



# DOT/FMCSA Drug and Alcohol Testing Policy

Effective January 1, 2022

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## **OPP CONSTRUCTION**

### **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING POLICY**

#### **I. Purpose/Scope**

It is the Policy of Opp Construction (“Company”) to create an alcohol and drug (referred to in this Policy interchangeably as “drugs” or “controlled substances”) free workplace. The use of controlled substances or alcohol or the misuse of other drugs is inconsistent with the behavior expected of covered employees, subjects the employees and others to unacceptable safety risks, and undermines the Company’s ability to operate effectively and efficiently.

The purpose of this Policy is for the Company to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or the use of drugs by covered employees.

This Policy replaces and supersedes any previous Company policies regarding Federal Motor Carrier Safety Administration/Department of Transportation (“FMCSA/DOT”) drug and/or alcohol testing.

Under this Policy, covered employees will be tested for the presence of alcohol, marijuana, cocaine, opiates including prescribed semi-synthetic opioids, amphetamines, and phencyclidine under the circumstances set forth in this Policy.

The Company’s designated employer representative (DER) in connection with this Policy is referred to in Appendix B.

#### **II. References**

To the extent applicable, the following regulations govern this Policy:

Title 49 C.F.R. Section 382: Federal Highway Motor Carrier Administration Regulations/Department of Transportation on Controlled Substances and Alcohol Use and Testing

Title 49 C.F.R. Section 40: Department of Transportation (DOT) Procedures for Transportation Workplace Drug And Alcohol Testing Programs

Title 49 C.F.R. Section 390: Federal Motor Carrier Safety Regulations

#### **III. Applicability**

A. This Policy applies to every person who is covered by the applicable DOT regulations. This includes any employee or employee who loads, operates, or maintains a commercial motor vehicle (“CMV”).

B. “Covered employees” include:

1. Drivers who are engaged in safety-sensitive functions as set forth in the FMCSA regulations.

2. Job applicants, including new applicants and all current employees or other individuals applying for or seeking transfer to covered employee positions and who have received a conditional offer contingent upon successfully passing the required drug and/or alcohol test;

C. Safety-sensitive functions include the following:

1. All time at the Company or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the Company;

2. All time inspecting equipment as required by federal regulation 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 in or upon any commercial motor vehicle except time spent resting in a sleeper berth conforming to federal regulations;

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.

D. For purposes of this Policy, an employee is considered to be “performing a safety-sensitive function” during any period in which he/she is (i) actually performing, (ii) ready to perform, or (iii) immediately available to perform any safety-sensitive functions. It includes all time from the time an employee 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.

IV. Policy/Prohibitions

A. General Prohibitions:

1. No covered employee shall use, possess, sell, solicit, transfer, manufacture, distribute, or dispense a controlled substance or alcohol while the employee is engaged in Company business (regardless of location), or is anywhere on Company premises, including parking lots, or while operating Company machinery, equipment, or vehicles.

2. No covered employee shall use alcohol while performing safety-sensitive functions.

3. No covered employee shall perform safety-sensitive functions within four (4) hours after using alcohol.

4. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions (as defined below) while having an alcohol concentration of 0.04 or greater.

5. No covered employee required to take a post-accident alcohol test under this Policy shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

B. Refusal-to-Submit Prohibitions. No covered employee shall refuse to submit to a post-accident, random, reasonable suspicion, or a follow-up alcohol or controlled substances test as required under this Policy. Any individual who refuses to be tested under this Policy as set forth above shall be deemed “medically unqualified to operate a commercial motor vehicle.” For purposes of this Policy, a refusal to submit to testing means that an individual:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Company, consistent with applicable DOT agency regulations, after being directed to do so by the Company. This includes the failure by an employee to appear for a test when called by the Company’s consortium/third-party administrator (C/TPA), if applicable.

2. Fails to remain at the testing site until the testing process is complete; provided, that an employee who leaves the testing site before the testing process commences for 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 Policy 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 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 employee’s provision of a specimen.

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.

6. Fails to provide an adequate amount of saliva or breath for any alcohol test required by this Policy or DOT agency regulations; provided, that an employee who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.

7. Fails to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

8. Fails to undergo a medical examination or evaluation, as directed by the Company as part of the insufficient breath procedures outlined in the applicable DOT agency regulations.

9. Fails to sign the certification at step two of the Alcohol Testing Form (ATF) as required by applicable DOT agency regulations.

10. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process).

11. Fails or declines to take a second test the Company or collector has directed the employee to take.

12. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Company's designated employer representative (DER). 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.

13. Is reported by the MRO as having a verified adulterated or substituted test result.

C. Consequences of a Refusal to Submit to Testing:

1. A covered employee who refuses to be tested under this Policy will be removed from his or her position as an employee and will not be permitted to perform or continue to perform safety-sensitive functions. As a result, the individual may be subject to discipline, up to and including immediate termination or at the Company's sole discretion and may only be allowed to return to duty subject to the requirements set out in paragraph B.5. of the Policy entitled Return to Duty and Follow-up Testing or as otherwise set forth elsewhere in this Policy.

2. Any individual who is being considered for an employee position who refuses to be tested will not be hired for or transferred to such position.

D. Use of Controlled Substances Pursuant to Prescription: No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle.

1. Employees must report to their supervisor (a) any therapeutic drug use pursuant to the instructions of a licensed medical practitioner, and (b) when they are taking

any medication, whether prescription or over-the-counter, that is known to cause an adverse side effect that could interfere with the employee's ability to safely perform his/her job (e.g., motor ability, judgment, reflexes, etc.).

2. The Company reserves the right to temporarily change an employee's job assignment during the period of treatment.

3. The Company reserves the right to obtain an independent medical opinion regarding the drug or medication's potential effects on an employee's ability to perform safety-sensitive functions.

4. The Company reserves the right to place any employee engaging in therapeutic drug use or taking any medication, whether over-the-counter or prescription, on a leave of absence until the employee provides the required information to the Company.

E. Requirements following Testing:

1. Positive for Controlled Substances: No employee shall report for duty, remain on duty or perform a safety-sensitive function if the employee tests positive for controlled substances until the employee has satisfied all return-to-work requirements set forth elsewhere in this Policy.

2. Alcohol Concentration of 0.02 or greater but less than-0.04: No employee shall operate or continue to operate a commercial motor vehicle for a twenty-four (24) hour period if he/she is found to have an alcohol concentration of 0.02 or greater but less than 0.04.

3. Alcohol Concentration of 0.04 or Greater: No employee shall report for duty, remain on duty or drive a commercial motor vehicle after he/she provides a confirmatory test for alcohol with a concentration of 0.04 or greater until the employee undergoes a return-to-duty test with an alcohol concentration of less than 0.02 and has satisfied all other return-to-work requirements required by DOT regulations.

V. Hiring Requirements for New Employees

A. When hiring a employee (for all applicants and new employees hired prior to January 6, 2023), the Company will, after obtaining the new employee's written authorization (see item C below), inquire about the following from all of the new employee's former employers during the three years preceding the new employee's date of application with the Company:<sup>1</sup>

1. Alcohol tests with a result of 0.04 alcohol concentration or greater;
2. Verified positive controlled substances test results;

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<sup>1</sup> After January 6, 2023, Company will no longer obtain inquiries through a paper application or employee's written authorization. All inquiries after January 6, 2023 will be completed through FMCSA's web-based Clearinghouse.

3. Refusals to be tested (including verified adulterated or substituted drug test results);

4. Other violations of DOT agency drug and alcohol testing regulations; and

5. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), the Company will ask the employee to provide the information.

B. The Company may obtain the information from the previous employers via mail or fax.

C. The Company will obtain the new employee's written authorization for release and will provide a copy of the authorization to each of the employee's previous employers when requesting the information in item A above. An appropriate form will be provided. Any employee who fails or refuses to provide the required written authorization or otherwise interferes with or the Company's obligation to obtain the information set forth in item A will not be hired or will be terminated.

D. The information obtained from a previous employer may contain any alcohol and drug information that the previous employer obtained from other previous employers.

E. If feasible, the Company will obtain and review the information set forth in item A before the new employee performs any safety-sensitive functions (see the definition above) for the Company. If that is not feasible, the Company will make a good faith effort to obtain and review the information no later than 30 calendar days after the first time the new employee performs any safety-sensitive functions for the Company.

F. The Company will not permit a new employee to perform safety-sensitive functions after 30 days without having made a good faith effort to obtain the required information as soon as possible.

G. If a new employee stops performing safety-sensitive functions for the Company before the 30-day period expires or before the Company has obtained the information set forth in item A above, the Company will still make a good faith effort to obtain the information.

H. The Company or its C/TPA (if applicable) will maintain a written, confidential record of the information obtained pursuant to item A above.

I. If, after a good faith effort, the Company is unable to obtain the information from any previous employer, the Company will make a written record of its efforts to obtain the information and retain the record for no less than three years from the date of the employee's first performance of safety-sensitive duties for the Company.



J. The Company will not use an employee to perform safety-sensitive functions if the information from the previous employers reveals that the employee has produced a positive drug and/or alcohol test unless the Company also has information showing that the employee complied with the applicable return-to-duty requirements of the applicable federal regulations.

K. In addition to the above, the Company will ask each covered applicant/employee to disclose whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past three years. If the applicant/employee admits that he or she had a positive test or a refusal to test, the Company will not use the employee to perform safety-sensitive functions until and unless the applicant/employee provides documentation of successful completion of the required return-to-duty process.

## VI. Testing

The Company will test employees and applicants for employee jobs covered by DOT/FMCSA regulations for drugs and alcohol under the circumstances outlined below.

### A. Testing Procedures

#### 1. Drug Testing

a. When drug testing of a particular individual is required under this Policy, the individual will be sent to the collection site chosen by the Company for collection of a specimen in conformance with federal regulations.

b. A specimen is collected so as to ensure the integrity of the specimen through chain of custody procedures which track the handling and storage of the specimen from the point of collection to final disposition.

c. Once collected, the specimen is shipped to a testing laboratory which has received certification from the Department of Health and Human Services under the National Laboratory Certification Program (NLCP). The laboratory tests each specimen in compliance with federal regulations. Specimens are currently tested only for the following controlled substances: marijuana metabolites, cocaine metabolites, opiate metabolites (including four semi-synthetic opioids: Hydrocodone; Hydromorphone; Oxycodone; and Oxymorphone), amphetamines and phencyclidine (PCP).

d. All drug test samples will be subject to an initial screening test. Samples identified as positive on the initial test are then subject to a confirmation test.

e. The testing laboratory will report test results to the Company's Medical Review Officer ("MRO") in accordance with federal regulations.

f. Among other duties, the MRO will review the test results for possible alternate medical explanations prior to the transmission of the results to the Company. The MRO will give the tested individual an opportunity to discuss the test result with him/her prior to making a final decision to verify a confirmed positive, adulterated substituted or invalid test result. The MRO may verify a test as positive or a refusal to test, because of adulteration or substitution, as applicable, without having communicated directly with the tested individual about the test when:

i the tested individual expressly declines the opportunity to discuss the test;

ii neither the MRO nor a designated employer representative (DER), after making and documenting reasonable efforts, has been able to contact the tested individual within 10 days of the date on which the MRO receives the confirmed test result from the laboratory; or

iii the DER has successfully made and documented a contact with the tested individual and instructed the tested individual to contact the MRO and more than seventy-two (72) hours have passed since the time the DER contacted the tested individual.

g. Individuals may obtain a copy of the test results upon written request to Human Resources.

## 2. Alcohol Testing

a. When alcohol testing of a particular individual is required under this Policy, the individual will be subject to testing by use of an evidential breath testing (EBT) device or alcohol screening device (ASD) on the NHTSA conforming products list (CPL).

b. Individuals who test positive on the initial test for alcohol are then subject to a confirmatory test. For purposes of this Policy, any alcohol test result with a concentration of less than 0.02 is considered a negative test. Initial alcohol test results with a concentration of at least 0.02 will be subject to a confirmatory test.

c. All confirmed positive test results will be transmitted to the designated employer representative (DER).

d. Individuals may obtain a copy of the test results upon written request from Human Resources.

## 3. Dilute Test Results

- a. If the MRO informs the Company that a positive test was dilute, the Company will treat the positive dilute result as a verified positive test result, and the employee will be subject to discipline up to and including termination.
- b. If the MRO informs the Company that a negative test was dilute, the Company may take the following action:
  - i. For Employees and Applicants: If the MRO directs that a recollection take place because the creatinine concentration of the specimen was equal to or greater than two mg/dL but less than or equal to five mg/dL, the Company will do so immediately. Failure of the individual to submit for this recollection is classified as a refusal to test. This specimen will be collected under direct observation.
  - ii. For Employees: If the creatinine concentration of the negative dilute specimen is greater than five mg/dL, the Company will require the employee to be retested upon immediate notification and be escorted by a supervisor in the Company. This specimen will also be collected under direct observation.
  - iii. For Job Applicants: If the creatinine concentration of the negative dilute specimen is greater than five mg/dL, the Company will retest the applicant within 24 hours.
  - iv. When a retest is required after a negative dilute specimen, the employee will be given the minimum possible advance notice that he or she must go to the collection site. The result of the retest will be considered the final result, not the result from the first test.

If a covered employee declines to take a retest because of a dilute specimen, the action will be considered a “refusal to be tested” and will be treated the same as a confirmed and verified positive test. An offer of employment will be rescinded if an applicant refuses to take the retest because of the dilute specimen.

Covered employees will be paid for time spent in alcohol and controlled substance testing. If a covered employee is tested for reasonable suspicion or post-accident, the employee will be suspended without pay pending the results of the controlled substance and/or alcohol tests. After the results of the test are received, a meeting will be scheduled to discuss the results of the test with management. If the results are negative, the covered employee will receive backpay for the days or hours of suspension of their regularly scheduled shift.

#### 4. Controlled Substance Testing Procedures

- a. Controlled substance testing is conducted by analyzing the applicant’s or employee’s urine specimen. The applicant or employee provides a urine specimen, which is sealed and labeled, and sent to a laboratory for testing. Testing for controlled substances will involve the split specimen technique, under which each urine specimen is divided into two containers labeled as primary and

split specimens. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens or if a member of management determines that an observed collection is warranted because of the individual's behavior or the circumstances.

An initial screening test will be performed on the primary specimen. The sample will be tested, in accordance with 49 CFR § 40.85 for evidence of marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids, including four semi-synthetic opioids: Hydrocodone; Hydromorphone; Oxycodone; and Oxymorphone. There shall be a chain of custody from the time specimens are collected through testing and storage.

If the screening test is positive for one or more controlled substances, a confirmation test will be performed for each identified drug. The laboratory shall transmit all positive drug tests to a Medical Review Officer ("MRO") retained by the company who will offer persons with positive results an opportunity to rebut or explain the results. The MRO cannot verify a drug test is negative under this Policy and federal law based on information that a physician recommended that the employee use "medical marijuana."

Persons with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such request must be made within 72 hours of notice of test results. If the second facility fails to find evidence of controlled substances in the split specimen, the employee or applicant will be treated as passing the test, and the company will reimburse the individual for the testing costs.

A positive test result will not be communicated to the Company until the MRO has confirmed the test to be positive.

5. Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices. If a employee's breath alcohol concentration is .02 or more, a second breath specimen shall be tested approximately 20 minutes later. The results of the second test shall be determinative. For purposes of this Policy, positive test results generated by law enforcement or medical providers may be considered by the Company as work rule violations.

#### B. When Drug and Alcohol Testing Will Take Place

The Company will conduct drug and/or alcohol tests under the following circumstances:

##### 1. Pre-Employment/Pre-Placement Testing

###### a. Drugs

i. All applicants for covered employee positions, including existing employees who are applying for a covered employee position or who seek to be transferred to a covered employee position, will be required

to undergo and pass a drug test as a condition to and prior to commencing employment, or as a condition to and prior to placement in a covered employee position.

(i)

ii. Applicants, including existing employees, who receive a positive drug test on a pre-employment/pre-placement test will have their conditional offer of employment revoked and will not be hired.

b. Alcohol

The Company does not currently conduct pre-employment alcohol tests of employee applicants. The Company reserves the right to conduct pre-employment alcohol tests in the future pursuant to applicable regulations.

2. Reasonable Suspicion Testing

a. General

i. A covered employee may be subject to drug testing when a trained Company supervisor or official has a reasonable suspicion that the individual has violated this Policy on drugs.

ii. A covered employee may be subject to alcohol testing when a trained Company supervisor or official has a reasonable suspicion that the individual has violated this Policy on alcohol.

iii. The Company's determination that reasonable suspicion exists will be based on specific, contemporaneous, objective observations concerning the appearance, behavior, speech or body odors of the employee and, in the case of drugs, may also be based upon indications of the chronic and withdrawal effects of drugs.

iv. The conduct giving rise to reasonable suspicion will be observed by a supervisor or other Company official trained in the detection of probable alcohol or drug use in accordance with the governing regulations. The supervisor or company official who makes the determination that reasonable suspicion exists will not conduct the alcohol test of the employee.

v. The documentation of the employee's conduct will be prepared and signed by the supervisor or other Company official within 24 hours of the observed behavior or before the results of the tests are released, whichever occurs first.

vi. Regardless of whether a drug or alcohol test is conducted pursuant to this Policy, no employee shall report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol or drugs.

b. Alcohol Testing

i. Reasonable suspicion alcohol testing will be required if the conduct giving rise to “reasonable suspicion” is made, and the test is administered,

(a) while the covered employee is performing safety sensitive functions,

(b) just before the covered employee is to perform safety sensitive functions, or

(c) just after the covered employee has ceased performing such functions.

ii. Reasonable suspicion alcohol tests will be administered as follows:

(a) within two (2) hours following the determination of reasonable suspicion, where possible; or

(b) within eight (8) hours after the determination of reasonable suspicion.

iii. If a reasonable suspicion alcohol test is not administered within the specified two (2) hours, the Company will prepare and maintain a record stating the reasons.

iv. If a reasonable suspicion alcohol test is not administered within the specified eight (8) hours, the Company will cease attempts to administer the test (except as stated in item “v” below) and will prepare and maintain a record stating the reasons for not administering the test.

v. In situations where the Company had reasonable suspicion that the employee is under the influence of alcohol or is impaired by alcohol, but a reasonable suspicion alcohol test was not administered, the employee will not be permitted to perform or continue to perform safety sensitive functions until

(a) an alcohol test is administered and the employee’s alcohol concentration measures less than 0.02; or

(b) twenty-four (24) hours have elapsed following any determination that there was reasonable suspicion of alcohol use in accordance with this Policy.

c. Drugs

i. Reasonable suspicion observation and testing for drugs can occur at any time the employee is on duty.

ii. Employees tested for drugs upon reasonable suspicion will be immediately withdrawn from safety-sensitive functions and may not return unless the individual produces a negative drug test.

3. Random Selection Testing

a. General

i. Covered employees will be selected for random testing via a scientifically valid method. Tests are unannounced and reasonably spread throughout the calendar year.

ii. Each covered employee will have an equal chance of being selected for random testing each time selections for random testing are made.

iii. Once notified of selection for random testing, a covered employee must proceed to the testing site immediately; provided, however, that if the employee is performing a safety-sensitive function other than driving a commercial motor vehicle at the time of notification, the Company will ensure that the employee ceases to perform the safety-sensitive function and proceed to the testing site as soon as possible.

iv. Regardless of whether a drug or alcohol test is conducted pursuant to this Policy, no employee shall report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol or drugs.

b. Alcohol Testing

i. All covered employees will be subject to random alcohol testing without notice in sufficient numbers to equal at least 10% (or other percentage as specified by the governing regulations) of the average covered employee population every calendar year.

ii. Random testing for alcohol will be scheduled while the employee is performing safety sensitive functions, just before the employee is to perform safety sensitive functions, or just after the employee has ceased performing such functions.

c. Drug Testing

i. All covered employees will be subject to random drug testing without notice in sufficient numbers to equal at least 50% (or other percentage as specified by the governing regulations) of the average covered employee population every calendar year.

ii. Random testing for drugs may be scheduled at any time the employee is on duty.

4. Post-Accident Testing

a. General

i. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Company will test for alcohol and drugs on each of its surviving employees:

(a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(b) Who receives a citation (within 8 hours of the occurrence for alcohol testing or within 32 hours for drug testing) under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or

(ii) One or more vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Type of Accident Involved	Citation issued to the CMV Driver	Test must be performed by employer
Human Fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO



Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

ii. For purposes of this Policy, post-accident testing does not include:

(a) an occurrence involving only boarding or alighting from a stationary motor vehicle; or

(b) an occurrence involving only the loading or unloading of cargo.

iii. Employees who are subject to post accident testing shall remain readily available for such testing. Employees who are not readily available for testing may be deemed to have refused to submit to testing; however, nothing in this Policy shall prohibit the employee from leaving the accident scene for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

iv. After a covered employee has submitted to a post-accident test, he/she may be returned to safety-sensitive functions except when a trained supervisor has knowledge or reasonable suspicion of the employee's use of alcohol or controlled substances, in which case the employee will not be permitted or requested to perform safety-sensitive functions until the employee produces a negative drug and/or alcohol test as applicable and satisfies all other applicable requirements under this Policy.

v. Regardless of whether a drug or alcohol test is conducted pursuant to this Policy, no employee shall report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol or drugs.

vi. The results of a breath or blood test for the use of alcohol, conducted by Federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of 49 C.F.R. Part 382, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Company.

vii. The results of a urine test for the use of controlled substances conducted by Federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of 49 C.F.R. Part 382, provided such tests conform to the applicable Federal, state or local controlled substances testing requirements and that the results of the tests are obtained by the Company.

b. Alcohol Testing

i. Post-accident alcohol tests will be administered:

(a) within two (2) hours following the accident, where possible; or

(b) within eight (8) hours after the accident.

ii. If a post-accident alcohol test is not administered within the specified two (2) hours, the Company will prepare and maintain a record stating the reasons.

iii. If a post-accident alcohol test is not administered within the specified eight (8) hours, the Company will cease attempts to administer an alcohol test and will prepare and maintain a record stating the reasons.

iv. After an accident, the employee may not consume alcohol for eight (8) hours or until the employee is tested for alcohol, whichever occurs first.

c. Drug Testing

Employees shall provide a urine specimen for drug testing as soon as possible but no later than 32 hours following an accident. If no test is administered within that time period, the Company will cease attempts to administer a drug test and will prepare and maintain a record stating the reasons the test was not promptly administered.

5. Return to Duty and Follow-up Testing

a. Alcohol Testing

i. The Company may, in its sole discretion, allow a covered employee to return to work after the employee has tested positive for alcohol or has refused to submit to testing in violation of this Policy. However, the Company may issue discipline, including but not limited to termination of employment. The employee will be allowed to return to performing safety-sensitive duties only as follows:

(a) Subject to all return-to-duty terms of 49 C.F.R. Part 40. This includes, but may not be limited to, completion of an evaluation by a substance abuse professional (SAP), referral, and education/treatment process. All costs associated with SAP evaluation(s), required rehabilitations, education, and treatments are the responsibility of the employee;

(b) The employee must consent to a disclosure by the SAP to the Company regarding whether the individual has followed the recommendations of the SAP and whether the SAP recommends that the individual be returned to work; and

(c) After undergoing a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02.

ii. The return to duty is further subject to the availability of a suitable position.

iii. Follow-up alcohol testing will be performed as recommended by the SAP.

b. Drug Testing

i. The Company may in its sole discretion allow an employee to return to work after the employee has tested positive for drugs or has refused to submit to testing in violation of this Policy. The employee will be allowed to return to performing safety-sensitive duties only as follows:

(a) Subject to all return-to-duty terms of 49 C.F.R. Part 40. This includes, but may not be limited to, completion of an evaluation by a substance abuse professional (SAP), referral, and education/treatment process. All costs associated with SAP evaluation(s), required rehabilitations, education, and treatments are the responsibility of the employee;

(b) The employee must consent to a disclosure by the SAP to the Company regarding whether the individual has followed the recommendations of the SAP and whether the SAP recommends that the individual be returned to work; and

(c) After successfully passing a return-to-duty drug test.

ii. The return to duty is further subject to the availability of a suitable position.

iii. Follow-up drug testing will be performed as recommended by the SAP.

6. Absence for 90 Calendar Days or Longer. Covered employees returning to work after being away for more than 90 calendar days shall be required to submit to drug urinalysis. The employee, prior to the commencement of work, shall provide a urine specimen for the drug screen.

VII. Notice of the Policy

A. All covered employees must sign the “Acknowledgement of Notice and Receipt” form upon receipt of the Policy. Forms will be kept in the Human Resources office.

B. Written notice that the Policy exists will be posted, and employees and any collective bargaining representative will be provided with copies of the entire Policy for their review.

VIII. Personnel Action Pending Test Results and Upon Positive Test Results

A. The Company will notify an employee of the results of a pre-employment controlled substance test if the employee requests such results within 60 calendar days of being notified of the disposition of the employment application.

B. The Company will notify an employee of the results of a random, reasonable suspicion, post-accident test, follow-up, and return-to-duty test for controlled substances if the test results are verified positive. The Company will also inform the employee which controlled substance or substances were verified as positive.

C. The designated employer representative (DER) will make reasonable efforts to contact and request that the employee who submitted the specimen, regardless of the employee’s employment status, contact and discuss the results of the controlled substances test with the MRO who has been unable to contact the employee. The Company official will immediately notify the MRO that the employee has been notified to contact the MRO within 72 hours.

D. Once the determination of a positive test has been made, the individual is not qualified to operate as a employee. If the individual is a job applicant, including a current employee applying for or seeking transfer to a covered driving position, the conditional offer for the employee position will be withdrawn.

E. A employee who has engaged in conduct prohibited by this Policy, including producing a positive alcohol or drug test or refusing to submit to a test:

1. Will be advised by the Company of the resources available to the employee 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; and

2. Will be given the opportunity to undergo an evaluation by a substance abuse professional (SAP), at the employee’s own expense or through the Company’s benefit plan (as applicable). The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances abuse. If the employee refuses to participate in such evaluation and/or fails to complete any recommended treatment or follow-up program, he or she will be considered to have voluntarily quit and will not be permitted to return to work.

F. An employee who tests positive for alcohol for the first time with an alcohol concentration of 0.04 or greater shall not be qualified to drive until the employee meets the return-to-duty requirements set forth in this Policy.

G. An employee who tests positive for alcohol for the first time with an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, and will not be permitted to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the alcohol test.

H. An employee who tests positive for drugs for the first time shall not be qualified to drive until the employee meets the return-to-duty requirements set forth in the Policy.

I. An employee who tests positive a second time, whether for drugs or alcohol (with a concentration of 0.04 or greater), will face disciplinary measures up to and including termination.

## IX. Assistance

A. Purpose. One purpose of Company's drug and alcohol testing program is to encourage employees who have a substance abuse problem to voluntarily seek help. Employees are encouraged to consult with the Company's President or Vice President to seek assistance for any substance abuse problem.

1. Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of this Policy and 49 CFR Part 40, provided that: (a) the admission is in accordance with the Company's written Voluntary Self-Identification Policy as set forth below in this Section IX.A; (b) the employee does not self-identify in order to avoid testing under the requirements of this part; (c) the employee makes the admission of alcohol misuse or controlled substances used prior to reporting for duty; and (d) the employee does not perform a safety sensitive function until the Company is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines in paragraph 2 of this section;

2. The Company's Voluntary Self-Identification Policy is as follows:

a. The Company will not take adverse action against a employee making a voluntary admission of alcohol misuse or controlled substances used within the parameters of paragraph 2 of this section;

b. Upon making a voluntary admission, the employee must seek evaluation, education or treatment within fifteen (15) days to establish control over the employee's drug or alcohol problem;

c. The employee may return to safety-sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance

professional, a substance abuse professional, or a qualified drug and alcohol counselor;

d. Prior to the employee participating in a safety-sensitive function:

i. The employee shall undergo a return-to-duty test where the results indicating an alcohol concentration of less than 0.02; and/or

ii. The employee shall undergo a return-to-duty controlled substance test with a verified negative test result for controlled substance use.

e. The Company will continue to test the employee in accordance with the requirements to return to a safety-sensitive job. In order to continue providing services to the Company, the employee's duties include the following:

i. Be evaluated by an SAP;

ii. Be in compliance with a prescribed education and/or treatment plan;

iii. Complete a return-to-duty evaluation by an SAP;

iv. Sign a release for the SAP to fax or e-mail a completed SAP evaluation to the DER;

v. Initiate the return-to-duty process;

vi. Have a negative return-to-duty test and/or an alcohol concentration of less than 0.02;

vii. Be subject to at least six (6) follow-up tests during the next twelve (12) months;

viii. Follow-up testing may occur up to sixty (60) months; and

ix. All return-to-duty and follow-up tests must be conducted using direct observation collection procedures.

B. Assistance. The Company will assist employees in selecting an appropriate evaluation and rehabilitation programs. The Company may also be able to recommend trained counselors who assist employees with personal problems and may be able to recommend additional sources of assistance.

C. Employees are encouraged to meet with Human Resources, in order to determine whether their health insurance covers rehabilitation. Costs of rehabilitation will otherwise be the responsibility of the employee.

## X. Inspections

The Company reserves the right to inspect all portions of its premises and worksites for controlled substances, alcohol or other contraband. All employees, contract workers, and visitors may be asked to cooperate in inspections of other persons, work areas, and property that might conceal a drug, alcohol, or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to discipline, up to and including termination.

## XI. Effects of Use of Alcohol and Controlled Substances

Alcohol abuse and use of controlled substances can have a devastating effect on your health, ability to work, and your personal life. It can cause increased healthcare costs, reduce productivity, absenteeism, workplace injuries, and violence. Signs and symptoms of an alcohol or a controlled substance problem may include the following:

<b>Performance</b>	<b>Behavior</b>
Inconsistent work quality;	Frequent financial problems;
Poor concentration;	Avoidance of friends and colleagues;
Lowered productivity;	Blaming others for own problems and shortcomings;
Increased absenteeism;	Complaints about problems at home;
Unexplained disappearances from the jobsite;	Deterioration in personal appearance;
Carelessness, mistakes;	Complaints and excuses of vaguely-defined illnesses;
Errors in judgment;	Dilated pupils, bloodshot or watery eyes;
Needless risk-taking;	Slurring words, erratic behavior, delayed or hyper responses;
Disregard for safety;	Behavior which is unusual or out of character;
Extended lunch periods and early departures;	

Additional signs and symptoms of a drug related problem are outlined in Appendix A.

If you are concerned about your own alcohol or substance abuse or that of a coworker, the following resources are available: (1) contact or make a recommendation to contact any Substance Abuse Professional or one listed on Appendix B; (2) contact a designated Company representative on Appendix A regarding resources and healthcare coverage for substance use disorders, including aftercare and counseling; (3) request a leave of absence to seek help; and/or (4) encourage a coworker who is struggling with an alcohol or substance abuse issue to seek assistance.

## XII. Training

All supervisors of employee personnel, as well as any other persons who are designated by the Company to determine whether reasonable suspicion exists to require an employee to undergo testing pursuant to this Policy, shall be required to attend educational and training sessions relating to both alcohol misuse and controlled substances use. The training will include, but not be limited to, information about the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of drugs

### XIII. Education

In addition to this Policy, the Company will maintain and provide to all covered employees certain educational materials relating to the effects of alcohol misuse and the use of controlled substances. Each employee will receive a copy of the educational materials included with this Policy in Appendix A, and upon signing the Acknowledgement of Notice and Receipt Form, acknowledges receipt of Appendix A.

### XIV. Confidentiality

Test results and other information the employer is required to maintain in connection with drug and alcohol testing, will be treated as confidential, to the extent required by law and maintained in a secure file separate from normal personnel files except that:

A. An employee will be 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 test. An employee will not be required to pay for the copies.

B. Information will be disclosed to supervisors or management on a need-to-know basis.

C. The Company will make available copies of all results for alcohol and/or controlled substances testing conducted under this Policy and any other information pertaining to the Company's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the Company or any of its employees.

D. When requested by the National Transportation Safety Board as part of an accident investigation, the Company will disclose information related to the Company's administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.

E. The Company will make records available to a subsequent employer of a covered employee upon receipt of a written request from a employee.

F. The Company may disclose information required to be maintained pertaining to a employee to the decision maker in a lawsuit, grievance, or other administrative proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test or a refusal to test (including, but not limited to, adulterated or substituted test results) administered under this Policy (including but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee). Additionally, the Company may disclose information in criminal or civil actions in accordance with 49 C.F.R. Part 40.323(a)(2).

G. The Company will release information regarding a employee's records as directed by the specific, written consent of the employee authorizing release of the information to an



identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the individual's consent.

XV. Drug and Alcohol Clearinghouse

The Company is required to perform background checks referred to as "limited or full queries" through the web-based Federal Motor Carrier Administration Drug and Alcohol Clearinghouse on all of its applicants before commencing work and annually on all individuals covered under this Policy. This will require such individuals to provide electronic and written consent to the Company to perform these background check. Failure to provide electronic consent for full queries or written consent for limited queries, will result in an applicant not being offered employment, an employee being terminated from employment, any other employee (such as owner/operator employees covered under this Policy) no longer driving for the Company. The Company is required under federal law to collect and maintain certain personal information regarding its employees and this information must be reported to the Clearinghouse, including:

- A. A verified positive, adulterated, or substituted drug test result;
- B. An alcohol confirmation test with a concentration of 0.04 or higher;
- C. A refusal to submit to any test as described in this Policy;
- D. The Company's report of actual knowledge as described in this Policy including:
  - 1. On duty alcohol use as defined in this Policy;
  - 2. Pre-duty alcohol use as defined in this Policy;
  - 3. Alcohol use following an accident pursuant to Section 382.209; and
  - 4. Controlled substance use pursuant to Section 382.213;
- E. A substance abuse professional (SAP as defined in Section 40.3 of 49 CFR § 382) report of the successful completion of the return-to-duty process;
- F. A negative return-to-duty test; and
- G. The Company's report of completion of follow-up testing.

**If employees have questions about this Policy, or about the educational materials referred to above, they should consult with Human Resources.**

THIS POLICY IS NOT INTENDED AS AN OFFER AND DOES NOT CONSTITUTE A CONTRACT BETWEEN THE COMPANY AND COVERED INDIVIDUALS, INCLUDING BUT NOT LIMITED TO EMPLOYEES. THE COMPANY RESERVES THE RIGHT TO ALTER, AMEND, MODIFY OR TERMINATE THIS PROGRAM TO THE EXTENT NOT RESTRICTED BY APPLICABLE DEPARTMENT OF TRANSPORTATION REGULATIONS.

## Appendix A

### Signs and symptoms of a drug-alcohol problem

Drugs and alcohol can result in such work-related problems as absenteeism and tardiness, lower productivity, missed deadlines, poor work quality, unsafe driving, and increased injuries and accidents. Problems relating to or communicating with supervisors, co-workers or customers, following directions, concentrating or remembering things may also indicate a drug or alcohol problem.

Drugs and alcohol slow reaction times, cause confusion, harm coordination and motor skills and can impair decision-making and memory. People misusing alcohol and using illegal drugs may be withdrawn, lethargic, depressed, erratic, “hyper” or unusually anxious, hostile, or paranoid.

Drugs and alcohol misuse can also result in health problems like chronic gastritis, headaches, chronic respiratory infections, and liver problems. They may also show up as poor hygiene, a sloppy appearance, financial problems, DUIs or family problems.

Evidence of use can include paraphernalia such as pipes, syringes, foil packets, pills, powders, and empty alcohol containers. Physical symptoms of use can include:

- Marijuana and alcohol odors
- Puffy or droopy eyelids, bloodshot eyes, dilated or pinpoint pupils
- Nosebleeds, excessive sniffing, chronic sinus problems, nasal sores
- Needle tracks or blood spots on clothing
- Tremors, racing or irregular heartbeats
- Slurred or incoherent speech
- Confusion, anxiety, paranoia
- Coordination problems
- Lethargy and sleepiness

### Effects of alcohol and drugs

Drugs and alcohol can harm health and the workplace in a variety of ways.

#### Alcohol

Alcohol is a central nervous system depressant that acts like a poison if used in large quantities. Each year the lives of tens of thousands of Americans are shortened or ended by alcohol misuse.

Alcohol quickly reaches the brain after drinking. It impairs self-control and other learned behaviors. This loss of self-control can lead to aggressive driving (or overly cautious driving), as well as the other kinds of aggressive behaviors associated with drinking. Even small doses of alcohol, i.e., a single drink, can harm driving performance. In large doses, alcohol significantly impairs coordination, memory and judgment.

Over time, alcohol misuse damages the liver, the heart, the digestive system and can cause permanent brain damage. On average, alcoholics shorten their life span by about 10 years.

Alcohol misuse harms the ability to think clearly, harms judgment and can affect the ability to get along with and work constructively with co-workers and customers. Alcoholics often have attendance and work performance problems and get fired because of the consequences of alcohol misuse. Because of its adverse effects on coordination, reflex time, vision, driving ability, judgment and the ability to evaluate and quickly process information, alcohol is especially dangerous for employees of commercial motor vehicles.

A small glass of wine, a can of beer and a one and one-half ounce shot of liquor all contain about the same amount of alcohol. It takes the body about one hour to metabolize and eliminate each “drink” of alcohol. Coffee, exercise, and cold showers do not speed up this process or magically produce sobriety. While individuals differ greatly, each drink on an empty stomach by an average-sized adult male may lead to an alcohol concentration of about .02. Thus, drinking more than two drinks raises a serious risk of having an alcohol concentration in excess of DOT rules, especially for people with low body weights. Any drinking while on duty or during the 4 hours before working violates DOT rules.

### **Cocaine**

Cocaine is a powerful stimulant that can be inhaled up the nose, injected or smoked. It greatly increases heart rate and blood pressure. Partly because of its effects on the circulatory system, cocaine use can lead to seizures. Every time cocaine is used, there is some unquantifiable risk of a fatal stroke or heart attack. Cocaine can also cause tremors, convulsions, vomiting and raises body temperature to dangerous levels. Repeated snorting damages nasal tissues, sometimes permanently. Needle use carries risks of infection and overdose.

Initially, cocaine use brings a rush of euphoria and exaggerated overconfidence. Sometimes these effects are so strong that safe driving is impossible. Cocaine wears off in about an hour after it is snorted and in just a few minutes after it is smoked. When it wears off, the user may become depressed, anxious, paranoid, and exhausted.

Cocaine users may exhibit rapid mood swings and changes in activity level. They may grind their teeth, repeatedly wash their hands, or engage in other compulsive behaviors.

### **Amphetamines**

Amphetamines, also known as “speed,” are powerful stimulants that are often abused by truck employees because they make it easy to stay awake. Amphetamines, however, are dangerous drugs with a high potential for abuse. Amphetamines may also be known as uppers, black beauties, white crosses or dexies.

Use brings feelings of alertness and a loss in appetite. The user may also become very talkative or physically active or feel very strong after ingesting amphetamines. In a few hours however, the amphetamines wear off and restlessness, anxiety, paranoia, and headaches set in.

In large doses, amphetamines can produce serious toxic effects. The user's blood pressure can rise to the point where strokes or heart attacks occur. Long-term users often have acne, tooth problems and may exhibit symptoms of permanent brain damage.

## **Marijuana**

Marijuana is a hallucinogen that alters the user's sense of time and reduces the user's ability to perform tasks requiring coordination, swift reactions and concentration. Taken in large quantities, marijuana can act like a depressant.

While some people may regard marijuana as harmless, there is evidence its use is unhealthy and dangerous for the employee. Marijuana causes significant increases in blood pressure and pulse rate and, thus, can aggravate or cause heart disease. Marijuana smoke also contains a number of known carcinogens. Many experts believe that marijuana is actually healthier to smoke than tobacco.

Studies have shown that smoking marijuana affects the ability to perform tasks like driving, which require both thinking and motor skills, for at least 24 hours. Users, however, often believe that all the impairing effects of smoking have worn off after 4 to 6 hours. Marijuana significantly impairs short-term memory and can harm the user's ability to concentrate or plan for and achieve long-term goals. There is also significant evidence that marijuana harms the reproductive systems of men and women and is dangerous for children and non-smokers who live with the user.

## **Opiates**

Opiates are a class of narcotics and sedatives derived from the opium poppy plant. Heroin is the strongest opiate. Heroin use has been increasing in recent years because of the availability of cheap, strong heroin from Asia. This new stronger heroin can be smoked or snorted. Heroin can also be injected using needles.

Morphine and codeine are opiates that are often used to relieve pain or induce sleep. However, they can be stolen from hospitals or pharmacies and abused.

Opiate misuse causes a number of health problems. Because of variations in dosages and strength, heroin use carries a risk of overdose and death. Addicts who use needles also risk contracting AIDS or hepatitis. Heroin is often contaminated with other drugs or toxins or combined with other narcotics.

Opiate use slows down and depresses a number of body functions, including brain functioning. Heroin users may act sleepy or euphoric for a while and then become anxious or irritated after the heroin wears off. Heroin users tend to have a number of related health problems and tend to also abuse alcohol and tobacco. Together, these drugs and the unhealthy lifestyles of heroin users result in decreased life expectancy.

## PCP

Phencyclidine, or PCP, is also called angel dust or dust. PCP is an extremely dangerous hallucinogen that has unusual and unpredictable side effects. It was developed as an anesthetic in the late 1950's and used for a while as a tranquilizer both for humans and animals. Because of its dangers, it now has no legal uses and is no longer legally manufactured. Rather, PCP is manufactured in underground laboratories. It often contains dangerous adulterants but is very dangerous all by itself.

PCP can produce violence and bizarre behavior in anyone who uses it. Occasionally, PCP users attack nurses and policemen or jump out of windows because they believe they can fly. PCP somehow scrambles the brain's internal stimuli and seriously changes how users feel, see and deal with their environment.

In low doses, PCP produces a feeling of numbness. Increased doses produce excitement, confusion and delirium. The user's body may become rigid or go into convulsions. Routine activities like driving become dangerous and unpredictable.

Users may walk with strange uncoordinated steps. PCP users may have a blank stare, sweat heavily, have thick slurred speech or engage in some of the violent and bizarre behaviors mentioned above.

**Appendix B**

**Designated Company Representative (“DER”)**

Primary: Shaylee Brien

Secondary: Dave Opp

**Appendix C**  
**Substance Abuse Professionals (“SAP”)**  
**and**  
**Treatment and Mental health Professionals**

Agassiz Associates  
2424 32<sup>nd</sup> Avenue S., Ste 202  
Grand Forks, ND 58201  
(SAP, takes insurances, **does a release of information**)

Drake Counseling  
311 4<sup>th</sup> Street  
Grand Forks, ND 58201  
(SAP, \$140 due at time of eval; will file with insurance; do a release of information if needed)

North East Human Services  
151 South 4<sup>th</sup> Street  
Grand, Forks, ND 58201  
701-795-3000  
(DAP, offers drug & alcohol evaluations as long as the employee did not receive a DUI and is a ND resident; Mon-Fri 8 am-11am, and 1pm -2:30 pm)

The Village  
1726 S. Washington Street, #33a  
Grand Forks, ND 58201  
(does not do drug and alcohol evaluations; does only mental health evaluations)

Douglas Place  
1111 Gateway Dr NE  
East Grand Forks, MN 56721  
218-793-0420

Ideal Options (does not do evaluations, unless you enroll in their treatment program)  
3301 30<sup>th</sup> Ave S Suite 102  
Grand Forks, ND 58201  
877-522-1275

Southeast Human Service Center  
2624 9<sup>th</sup> Avenue S.  
Fargo, ND 58103  
701-298-4500





**Appendix D**

**Medical Review Officer (“MRO”)**

Global Safety

3590 S 42<sup>nd</sup> St Grand Forks, ND 58102

1100 19<sup>th</sup> Ave N Fargo, ND 58102

866-792-9808

**Appendix E**

**Testing Laboratories**

Global Safety  
3590 S 42<sup>nd</sup> St Grand Forks, ND 58102  
1100 19<sup>th</sup> Ave N Fargo, ND 58102  
866-792-9808

## **OPP CONSTRUCTION**

### **DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING POLICY**

#### **EMPLOYEE ACKNOWLEDGEMENT OF NOTICE AND RECEIPT FORM**

I hereby acknowledge and understand that Opp Construction (“the Company”) has adopted a Federal Department of Transportation Drug and Alcohol Testing Policy (“the Policy”) dated January 2, 2022.

#### **STATEMENT OF POLICY**

Under the Policy, every individual covered by the Policy is required to refrain from the use of prohibited controlled substances on and off duty. Every covered individual is required to refrain from the use of alcohol and being under the use of alcohol during the performance of work for the Company.

Covered individuals will be tested for controlled substances, as defined in this Policy, as well as for alcohol. Employee applicants will be subject to a pre-employment controlled substance test. The Company must receive a verified negative test before applicants will be permitted to commence work for the Company.

#### **REFUSAL TO TEST OR FAILED A DRUG/ALCOHOL TEST**

I understand that I have refused to take a controlled substance or alcohol test, and therefore failed the test, if I:

1. Fail to appear for any test (except a pre-employment test) within a reasonable time after being directed to do so by the Company;
2. Fail to remain at the testing site until the testing process is complete;
3. Fail to provide a urine specimen for any drug test required under this Policy;
4. Fail 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;
5. Fail or decline to take an additional drug test the Company or collector has directed me to take;
6. Fail to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the DER;
7. Fail 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, refuse to remove hat, coat, gloves, coveralls when directed, or failure to wash hands as directed);

8. In the case of a directly observed collection in a drug test, fail to permit the observation of my provision of a specimen;

9. For an observed collection, fail to follow the observer's instructions to raise my clothing above the waste, lower clothing and underpants, and to turn around to permit the observer to determine if I have any type of prosthetic or other device that could be used to interfere with the collection process;

10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process;

11. Admit to the collector that I adulterated or substituted the specimen;

12. The confirmed specimen reported to the MRO by the laboratory is adulterated or substituted;

13. Fail to sign the certification statement at step 2 of the alcohol testing form; or

14. Fail to cooperate with any part of the alcohol testing process.

### **CONSEQUENCES OF PROHIBITED CONDUCT**

Any employee who has a positive test for controlled substances, an alcohol test with the result of 0.02 or greater, or has engaged in any conduct prohibited by the Policy will be immediately removed from performing job functions and will be subject to disciplinary action, up to and including termination or as applicable, termination of contract. Any applicant who has a positive test result will not be hired.

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I acknowledge that I have received a copy of the Policy, including Appendixes A through E of the Policy. and have read and understand the Policy. I understand that if I have questions or concerns about the Policy or its requirements, I may take those questions or concerns to **Shaylee Brien**, who is the Company's designated employer representative (DER).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date of Birth

**GENERAL CONSENT FOR LIMITED QUERIES OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (“FMCSA”) DRUG AND ALCOHOL CLEARINGHOUSE FOR EMPLOYEES AND CONTRACT WORKERS AT OPP CONSTRUCTION**

I, \_\_\_\_\_, hereby provide consent to Opp Construction to conduct a limited query of the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse. I consent to an unlimited number of limited queries to be conducted by Opp Construction, at their discretion, throughout the duration of my employment or, as applicable, my contract work at Opp Construction

I understand that if the limited query conducted by Opp Construction, indicates that drug or alcohol violation information about me exists in the clearinghouse, FMCSA will not disclose that information to Opp Construction without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for Opp Construction to conduct a limited query of the Clearinghouse, Opp Construction must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA’s drug and alcohol program regulations.

COVERED INDIVIDUAL

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**Release of Information Form  
49 CFR Part 40 Drug and Alcohol Testing**

**Section I. To be completed by the new employer (OPP CONSTRUCTION), signed by the employee, and transmitted to each DOT-covered prior employer of the employee during the prior three (3) years:**

Employee Printed or Typed Name: \_\_\_\_\_

Employee SS or ID Number: \_\_\_\_\_

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in *Section I-B*, to the employer listed in *Section I-A*. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in *Section II-A* by my previous employer, is limited to the following DOT-regulated items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol rules or testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**I-A.**

New Employer Name: Opp Construction

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

**I-B.**

Previous Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Designated Employer Representative (if known): \_\_\_\_\_

**Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:**

**II-A.** In the three years prior to the date of the employee's signature (in Section I), for DOT-regulated testing ~

- |   |                        |
|---|------------------------|
| 1. Did the employee have alcohol tests with a result of 0.04 or higher?                                       | YES ___ NO ___         |
| 2. Did the employee have verified positive drug tests?  | YES ___ NO ___         |
| 3. Did the employee refuse to be tested?  | YES ___ NO ___         |
| 4. Did the employee have other violations of DOT agency drug and alcohol testing regulations?                 | YES ___ NO ___         |
| 5. Did a previous employer report a drug and alcohol rule violation to you?                                   | YES ___ NO ___         |
| 6. If you answered "yes" to any of the above items, did the employee complete the DOT return-to-duty process? | N/A ___ YES ___ NO ___ |

*NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record, etc.).*

**II-B.**

Name of person providing information in *Section II-A*: \_\_\_\_\_

Title: \_\_\_\_\_

Phone #: \_\_\_\_\_ Date: \_\_\_\_\_

**Opp Construction**  
**Drug and Alcohol Testing Policy Pre-Employment Acknowledgment Form**  
Department of Transportation (DOT)

**Pre-Employment Tests Only:**

*Applicants, please read and sign below.*

I HEREBY ACKNOWLEDGE that I have been informed by Opp Construction of the requirement to submit to a pre-employment drug and/or alcohol test, as required by the U.S. Department of Transportation (DOT) regulations and Company Policy. I understand that the DOT regulations require all prospective employees for safety-sensitive positions submit to a drug and/or alcohol test. A urine specimen will be collected at a site selected by the company and tested for drugs at a HHS/SAMHSA-certified laboratory. The laboratory results of the drug test will be reviewed, reported, and maintained by the Medical Review Officer (MRO) selected by the company. If the drug test result is negative, the MRO will report the test result to the company. I will be given an opportunity to discuss a positive laboratory test result with the MRO before the drug test is reported to the company as a verified positive.

I understand that if my drug and/or alcohol test is verified/confirmed as positive, if it is determined that there has been any interference with the collection or testing process (including adulteration and/or switching specimens) or if I refuse to submit to the required pre-employment drug and/or alcohol test, I will be considered unqualified for employment in a safety-sensitive position by the Company.

I also understand that, if hired, I will be required to submit to additional drug and/or alcohol tests as required by DOT regulations and as outlined in the Company Policy and supportive material.

I acknowledge that the Company's offer of employment is conditioned on a negative test result and I will not be allowed to perform safety-sensitive functions unless and until I pass the required pre-employment drug and/or alcohol test.

***If you have any questions, please discuss them with the Company before signing.***

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Printed Name: \_\_\_\_\_