the employee to be removed from any safety-sensitive position, constitute a second positive alcohol finding, and subject the employee to further disciplinary action.

c. Positive Test Results for Alcohol. A covered driver found to have a BAC of 0.02 percent or greater shall be removed from any covered activity. A driver whose BAC is 0.02 percent or greater, but less than 0.04 percent shall, at a minimum, be suspended from driving for 24 hours. An employee who is found to have a BAC of 0.02 or greater shall be subject to disciplinary action under other Bureau of Prisons' authority.

A covered driver whose BAC is confirmed at 0.04 percent or greater shall be referred to a staff physician, or other substance abuse professional who shall determine what assistance, if any, the employee needs to resolve problems associated with his or her alcohol use. To avoid conflict-of-interest concerns, Bureau EAP staff may not perform this evaluation.

No driver who has been tested with a BAC of 0.04 percent or greater shall be reinstated to a driving position without:

- Having been evaluated by a substance abuse professional;
- Completing any prescribed treatment; and
- Successfully passing a Return-to-driving-duty alcohol test.

Drivers who meet the above criteria and have been returned to driving duty are subject to follow-up alcohol testing.

13. EMPLOYEE ASSISTANCE PROGRAM. The Bureau provides an Employee Assistance Program (EAP) intended to motivate employees in need of assistance to accept early counseling to help them regain their productive capability, minimize absenteeism, sick leave, and grievances, reduce the need for disciplinary action, and improve morale. The EAP is a confidential program available to all Bureau employees, and when feasible, to the immediate family of employees who have alcohol, drug, or emotional problems, and to employees with immediate family members having alcohol, drug, or emotional problems.

Employees are encouraged to seek confidential EAP assistance for any emotional or substance abuse problems with which they may be trying to cope. However, an employee who also presents herself or himself to his or her CEO seeking assistance in dealing with a drug problem may be entitled to protection against disciplinary action. For further information regarding protection from disciplinary action consult the Program Statement on the Drug-Free Workplace Program.

14. SUPERVISORY AND MANAGERIAL TRAINING

a. Chief Executive Officers who may be called on to order reasonable suspicion drug or alcohol testing under Department of Transportation authority shall receive at least one hour of education regarding the recognition of:

- drug use and impairment and
- alcohol use and impairment.

Additionally, this training is recommended for Associate Wardens and other staff who may be called on to act as Chief Executive Officer.

b. A CEO may not order DoT Reasonable Suspicion testing unless he or she has completed at least one hour of education appropriate to the substance (drug or alcohol) for which use or impairment is suspected.

Training shall be provided by individual review of self-paced training software distributed by the National Program Coordinator.

15. REPORTING

a. The testing contractor shall release a copy of all breath alcohol tests at the conclusion of each testing session to the CEO.

b. CEOs shall be notified of the results of all DoT drug testing by the National Coordinator.

c. The National Coordinator shall maintain annual testing statistics and shall provide them to the DoT as requested. Statistical information shall be reported to the DoT in aggregate form only, without identifying any employee.

16. RETENTION OF RECORDS. The National Coordinator shall maintain the results of all drug and alcohol testing.

All testing information specifically relative to individuals is protected under the 1974 Privacy Act, 5 U.S.C. 552a, and shall be secured with access only by authorized individuals.

17. RELEASE OF INFORMATION. The National Coordinator is responsible for release of information to other organizations or employers interested in using a current or previous Bureau commercial driver.

Information shall be released only on receipt of a signed release of information, and shall pertain only to a driver's participation in the Bureau DoT controlled substance and alcohol testing programs. Attachment B describes the information which may be released.

The National Coordinator shall respond to all requests but shall not be responsible for issues pertaining to a current employee's outside activities or employment.

\s\
Kathleen M. Hawk
Director

**ACKNOWLEDGMENT OF RECEIPT OF NOTICE
DEPARTMENT OF TRANSPORTATION**

In compliance with Department of Transportation requirements, the Bureau of Prisons has established a program of drug and alcohol testing for all drivers who have a commercial drivers license, and may be called on to drive a Bureau of Prisons commercial motor vehicle.

Because you may be required to drive a Bureau of Prisons commercial vehicle, you are hereby notified that you are subject to the following types of drug and alcohol testing:

- Pre-Driving-Duty Drug Testing
- Random Selection Drug and Alcohol Testing
- Reasonable Suspicion Drug and Alcohol Testing
- Post Accident Drug and Alcohol Testing
- Return-to-Driving-Duty Drug and Alcohol Testing
- Follow-Up Drug and Alcohol Testing

All Department of Transportation alcohol testing shall be performed by appropriately certified technicians using equipment approved by the National Traffic Safety Advisory Board. All drug testing shall be performed by a laboratory certified by the Substance Abuse and Mental Health Services Administration. Initial positive results will be confirmed with gas chromatography/mass spectrometry analysis. This is the most accurate testing available.

Each driver having a positive drug test will be afforded the opportunity to present medical documentation supporting the lawful use of the drug. When illegal use of a drug has been determined, the driver may request that the second portion of his or her specimen be submitted for analysis at a different certified laboratory.

A refusal to submit to testing, a positive drug test result, or an alcohol test yielding a blood alcohol concentration of 0.02 percent or greater, may result in disciplinary action up to, and including dismissal.

I understand that I am subject to Department of Transportation requirements for commercial drivers. Further, I have received a copy of the Bureau of Prisons' Policy regarding drug and alcohol testing of commercial drivers, and information regarding the dangers of drug and alcohol use.

Printed Name

Signature

Date

**REQUEST TO ADD DRIVER(S) TO
DEPARTMENT OF TRANSPORTATION APPROVED DRIVER LIST**

In compliance with Program Statement ****.01, it is requested that the following individuals be added to the Bureau of Prisons list of DoT approved drivers. Arrangements have been made with the local HSA to initiate the required Pre-Driving-Duty Drug Test.

Request Date	
Institution	
Requested By	
FTS Phone Number	
Local DoT Coordinator	

	Driver Name (Last, First, MI)	Drug Test Initiated	Place On List
0	Smith, John D.	2/15/97	4/01/97
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

This form may be reproduced, and may be sent via facsimile to the National Coordinator at (202) 616-2091, or by electronic mail.

**REQUEST TO REMOVE DRIVER(S) FROM THE
 DEPARTMENT OF TRANSPORTATION APPROVED DRIVER LIST**

In compliance with Program Statement ****.01, it is requested that the following employee(s) be removed from the Bureau of Prisons list of DoT approved drivers.

Request Date	
Institution	
Requested By	
FTS Phone Number	
Local DoT Coordinator	

	Driver Name (Last, First, MI)	Date to Effect Removal
0	Smith, John D.	2/12/97
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

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**PRE-DRIVING-DUTY BACKGROUND VOUCHER
 DEPARTMENT OF TRANSPORTATION**

Items 6-10 must be completed for each employer for whom a motor vehicle operator applicant was employed as a commercial driver during the two years prior to Bureau application.

1	Type of Voucher	Telephone Interview _____ Written Request _____
2	Applicant Name	
3	Social Security Number	
4	Prior Employment	
5	Contact Person	
6	Applicant Employed Between	
7	Was applicant included in Employer's DoT:	Drug Testing Program? Alcohol Testing Program?
8	Did applicant ever refuse to take a required test, did applicant ever:	Drug Test? Alcohol Test?
9	On a DoT required test, did applicant ever:	Have a Positive Drug Test? Have a 0.04 or > Blood Alcohol Level?
10	If either Block 8 or 9 includes a yes , then did applicant:	Undergo evaluation by a Substance Abuse Professional? Complete any prescribed treatment? Satisfactorily complete a Return-to-driving-duty drug or alcohol test? Undergo follow-up drug or alcohol testing?

COMMENTS:

Completed by: _____ Date _____
 Staff Member Signature

**CONSENT FOR RELEASE OF INFORMATION
DEPARTMENT OF TRANSPORTATION**

I understand that, in compliance with Department of Transportation (DoT) regulations, the Bureau of Prisons must thoroughly evaluate the background of any prospective motor vehicle operator with regard to violations of DoT prohibition on the use of drugs and alcohol.

I give free consent to any supervisory or management official of the below named organization to discuss with the Bureau of Prisons my participation in any drug and/or alcohol testing programs conducted by the named organization. This consent extends to the disclosure that I refused a drug or alcohol test, or that I tested positive for use of a drug, or yielded a finding of 0.04 percent or greater breath alcohol concentration. This consent extends to the disclosure of any requirement by the organization that I submit to evaluation by a Substance Abuse Professional, whether I completed any prescribed treatment, and whether I was returned to a commercial driving position following an acceptable Return-to-driving-duty drug or alcohol test. This consent further extends to disclosure of my participation in any follow-up drug or alcohol testing. I consent that any facsimile reproduction of my signature provided below shall be sufficient for release of information to the Bureau of Prisons.

Organization Name	
Address	
Suggested Contact Person	
Position in Organization	
Telephone Number	
Period Affiliated with Organization	Start Date: _____ End Date: _____
Position with Organization	

Printed Name

Signature

Date