

STATE OF RHODE ISLAND
POLICY AND PROCEDURES GUIDE
FOR
DRUG AND ALCOHOL TESTING
OF
COMMERCIAL DRIVER'S LICENSEHOLDERS

ANTI-DRUG AND ALCOHOL MISUSE PREVENTION

**REGULATED BY THE FEDERAL MOTOR CARRIERS
SAFETY ADMINISTRATION WITHIN THE
U.S. DEPARTMENT OF TRANSPORTATION**

DEPARTMENT OF ADMINISTRATION
1 CAPITOL HILL, PROVIDENCE, RI 02908

Effective January 1, 1995
Revised December 2002
Adopted after Public Hearing held on

**State of Rhode Island
Drug and Alcohol Testing Program - Policies and Procedures**

POLICY

The State of Rhode Island's departments and agencies, in compliance with the US DOT and Federal Motor Carriers Safety Administration requirements of the Omnibus Transportation Employee Testing Act of 1991, has instituted this Policy to provide an Alcohol and Drug Testing Program for employees within state service who are required to possess a Commercial Drivers License (CDL) as a job requirement. The USDOT'S Rule, 49 CFR Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Programs describes required procedures for conducting workplace drug and alcohol testing for the Federally regulated transportation industry. Federal regulation 49 CFR Part 382 administered by the Federal Motor Carrier Safety Administration (FMCSA) provides drug and alcohol testing requirements for CDL holders. The Rules requiring prohibited drug use and alcohol misuse testing for all safety sensitive employees started January 1, 1995. Amended regulations were published on December 19, 2000 and became effective August 1, 2001. All testing procedures must be completed in accordance with 49 CFR Parts 382 and 40. (State policy, where different from Federal rules and regulations is shown in italics.) Employees shall submit to urine drug and breath alcohol testing for the presence of a controlled substance and/or alcohol. Employees subject to these rules and identified by the testing program as misusing alcohol or using prohibited drugs will be removed from service until they have met the conditions for returning to a safety-sensitive function.

The Department of Administration, as the administrative entity for the program and in cooperation with labor and management, has developed policies and procedures that will ensures compliance with the USDOT and the Federal Motor Carrier Safety Administration Rules and Regulations. As a recipient of federal funding, the State of Rhode Island is required to comply with all aspects of these rules and regulations.

These Statewide policies and procedures apply to the State of Rhode Island Drug and Alcohol Testing Program only. Employees of the State of Rhode Island are expected to abide by all federal and state laws, rules, regulations, procedures and policies, as well as all policies specific to the individual Department or Agency in which they work. Imposition of disciplinary action for violations of this Policy does not preclude disciplinary action taken as a result of violation(s) of any other law, rule, regulation or policy. Likewise, disciplinary action identified in this document for violation of this Policy is the minimum mandatory discipline to be imposed. Nothing in this Policy is intended to preclude State Departments and Agencies from imposing more severe disciplinary action, up to and including termination, for violations of this Policy.

The State will not tolerate the unauthorized use, abuse, possession or sale of controlled substances by its employees. Nor will the State condone the use, abuse, possession or sale of alcohol during the performance of the covered employee's responsibilities for said service. Furthermore, the use of alcohol by any employee scheduled to perform a "safety-sensitive" function during the prescribed time, as set forth in Rhode Island's Policy, is prohibited.

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Each driver shall receive a copy of this Policy Manual explaining the requirements of the regulations prior to the start of his/her drug and alcohol testing.

Employees who feel they may have an alcohol and/or drug abuse problem or who feel that their behavior related to alcohol and/or drugs may ultimately jeopardize their employment status, are encouraged to seek help. Departmental Administrators and supervisors are responsible for ensuring compliance with these regulations by fully understanding their contents, by conscientiously participating in required training on alcohol and drugs and by complying with the reasonable suspicion testing requirements of the law. The State offers treatment and supportive services through its confidential Life Watch Employee Assistance Program, (EAP) 249 Roosevelt Avenue, Suite 205, Pawtucket, RI 02860, telephone number 1-800-333-6228 TTD/TTY 1-800-745-5555. For further information, employees may contact the representative of his/her Department whose name, address and phone number is found on page 24.

Employees, while receiving compensation for being on official standby status, shall be subject to these rules and regulations. Contractors are also covered by this Policy while performing driving duties for the State and will not be permitted to conduct business if found to be in violation of this Policy.

As a condition of employment, any employee who performs a safety sensitive function within state service must participate in the State of Rhode Island's Anti-Drug and Alcohol Testing Program. This will include employees currently in a position requiring a Commercial Drivers' License and employees who volunteer out-of-class to drive, new hires, promotions, lateral transfers, demotions and temporary assignments.

The categories under which an employee will be tested for prohibited drug use and alcohol misuse are:

PRE-EMPLOYMENT (drug testing only)
RANDOM
REASONABLE SUSPICION
POST-ACCIDENT
RETURN-TO-DUTY
FOLLOW-UP

A detailed explanation is provided on pages 5 - 8.

The State of Rhode Island affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. The following measures are taken to protect the employee:

All prohibited drug use and alcohol misuse testing shall be conducted in a manner to assure the highest degree of accuracy and reliability using techniques, equipment and laboratory facilities which have been certified by the US Department of Health and Human Services (HHS).

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The Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. It is his/her responsibility to interpret, verify and validate test results. The MRO determines whether there is a legitimate medical explanation for a confirmed positive, adulterated or substituted test result.

The Substance Abuse Professional (SAP) is a licensed physician, 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. They have knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. It is their responsibility to evaluate the type and amount of assistance needed to resolve problems associated with drug abuse or alcohol misuse and recommend a course of action to the employee. The State of Rhode Island utilizes Life Watch Employee Assistance Program for this function.

Supervisors of drivers must receive at least 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on controlled substances use. The training will assist supervisors to determine whether reasonable suspicion exists to require drug or alcohol testing and shall include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Upon written request, an employee may obtain copies of his/her drug & alcohol testing records. The employer shall provide promptly the records requested by the employee. Access to a covered employee's record shall not be contingent upon payment for records other than those specifically requested.

Non compliance with this State of RI policy or violations of either Federal or State regulations, rules and procedures will result in disciplinary action up to and including termination of employment.

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Safety-Sensitive Functions/Classifications

All safety-sensitive state employees are placed in a single drug and alcohol "pool" from which 50% is randomly selected for drug testing and 10% for alcohol testing annually. (These rates are subject to change by USDOT) The safety sensitive categories are drivers who are required to possess a CDL as a condition of carrying out their job duties and employees who volunteer to utilize their Commercial Driver's License to perform safety-sensitive function(s), but whose official job classification does not require a CDL. A driver is considered to be performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform or immediately available to perform any safety-sensitive function.

CATEGORIES OF TESTING FOR PROHIBITED DRUG USE & ALCOHOL MISUSE

PRE-EMPLOYMENT TESTING

All outside applicants for and current State employees seeking reassignment to positions as drivers who perform safety-sensitive functions requiring a commercial drivers license will be informed in writing of the testing requirements and will undergo pre-employment drug testing. (This requirement does not apply to CDL covered employees seeking a promotion, transfer or other reassignment from one safety sensitive position to another.) In addition to obtaining negative drug test results and in accordance with 49 CFR Part 40.25 the State agency doing the recruiting will also make a reasonable effort to contact each of the applicant's employers over the previous two-year period to determine if the employee has had a verified positive or refused to be tested (including verified adulterated or substituted drug test results) or alcohol test results of 0.04 or higher. The applicant will also be asked if he/she has tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the individual applied for, but did not obtain, a safety-sensitive position during the past two (2) years.

RANDOM TESTING

Every safety sensitive employee shall submit to random alcohol and controlled substance testing as required. Present regulations require alcohol testing for 10% of the safety-sensitive workforce and random drug testing for 50% of the safety-sensitive workforce annually. Random alcohol testing must be performed just before, during or just after an employee performs his/her safety-sensitive function. An outside contractor utilizing a scientifically valid random generating program performs random selection. There is no discretion on the part of management or operations in the selection and notification of individuals for testing. Employees will remain anonymous during the selection process and will be drawn from a pool in which he/she has an equal chance of being selected for testing each time selections are made. Testing begins in January and continues through December. Random testing will be unannounced, unpredictable, immediate and reasonably spread throughout the hours, day, week, month

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and year. Candidates for alcohol testing may be generated from the 50% selected for drug testing; therefore, some employees will be randomly tested for both prohibited drug use and alcohol misuse. Employees remain in the random selection pool after being identified for testing, making it possible for the same employee to be randomly tested several times in one year.

REASONABLE SUSPICION TESTING

All drivers who perform safety-sensitive functions will be required to submit to a drug or alcohol test when there is reasonable suspicion that the driver has used a prohibited drug or misused alcohol. Reasonable suspicion is established if a supervisor, trained in detecting the signs of alcohol misuse and drug use, reasonably concludes, based on his/her observation, that the driver has used drugs or misused alcohol. The determination that reasonable suspicion to test exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The driver shall be directed to undergo reasonable suspicion testing for alcohol only if such observations are made while the driver is performing safety-sensitive functions, or just before or just after the driver performs such functions. Additionally, a reasonable suspicion test for alcohol must be administered within two (2) hours following a determination that reasonable suspicion exists. If a reasonable suspicion test is not performed within the eight (8) hours, the supervisor will prepare and maintain a record explaining why the test was not promptly administered. A written record of the observations leading to such a test shall be prepared and signed by the supervisor within 24 hours of the observation or before the test results are released, whichever is earlier. *A driver who undergoes reasonable suspicion testing will be removed from duty, with pay, pending the test results.*

POST ACCIDENT TESTING

As soon as practicable following an accident involving a CDL covered vehicle, alcohol and controlled substance tests shall be performed on each surviving driver in the following circumstances:

A human fatality occurs; or

When the driver receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:

One or more motor vehicles incur 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.

If there is bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.

Post accident drug testing must be completed within 32 hours following an accident. If the test is not administered within 32 hours, attempts to test shall cease and the employer shall prepare and maintain a record stating the reasons the test was not promptly administered.

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Post accident alcohol testing shall be completed within 2 hours; however, if this is not possible, a report must be prepared and filed documenting the reason why the post-accident alcohol test was not completed within the 2-hour period. Attempts to complete alcohol test must continue for up to 8 hours. In the event that testing is not completed within 8 hours of the accident, attempts to test will cease, and the supervisor or other authorized official will prepare and maintain a record stating the reason that the test was not administered promptly.

Employees identified for post accident testing must remain readily available for such testing. This includes notifying the supervisor if he/she leaves the scene of an accident prior to undergoing drug and alcohol testing. If an employee fails to remain readily available, it will be considered a refusal to submit to testing

and the employee will be terminated. In the event that the employee must assist in resolution of the accident or receive medical attention following the accident, the post accident testing will be completed as soon as possible with attempts to complete testing within 2 hours and continuing for up to 8 hours. The results of a breath or blood test for the use of alcohol or 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 this section, provided such tests conform to applicable federal, state or local requirements and the employer receives the results of the test from the jurisdiction or the driver.

RETURN-TO-DUTY TESTING

In accordance with USDOT regulations, all safety-sensitive employees who test positive must be evaluated by a Substance Abuse Professional (SAP). The SAP shall conduct an initial face-to-face clinical evaluation. In all cases, the SAP recommends education and/or treatment. The SAP conducts a follow-up face-to-face evaluation to determine the employee's compliance with treatment/education to determine the employee's readiness for a return-to-duty test. The employee shall undergo a return-to-duty test when determined by the SAP. The return-to-duty test must result in an alcohol concentration of less than 0.02 (if the conduct involved alcohol) or a controlled substance test with a verified negative result (if the conduct involved a controlled substance). The SAP determines whether continuing treatment is needed.

FOLLOW-UP TESTING

Upon completing a negative return-to-duty test, an employee who has violated either the prohibited drug use or alcohol misuse rule shall be subject to unannounced follow-up testing upon returning to duty. An evaluation shall be made by the Substance Abuse Professional to determine that the employee has properly followed any recommended rehabilitation program and may recommend both alcohol and controlled substances testing. The Substance Abuse Professional shall determine the number and frequency of such follow-up tests which will consist of at least six (6) unannounced tests in the first twelve (12) months following the driver's return to duty.

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Follow-up-testing may continue for a total of up to sixty 60 months if the Substance Abuse Professional deems it necessary. Employees subject to follow-up testing remain in the random testing pool and may be randomly selected.

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**PROHIBITED DRUG USE RULES &
DRUG TESTING PROCEDURE**

The State of Rhode Island affirms the need to protect individual dignity, privacy and confidentiality throughout the drug testing process. Drug testing shall be conducted in a manner to assure the highest degree of accuracy and reliability; and using techniques, equipment and laboratory facilities which have been approved by the HHS.

The USDOT required the testing of safety-sensitive employees beginning on January 1, 1995 for the prohibited use of the controlled substances listed below. The use of these five (5) prohibited drugs is always illegal and subject to testing at any time while an employee is on duty. Federal cut-off limits for specific controlled substances are as follows:

	Screening (Initial) Level Urine Screen <u>ng/ml*</u>	Confirmation Level GC/MS** Cut-off ng/ml*
MARIJUANA	50 ng.	15 ng.
COCAINE	300 ng.	150 ng.
PHENCYCLIDINE	25 ng.	25 ng.
AMPHETAMINES	1000 ng.	500 ng.
OPIATES	2000 ng.	2000 ng.

* nanograms/milliliter ** Gas chromatography/mass spectrometry

Prohibited drug use testing will be performed in the following circumstances:

PRE-EMPLOYMENT	POST-ACCIDENT
RANDOM	RETURN-TO-DUTY
REASONABLE SUSPICION	FOLLOW-UP

Safety sensitive employees shall not perform their job duties while in the possession of a controlled substance, be under the influence of, or use any other substance to a degree which renders the employee incapable of safely performing their duties. Participation in the prohibited drug use testing program is a mandatory requirement and condition of continued employment for all safety sensitive employees.

Drug testing will be done in strict compliance with the procedures set forth by the USDOT. These procedures are designed to ensure accurate and reliable test results and eliminate the possibility of "false-positives". Upon notification that he/she must undergo a drug test, the employee will report to a designated collection site to provide a specimen of his/her urine. The collection site will comply with USDOT regulations for specimen collection and ensure employee privacy and confidentiality. The following procedures will be followed during the specimen collection:

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Employee identity will be confirmed by picture identification (driver's license or employee ID). In the event that a driver's license or employee ID cannot be produced, identification may be made by the employee's supervisor.

Employee will check his/her belongings and any unnecessary outerwear in a secure location. The employee may retain his/her wallet.

The employee must empty the contents of his or her pockets. Failure to empty his/her pockets will constitute a refusal to submit to testing *and will result in immediate termination of employment.*

The employee will rinse and dry his/her hands.

A collection cup will be unwrapped in front of the employee and the employee will be directed to a private enclosure and instructed to provide at least 45 milliliters (1.5 oz.) of urine. If sufficient volume cannot be provided, the employee will remain at the test site for up to three (3) hours. During this three (3) hour period, any insufficient sample will be discarded and the employee will be encouraged to consume up to forty (40) ounces of fluids over the 3-hour period in order to provide a sufficient sample. If sufficient urine cannot be provided, the employee will undergo a medical evaluation to determine whether failure is due to a medical reason or constitutes a refusal to submit to testing.

A urine temperature reading will be taken and the urine will be inspected for any visible signs of tampering or adulteration. If the specimen is suspected of being adulterated or the temperature is out of range, the unusual findings will be noted on the urine custody and control form by the collection center technician. The sample that is suspected of being adulterated will be forwarded to the laboratory for testing and the employee will be required to provide a new specimen under direct observation by a same-gender collection site employee.

The urine will be separated in front of the employee into a primary specimen and a split specimen and both bottles sealed and labeled. Federal urine testing forms and labels with a pre-printed unique specimen identification number will be used in compliance with the USDOT requirement. The employee will initial the labels.

A federal drug testing Custody and Control form will be completed by testing site personnel and signed by the employee. The specimens will be packaged for shipment in a single-use shipping container with the custody and control forms. The control and custody form will track all handling of the specimen.

Failure to cooperate with all collection procedures will constitute a refusal to submit to testing (see page 17) and *will result in immediate termination of employment.*

The specimen will be sent to a HHS approved laboratory for analysis. All HHS labs will be subject to periodic blind sampling to ensure accuracy and compliance to USDOT regulations.

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VIOLATION OF PROHIBITED DRUG USE RULE

All drug testing laboratory results must be reviewed by a qualified Medical Review Officer (MRO) prior to the test results being released to the employer.

The MRO must be a licensed physician with knowledge of substance abuse disorders who has training to interpret and evaluate laboratory test result with an employee's medical history and other relevant biomedical information as required by USDOT. The purpose of the MRO is to verify and validate test results. The MRO receives the drug test results; reviews custody and control forms for accuracy; protects the privacy of the employee and the accuracy and integrity of the drug testing process; maintains testing records and notifies the employer of all test results.

The MRO will confidentially discuss confirmed positive, adulterated or substituted laboratory test results with the employee to determine if there is a legitimate medical explanation for the confirmed positive test result. If, after a reasonable effort, the MRO is unable to actually speak with the employee within a 24-hour period, he/she must then notify the employer to instruct the employee to contact the MRO. The MRO must not inform the employer of the possibility of a positive test. The employer must, as confidentially as possible, inform the employee that he/she should contact the MRO immediately. The employer must also inform the employee that if he/she fails to contact the MRO within 72 hours, the test will be confirmed as positive after the 72 hours has passed. If neither the MRO nor the employer, after making all reasonable efforts, is able to contact the employee within ten days of the date on which the MRO received the confirmed test results from the laboratory, the results will be certified as positive.

During discussions with the employee where notice of the confirmed positive result is given, the MRO will inform the employee that he/she has 72 hours in which to request that the split sample be tested. If the request to test the split sample is made to the MRO within 72 hours, the split sample will be sent to a second HHS laboratory for testing. The result of the split-specimen analysis will determine all resulting action. The second laboratory shall analyze the split specimen by GC/MS to reconfirm the presence of the drug(s), drug metabolite(s) or adulterant(s) found in the primary specimen. If the second lab reconfirms the positive test results, the MRO notifies the employer of a positive test. If the second laboratory fails to confirm the presence of the same drug/metabolite that was found in the primary sample, both specimens are cancelled and no further action is taken. If an adulterant or substitute is found, the MRO notifies the employer that a Refusal To Test has resulted. (*Employee is immediately terminated*). If the split is not available for testing the MRO directs the employer to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection. Testing of the split sample can be conducted after the 72-hour period only if the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO and request split sample testing within the required 72 hour period.

An employee who has a verified positive drug screen, with no conflicting split-sample, is in violation of

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the prohibited drug use rule. He/she will be immediately removed from safety-sensitive duty, and referred to a substance abuse professional for evaluation and treatment recommendations. If the MRO informs the employer that a negative drug test was dilute, in each and every instance, the employee will be required to take another test immediately without advance notice. These tests will only be under direct observation in the case of Return-to- Duty or Follow-Up tests. The result of the second test becomes the test of record. If an employee declines to take the second test, it is considered a refusal to test. *Appropriate disciplinary action will be taken against the employee for violations of the drug rule. It is the State of Rhode Island policy that an employee, in violation of the prohibited drug use rule, will not be compensated during the following periods:*

WHILE REMOVED FROM SAFETY-SENSITIVE DUTY

WHILE BEING EVALUATED BY SUBSTANCE ABUSE PROFESSIONAL

WHILE UNDERGOING RECOMMENDED TREATMENT FOR PROHIBITED DRUG USE

DIRECTLY OBSERVED COLLECTION

49 CFR Part 40.67 explains when and how a directly observed collection is conducted.

(a) An employer must direct an immediate collection under direct observation with no advance notice to the employee, if:

1. The laboratory notified the MRO that a specimen is invalid and the MRO reports to the employer that there was not an adequate medical explanation for the result; or

2. The MRO reported to the employer that the original positive, adulterated or substituted test result had to be cancelled because the test of the split specimen could not be performed.

(b) An employer may direct a collection under direct observation if the drug test is a Return-to Duty or Follow-Up test.

(c) A collector must immediately conduct a collection under direct observation if:

Directed by the employer to do so in accordance with (a) and (b) above.

The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.

The temperature on the original specimen was out of range.

The original specimen appears to have been tampered with.

The collector must ensure that the person observing the collection is of the same gender as the employee. If the collector learns that a directly observed collection should have been collected but was not, he/she must inform the employer to direct the employee to have an immediate re-collection under direct observation.

The employer must explain the reason to the employee for a directly observed collection before the test but must not give advance notice.

FMCSA considers it a Refusal To Test if an employee declines to allow a directly observed collection required or permitted under this section to occur.

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ALCOHOL MISUSE RULES & TESTING PROCEDURES

The State of Rhode Island affirms the need to protect individual dignity, privacy and confidentiality throughout the alcohol testing process. Alcohol testing shall be conducted in a manner to assure the highest degree of accuracy and reliability and using techniques and equipment which have been approved by the HHS. Alcohol testing will be conducted just before, during or just after an employee has performed a safety sensitive function.

The USDOT alcohol misuse rule prohibits any employee who performs safety-sensitive duties from consuming alcoholic beverages during the following times:

Before reporting for duty or while performing a safety-sensitive function

Within 4 hours of performing a safety-sensitive function or having physical control of a COL-covered vehicle

Up to 8 hours after an accident in which a fatality has occurred or until a post-accident alcohol test has been administered, whichever comes first

Up to 8 hours following an accident in which employee performance may have been a contributing factor, or until a post-accident test can be administered, whichever comes first

Although the USDOT rule prohibits alcohol use within four (4) hours of performing a safety-sensitive function, employees should take into consideration their individual alcohol retention rate and limit their use accordingly. In addition, the alcohol testing process will measure the presence of alcohol resulting from the intake of alcoholic beverages as well as from medications containing alcohol. Therefore, employees should consider limiting intake of alcohol from medicine, distilled spirits, beer and wine.

Alcohol misuse testing will be performed in the following circumstances:

RANDOM	RETURN-TO-DUTY
REASONABLE SUSPICION	FOLLOW-UP
POST-ACCIDENT	

Alcohol testing will be conducted just before, during or just after a safety-sensitive function has been performed. The testing will be administered in strict compliance with the procedures set forth by the USDOT. All alcohol testing will be conducted by obtaining a breath alcohol concentration (BAC) with an evidential breath testing (EBT) device. Only EBT's which comply with the National Highway Traffic Safety Administration specifications will be used. A qualified Breath Alcohol Technician (BAT) will administer the test and the following procedures will be performed.

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Employee identity will be confirmed by picture identification (driver's license or employee ID). In the event that a driver's license or employee ID cannot be produced, identification may be made by a supervisor of the employee.

The employee and breath alcohol technician will complete, date and sign the alcohol testing form.

The breath alcohol technician will open in view of the employee an individually sealed, disposable mouthpiece and attach it to the evidential breath testing device.

The employee will be instructed to blow forcefully into the mouthpiece (approximately six (6) seconds) until an adequate amount of breath has been obtained.

The employee will be shown the test result on the evidential breath testing device digital display. If the test result is below 0.020 the employee will return to his/her safety-sensitive function.

If the initial test result is 0.020 or greater, the employee will be informed of the need to conduct a confirmation test 15-20 minutes after the initial test.

The confirmation test will be conducted following the same procedures as for the initial screen; however, during the 15-20 minute interval the employee may not eat, drink or smoke, and should refrain from belching. A new mouthpiece will be provided for the confirmatory test and an air blank, which is a test of surrounding air containing no alcohol, will be conducted with the EBT.

If the initial and confirmation test results are not identical, the confirmation test result will be deemed the final result and will determine any ensuing action.

The test results will be attached to the breath alcohol testing form, which the employee and breath alcohol technician will sign and date. Failure to sign and date Step 2 of the breath alcohol testing form is considered a refusal to submit to testing *and will result in termination of employment.*

Participation in the alcohol misuse testing program is a mandatory requirement, and is a condition of continued employment.

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VIOLATION OF ALCOHOL MISUSE RULE

Alcohol misuse is determined by measuring breath alcohol concentration during random, post-accident, reasonable suspicion, return-to-duty, and follow-up testing. The following is an outline of the areas of violation and specific action which will be taken as a result of the breath alcohol concentration obtained during testing:

ALCOHOL CONCENTRATION:	ACTION TAKEN:
REFUSAL TO SUBMIT	Employee is in violation of the alcohol misuse rule. Employee will be removed from safety-sensitive duty, <i>referred to a source of help or information and terminated from state employment.</i>
0.000 - 0.019	Employee is not in violation and may resume safety-sensitive function.
0.020 - 0.039	Employee will be removed from his/her safety-sensitive duties for a minimum of 24 hours <i>without pay, pass a return-to-duty alcohol test, and may be subject to disciplinary action.</i>
0.040- Greater	Employee is in violation of the USDOT alcohol misuse rule. Employee will be removed from his/her safety-sensitive duty and referred to a substance abuse professional for evaluation and treatment recommendation. When the substance abuse professional confirms successful completion of treatment, and employee completes negative return to duty testing, he/she may be allowed to resume safety-sensitive duties <i>after serving appropriate disciplinary action.</i> (See page 18 and chart at the end of this Policy.)

It is the States policy that an employee, with a breath alcohol level concentration of 0.020 or greater, will not be compensated during the following periods:

WHILE REMOVED FROM SAFETY-SENSITIVE DUTY

WHILE BEING EVALUATED BY SUBSTANCE ABUSE PROFESSIONAL

WHILE UNDERGOING RECOMMENDED TREATMENT FOR ALCOHOL MISUSE

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Note: Medications are not exempted from the alcohol and controlled substances testing process. Employees are required to inform the Department of any over-the counter or prescription drugs that may affect their ability to perform safety-sensitive functions.

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REFUSAL TO SUBMIT TO TESTING

USDOT regulations consider it a refusal to submit to testing when:

Employee was not readily available for post-accident testing, did not notify a supervisor of his/her location and an investigation reveals that his/her departure from the accident scene was not warranted by the need for emergency or medical assistance, without a valid reason.

Employee declines to allow a directly observed collection when required or permitted under 49 CFR Part 40.67.

Employee fails to report to the designated collection site within an acceptable period of time.

Employee fails to empty contents of his/her pockets.

Employee fails to provide sufficient quantity of urine (45-ml/1.5 oz.) for prohibited drug use testing without a valid medical explanation.

Employee tampers with or attempts to adulterate the specimen or collection procedure.

Employee fails to provide adequate amount of breath for alcohol misuse testing without a valid medical explanation.

Declines to sign Step 2 on the Breath Alcohol Testing Form

In addition, the State will consider it a refusal to submit to testing when:

Employee refuses to comply with procedures for alcohol or drug testing.

Employee refuses to sign and date either the breath alcohol testing form or drug testing control and chain of custody form.

An employee who refuses to submit to testing is in violation of the FMCSA prohibited drug and alcohol misuse rule. *It is the States policy that the employee will be immediately removed from his/her safety-sensitive function, referred to a source of help or information and terminated from employment.*

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CONSEQUENCES OF POSITIVE PROHIBITED DRUG SCREEN OR BREATH ALCOHOL CONCENTRATION GREATER THAN 0.020

An employee with a positive prohibited drug screen or breath alcohol concentration greater than 0.40 has violated federal and/or state regulations. Any employee who has an alcohol concentration between 0.020 and 0.039 shall be removed from his/her safety sensitive position for a period of twenty-four (24) hours. *In addition, employees, including those who volunteer to drive out of class, are subject to specific disciplinary action.*

Please refer to the charts starting on page 26 for the minimum disciplinary actions to be taken for violations of this Policy.

This policy does not preclude an Agency Appointing Authority from imposing a more severe discipline than prescribed herein.

PRE-EMPLOYMENT TESTING

An applicant for safety-sensitive employment with a positive pre-employment drug test will not be offered employment with the State of Rhode Island.

A current employee seeking a safety-sensitive position within State government with a positive pre-duty drug test will have the job offer rescinded, will be referred to EAP for evaluation and treatment and will not be considered for such a position again for twenty-four (24) months and must have had a negative return-to-duty test.

RANDOM TESTING

An employee with a positive prohibited drug screen or alcohol concentration greater than 0.040, will be immediately removed from his/her safety-sensitive duties, *placed on leave without pay* and referred to a substance abuse professional for evaluation and treatment recommendations. Employee must comply with all EAP recommendations and have a negative return to duty test before being returned to their safety-sensitive duties.

REASONABLE SUSPICION TESTING

An employee with a positive reasonable suspicion drug screen or alcohol concentration greater than 0.040 will be immediately removed from his/her safety-sensitive duties, *placed on leave without pay* and referred to a substance abuse professional for evaluation and treatment recommendations. Employee must comply with EAP recommendations and have a negative return to duty test before being returned to their safety sensitive duties.

POST ACCIDENT TESTING

An employee who has a positive drug screen or alcohol concentration greater than 0.020 following an

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accident, will be immediately removed from his/her safety-sensitive duties.

*In the case of a fatality or **if** the driver receives a citation and there is bodily injury to any person requiring immediate medical attention away from the scene, or **if** one or more vehicles incurs disabling damage requiring it to be towed from the scene by a tow truck or other vehicle, the employee shall be immediately removed from his safety sensitive duties and terminated from State service.*

RETURN-TO-DUTY TESTING

Return-to-duty tests are administered when an employee has violated the alcohol misuse or prohibited drug use rule, has complied with EAP rehabilitation/education requirements and has been deemed ready for such a test. A positive return-to-duty drug screen, or alcohol concentration greater than 0.020 is a clear indication that the employee has been unable to resolve his/her substance abuse/alcohol problem. *The employee will not be allowed to return to duty and will be referred back to EAP. This would be, by nature, at least a second violation.*

FOLLOW-UP TESTING

Since an employee is subject to follow-up testing because he/she has previously violated the alcohol misuse rule or prohibited drug use rule, a positive follow-up drug test or alcohol concentration greater than 0.020 is an indication that the employee has been unable to resolve his/her drug/alcohol problems. The employee will be immediately removed from his/her safety-sensitive duties, be subject to disciplinary action and referred to a substance abuse professional.

REFUSAL TO SUBMIT TO TESTING

An employee who has refused to submit to testing as outlined on page 17 for all actions which constitute refusal will be considered in violation of the prohibited drug use/alcohol misuse rule. *He/she shall be immediately removed from his/her safety-sensitive duties and terminated from State service.*

MOTOR VEHICLES VIOLATIONS

Apart from the consequences for violation of the Drug and Alcohol Rules outlined in the Policy, any employee on duty who is cited for violating the motor vehicle statutes while operating a CDL-covered vehicle under the influence of alcohol or controlled substances, shall be immediately removed from their safety-sensitive duties and terminated from State Service.

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CONDITIONS OF REINSTATEMENT

An employee who has been reinstated after suspension, as a result of a violation of the prohibited drug rule or a breath alcohol concentration greater than 0.040, must comply with the following conditions of reinstatement:

Follow-through successfully with all treatment recommendations made by the substance abuse professional.

Test negative during return-to-duty testing.

Produce negative results during all random, post-accident, reasonable suspicion or follow-up prohibited drug use testing.

Produce a breath alcohol concentration of 0.020 or below during follow-up, random, or reasonable suspicion testing.

The Substance Abuse Professional (SAP) will determine if an individual has successfully completed recommended treatment. The SAP advises the employer when a person is ready for a return to duty test and perform his/her safety-sensitive duties. The SAP determines the duration and frequency of follow-up testing (from 12 months up to a total of 60 months).

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DRUG FREE WORKPLACE

The USDOT prohibited drug use and alcohol misuse act does not render the following Drug-Free Workplace Policy obsolete.

In accordance with the Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, dispensing, possession, or use of controlled substance is prohibited in the workplace.

It is a condition of employment by federal regulations that each employee notify his/her employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

The State strongly encourages employees who may have a substance abuse problem to take corrective measures by either contacting Life Watch Employee Assistance Program at 1-800-333-6228 directly or by contacting their immediate supervisor for information regarding the Employee Assistance Program. All inquiries will be kept in strict confidence.

ADDITIONAL RESOURCES

Many resources are available to an employee who may be experiencing a problem with alcohol misuse or prohibited drug use. Employees are encouraged to resolve substance abuse problems before they result in a violation of the drug and alcohol testing program which began January I, 1995. They are encouraged to exercise self-referral and contact our confidential Employee Assistance Program) at 1-800-333-6228.

TOLL FREE INFORMATION:

Al-Anon	1-800-356-9996
American Council on Alcoholism	1-800-527-5344
Cocaine Hotline	1-800-262-2463
National Institute on Drug Abuse	1-800-663-4357 (ENGLISH) 1-800-662-9832 (SPANISH)

Employees seeking clarification of the USDOT regulations or the State of RI policy and procedures may contact the designated Drug & Alcohol Testing Program Coordinator in their respective State Departments as identified on page 24. All enquiries will be kept confidential. Information on the USDOT rule 49 CFR Part 40 and the Federal Motor Carrier Safety Administration regulations, 49 CFR Part 382 is available on the Web at <http://www.dot.gov/ost.dapc/regulations>

ALCOHOL FACT SHEET

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SIGNS & SYMPTOMS OF USE

Dulled mental processes	Lack of coordination	Odor of alcohol on breath
Possible constricted pupils	Sleepy or stuporous condition	Slowed reaction time
Slurred speech		

HEALTH EFFECTS

The chronic consumption of alcohol (average of three servings per day of beer (12 ounces), whiskey (1 ounce) or wine (6 ounces) over time may result in the following health hazards):

Decreased sexual functioning
Dependency (up to 10% of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")
Fatal liver diseases
Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
Kidney disease
Pancreatitis
Spontaneous abortion and neonatal mortality
Ulcers
Birth defects (up to 54% of all birth defects are alcohol related)

SOCIAL ISSUES

Two-thirds of all homicides are committed by people who drink prior to the crime.
Two to three percent of the driving population is legally drunk at one time. This rate is doubled at night and on weekends.
Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
Forty percent of family court cases are alcohol problem related.
Alcoholics are 15 times more likely to commit suicide than other segments of the population.
More than 60% of burns, 40% of falls, 69% of boating accident, and 76% of private aircraft accidents are alcohol related.

THE ANNUAL TOLL

24,000 people will die on the highway due to the legally impaired driver.
12,000 more will die on the highway due to an alcohol-affected driver.
15,800 will die in non-highway accidents.
30,000 will die due to alcohol caused liver damage.
10,000 will die due to alcohol-induced brain disease or suicide.

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Up to another 125,000 will die due to alcohol-related conditions or accidents.

WORKPLACE ISSUES

It takes one hour for the average person (150 pounds) to process one serving of an alcohol beverage from the body.

Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.

A person who is legally intoxicated is 6 times more likely to have an accident than a sober one.

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**DRUG AND ALCOHOL TESTING PROGRAM COORDINATORS
DESIGNATED EMPLOYER REPRESENTATIVES**

<u>DEPARTMENT</u>	CONTACT	ADDRESS	PHONE
Community College OfRI	Carol Gold	400 East Avenue, Warwick, RI 02881	825-2311 Fax: 825-2345
Corrections	Charles Fontaine	39 Howard Ave. Cranston, RI 02920	462-3399 Fax: 222-6457
Environmental Management	Melanie Marcaccio	9 Hayes St. Providence, RI 02908	222-3897 Fax: 222-6174
Mental Health, Retardation and Hospitals	Michelle Cavanaugh	600 New London Ave. Cranston, RI 02920	462-1899 Fax: 462-6202
Department of Administration Including: RI Division of Sheriffs	Albert Nani	1 Capitol Hill Providence, RI 02908	222-2176 Fax 222-2512
R.I. State Police Training Academy	Maj. Michael Quinn	311 Danielson Pike, No. Scituate, RI 02857	444-1003 Fax: 444-1074
Transportation	Marie McGlynn	Human Resources 2 Capitol Hill, Providence, RI 02903	222-2572 Ext. 4612 Fax: 222-2574
- or -			
	Pamela Moscarelli	Highway and Bridge Maintenance 360 Lincoln Ave. Warwick, RI 02888	222-2378 Ext. 4897 Fax: 736-0194
University of Rhode Island	Laura Kennerson	86 Lower College Rd. Kingston, RI 02881	874-5271 Fax: 874-5530

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CERTIFICATE OF RECEIPT

Federal Regulation 49 CFR 382.601 (d) requires each covered employee to sign and acknowledge receipt of this Policy.

THIS IS TO CERTIFY THAT THE EMPLOYEE NAMED BELOW RECEIVED THE REVISED PROHIBITED DRUG USE AND ALCOHOL MISUSE POLICY AND PROCEDURES REQUIRED BY USDOT, OFFICE OF FEDERAL MOTOR CARRIERS SAFETY ADMINISTRATION AND THE STATE OF RHODE ISLAND.

STATE DEPARTMENT _____

ISSUED TO:

EMPLOYEE NAME: _____

SOCIAL SECURITY NUMBER: _____

EMPLOYEE SIGNATURE: _____

DATE: _____

WITNESS: _____ DATE: _____

Note: Signature is mandatory.

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Consequences and Violations Actions

Please read page 17 for additional information. These actions are the Policy of the State of RI only.

Consequences and Violations of Anti-Drug and Alcohol Misuse Policy	24 hour minimum removal from Safety-sensitive function	Unpaid Suspension /working days)	Termination	SAP Evaluation/ Treatment (If prescribed)	Pass Return to Duty Test (Less than .02 Test Result)
Alcohol 0,020 - 0,113!!					
FIRST OFFENSE TEST					
Reasonable Suspicion	X			X	X
Random	X			X	X
Post Accident - Fatality			X		
Citation with bodily Injury			X		
Citation with vehicle(s) towed			X		
SECOND OFFENSE TEST					
Reasonable Suspicion	X	5		X	X
Random	X	5		X	X
Return To Duty	X	5		X	X
THIRD OFFENSE TEST					
			X		

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Consequences and Violations of Anti-Drug and Alcohol Misuse Policy	24 hour minimum removal from safety-sensitive function (no pay)	Suspension/ Leave Without Pay (working days)	Termination	SAP Evaluation and Referral/ Treatment if prescribed	Pass re-turn to duty test	Follow-up testing
Alcohol 04 or 0.113!!						
FIRST OFFENSE TEST						
Reasonable Suspicion	X	10		X	X	X
Random	X	10		X	X	X
Post Accident - Fatality			X			
Citation with bodily injury			X			
Citation with vehicle(s) towed			X			
SECOND OFFENSE TEST						
Reasonable Suspicion	X	20		X	X	X
Random	X	20		X	X	X
Return To Duty	X	20		X	X	X
Follow Up	X	20		X	X	X
THIRD OFFENSE TEST						
			X			

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Consequences and Violations of Anti-Drug and Alcohol Misuse Policy	Removal from Safety sensitive function	Unpaid Suspension/Leave without Pay	Termination	SAP Evaluation Treatment	Pass Return to Duty drug test	Follow-up Testing	Will not be employed by the State of RI	Denied safety sensitive-position for 24 months
CONTROLLED SUBSTANCES								
FIRST OFFENSE								
Pre-employment • New Hire							X	
Pre-employment • Promotion/								
Demotion		10		X	X	X		X
Reasonable Suspicion	X	10		X	X	X		
Random	X	10		X	X	X		
Post-Accident - Fatality			X					
Citation with bodily Injury			X					
Citation with vehicle towed			X					
SECOND OFFENSE								
Reasonable Suspicion	X	20		X	X	X		
Random	X	20		X	X	X		
Return To Duty	<i>J.</i>	<i>u</i>		<i>J.</i>	<i>J.</i>	X		
Follow-up	X	20		X	X	X		
THIRD OFFENSE			X					

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