



STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS

FOB JAMES, JR.  
GOVERNOR

Research, Monitoring, & Evaluation  
Post Office Box 301501  
Montgomery, Alabama 36130-1501

JOE S. HOPPER  
COMMISSIONER

August 18, 1997

ADMINISTRATIVE REGULATION  
NUMBER 602

OPR: TREATMENT

DRUG AND ALCOHOL TESTING POLICY  
FOR COMMERCIAL DRIVERS LICENSE (CDL) DRIVERS

I. PURPOSE

The Omnibus Transportation Employee Testing (OTET) Act of 1991 requires alcohol and drug testing of CDL holders. Based on this Act, Alabama Department of Corrections (ADOC) CDL drivers are subject to urine drug testing and breath alcohol testing.

II. DEFINITIONS

For the purpose of this regulation the following definitions apply:

- A. **CDL Employee/Inmate:** Any ADOC employee or inmate who has a commercial drivers license (CDL) and participates in safety sensitive functions pursuant to their job duties at ADOC.
- B. **NIDA Lab:** Laboratory which has been certified as qualified to do the Federal Department of Transportation drug testing.
- C. **Safety Sensitive Function:** Any on duty time in which a driver is actually performing, ready to perform, or immediately available to perform work until the CDL employee is officially off duty.
- D. **Contractor:** The company contracted with to provide drug and alcohol testing services for ADOC of CDL employees and inmates.

### III. ENFORCEMENT

- A. The Alabama Department of Corrections reserves the right to require all employees and inmates having CDL license to submit at any time to drug and/or alcohol testing to determine the presence of prohibited substances.
- B. Pursuant to the OTET Act alcohol and/or drug testing of designated employees and inmates is required as follows:
  1. **Pre-CDL Licensing:** Drug and alcohol testing is required for all designated final applicants either alone or as part of a pre-CDL examination. Applicants are required to sign a consent form before submitting to the test. (Annex A) Applicants will be disqualified from the position requiring a CDL license if they test positive, refuse to submit to a test or refuse to sign the consent form. If the person remains an employee or is an inmate, disciplinary action will be taken.
  2. **On a Random Basis without Advanced Notice:** Testing is conducted on a unannounced basis just before, during or after performance of safety-sensitive functions. CDL employees and inmates are required to sign a consent form. (Annex B)
  3. **Post-Accident:** An employee and their supervisor or an inmate's immediate supervisor is required to immediately notify Absolute Drug (ABE) Detection Services, Inc., the Contractor, at 1-800-878-7786 during normal duty hours. After duty hours call 1-800-216-6252 and leave a message for Absolute Drug Detection Services. Substance screening must be done within two hours of the occurrence of the accident. A failure to report an accident will result in the employee or inmate being disciplined. **NOTE:** The employee or inmate will also report the accident as required by other DOC policy.
  4. **Upon Reasonable Suspicion by the Employer:** All designated employees and inmates will be required to submit to screening whenever a supervisor observes conduct or job performance characteristic of alcohol or drug misuse. The supervisor requesting the test will prepare an incident report explaining the circumstances and evidence upon which they relied within 24 hours of the testing. Whenever possible the supervisor should obtain permission from the Warden or Division Director.
  5. **Upon Return to a Position where a Person's CDL License is used as Part of Their Job with the ADCC:** All CDL employees who undergo drug or alcohol treatment through voluntary

means must successfully complete a return to duty test and will be subject to unannounced follow-up testing for no less than 12 months and no more than 60 months.

#### IV. DRUG TESTING

All CDL employees and inmates are prohibited from using, possessing, distributing, or manufacturing illegal drugs. All CDL employees and inmates are prohibited from using, possessing, or distributing abused prescription drugs (defined as a drug for which the CDL employee or inmate does not possess a prescription). All CDL employees and inmates are prohibited from using medication, including over the counter that would make them drowsy, while at work or on duty. Any CDL employee or inmate who takes medication, including over the counter that makes them drowsy, should report this immediately to their immediate supervisor.

##### A. The drugs that are tested for are:

1. Cannabinoids
2. Cocaine
3. Amphetamines
4. Opiates
5. Phencyclidine (PCP)

##### B. Type of Specimen Collection

Drug testing procedures for designated employees and inmates include split specimen procedures wherein the specimen is divided into two bottles which are labeled as primary and split. Both specimens will be sent to the lab and the primary specimen is opened and tested. The split sample remains sealed and stored at the lab. If the analysis of the primary sample comes back positive, then the employee or inmate has 72 hours to request that the split specimen be sent to another NIDA certified lab for analysis. These samples will be collected by the Contractor. The cost of the second analysis will be paid by the employee or inmate.

##### C. Collection of the Specimens

1. The procedure for collection of the specimen is set out in 40.25 of Department of Transportation regulations. Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided, as further described. The Contractor's collection site person may directly observe the employee or inmate providing the specimen where there is reason to believe that the individual may alter or substitute the specimen. For direct observation by the

Contractor's collecting site representative one of the following circumstances should have occurred:

- a. The employee or inmate has presented a urine specimen that falls outside the normal temperature range, and the employee or inmate declines to provide a measurement of oral body temperature by sterile thermometer, or the oral temperature does not equal or exceed that of the specimen.
  - b. The last urine specimen, on a previous occasion, provided by the employee or inmate was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2 g/L.
  - c. The collection site person observes conduct clearly indicating an attempt to substitute or adulterate the sample.
- D. Where necessary medical personnel or the Contractor's collection site representative may obtain a specimen outside a designated collection site such as at a public restroom at an accident investigation.
- E. An individual will need to supply 45 milliliters of urine for the split specimen bottle. If the individual is unable to provide such a quantity of urine, the Contractor's collection site representative shall instruct the individual to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container.
- F. Medical Review Officer (MRO)
1. Drug test results are reviewed by a medical review officer before they are reported to the ADOC.
  2. If the medical review officer finds a positive result, the designated employee or inmate will be contacted directly for an interview to determine if there is an alternative medical explanation for the positive test. In those cases where medicine is produced in a properly labelled bottle or where a physician's report or documentation from a pharmacist confirms the proper use of the suspected control substance, to the satisfaction of the MRO, the test results will be termed a medical positive requiring no further action. This will be forwarded to either the Warden, Director or Division Chief.

3. If the employee or inmate is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified. The MRO shall refer the individual for a medical evaluation as to whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.) Upon completion of the examination, the MRO shall report his or her examination, the MRO shall report his or her conclusions to the employer in writing as to whether the employee refused to be tested.
- G. An employee or inmate deemed to refuse to test will receive the same punishment as an employee or inmate that tested positive for drugs.

#### V. ALCOHOL TESTING

- A. Alcohol breath test will be done by the Evidential Breath Testing devices approved by the National Highway Transportation and Safety Administration (NHTSA). This test will be conducted by the Contractor's site collection representative.
- B. CDL employees should abstain from drinking alcohol for eight hours before reporting to duty. However, a heavy intake of alcohol will take longer than eight hours to leave a person's system. The general rule is that the body will metabolize about one ounce of alcohol per hour.
- C. Two breath tests are required to determine if a person has prohibitive alcohol concentration. In order for a second breath test to be performed the screening test must show alcohol concentrations of .02% or greater. The employee or inmate is not to eat, drink, put any object or substance in his or her mouth during the waiting period before the second test.
- D. If a CDL employee or inmate alleges that he or she is unable to provide an amount of breath sufficient to permit a valid breath test because of a medical condition the following should occur:
  1. The Contractor's site collection representative shall again instruct the employee or inmate to attempt to provide an adequate amount of breath. If the employee or inmate refuses to make the attempt, the Contractor's site collection representative shall immediately inform the employee's or inmate's supervisor.
  2. If the employee or inmate attempts and fails to provide an adequate amount of breath, the employer shall proceed as follows:

a. The employer shall direct the employee to obtain, as soon as practical after the attempted provision of breath, an evaluation from a licensed physician who is accepting to the employer concerning the employee's medical ability to provide an adequate amount of breath. An inmate CDL employee will be taken to the nearest Health Care Unit at an institution for evaluation by a licensed physician.

(1) If the physician determines that a medical condition has, or with a high degree of probability, could have, precluded the employee or inmate from providing an adequate amount of breath, the employee's or inmate's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide to the employer a written statement of the basis for his or her conclusion.

(2) If the licensed physician is unable to make the determination the employee's or inmate's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The licensed physician shall provide a written statement of the basis for his or her conclusion to the employer.

E. CDL drivers testing .02 to .039 will be removed from safety-sensitive duties until their next duty period which must be at least 24 hours later.

F. A driver that tests .04 or higher will face disciplinary action under Administrative Regulations 207 and 208 or 403 and 414. An employee that fails to comply with the testing procedure including filling out the paperwork and submitting to the test will be deemed a refusal to test. An employee deemed to refuse to test will receive the same punishment as an employee that test at .04 or higher.

## VI. TRAINING

A. All CDL employees and inmates will receive one hour of training concerning the effects of alcohol and drugs and performing safety-sensitive functions under the direction of the Contractor.

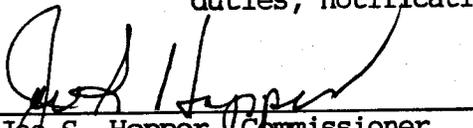
B. Supervisors of CDL employees or inmates will receive two hours of training concerning how to recognize a person under the influence of alcohol and drugs.

VII. REFERENCES

- A. AR 105 Use of State Motor Vehicles
- B. AR 207 Standards of Conduct - Department of Corrections Employees
- C. AR 208 Positive (Progressive) Employees Discipline
- D. AR 404 Disciplinary Hearing Procedures for Major Rule Violations
- E. AR 414 Behavior Citation Procedures for Informal Disciplinary Actions

VIII. Administration

- A. Signed copies of Annex A and Annex B and records of training specified in Section VI/A and B will be maintained at the facility the CDL driver is assigned.
- B. Each unit selecting a new CDL driver will advise the Deputy Commissioner for Institutions Office at 334-353-3872 as a master record of all CDL drivers is maintained and that office will notify the contractor so the name can be added into the random testing pool. Likewise, when an individual is removed from CDL duties, notification is also required.

  
\_\_\_\_\_  
Joe S. Hopper, Commissioner

ANNEXES

- Annex A Pre-Employment Drug and Alcohol Testing for Commercial Drivers License (CDL) Holders Consent
- Annex B Employee/Inmate Being Assigned the duty as a Commercial Drivers License (CDL) Holders Consent



STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS

FOB JAMES, JR.  
GOVERNOR

Research, Monitoring, & Evaluation  
Post Office Box 301501  
Montgomery, Alabama 36130-1501

JOE S. HOPPER  
COMMISSIONER

PRE-EMPLOYMENT DRUG AND ALCOHOL TESTING  
FOR COMMERCIAL DRIVERS LICENSE (CDL) HOLDERS CONSENT

TO: APPLICANT FOR EMPLOYMENT

Federal Department of Transportation requires all applicants for employment requiring a Commercial Drivers License to successfully complete drug and alcohol tests as a term and condition of continued employment. The tests are administered solely for the purpose of maintaining high security and safety standards in the work place.

I hereby knowingly and freely give my consent to submit to drug and alcohol testing and further agree to submit to drug and alcohol test from time to time as so requested. I understand that my inability to successfully pass drug and alcohol tests or failure to provide a sample would be cause for denial of employment or dismissal if employed.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

STATE OF ALABAMA \_\_\_\_\_ County, Sworn to and  
subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS

FOB JAMES, JR.  
GOVERNOR

Research, Monitoring, & Evaluation  
Post Office Box 301501  
Montgomery, Alabama 36130-1501

JOE S. HOPPER  
COMMISSIONER

EMPLOYEE/INMATE BEING ASSIGNED THE DUTY AS A  
COMMERCIAL DRIVERS LICENSE (CDL) HOLDERS CONSENT

TO: CDL EMPLOYEES/INMATES

Federal Department of Transportation requires all employee requiring a Commercial Drivers License as part of their job duties with the ADOC to successfully complete drug and alcohol tests as a term and condition of continued employment. The tests are administered solely for the purpose of maintaining high security and safety standards in the work place.

I hereby knowingly and freely give my consent to submit to drug and alcohol testing and further agree to submit to drug and alcohol test from time to time as so requested. I understand that my failure to provide samples will result in disciplinary action the same as testing positive for drugs and alcohol.

\_\_\_\_\_  
Signature of Employee/Inmate

\_\_\_\_\_  
Date

STATE OF ALABAMA \_\_\_\_\_ County, Sworn to and  
subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_