



CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

Department: Human Resources
Subject: Commercial Motor Vehicle Operators-
Alcohol and Substance Abuse Policy

Policy Number: 6-27
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I. PURPOSE

This Drug and Alcohol Testing Program is designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles and to ensure compliance with the Omnibus Transportation Employee Testing Act of 1991 (OTETA). Effective January 1, 1995, local governments are required to test all employees in a position requiring a commercial driver's license (CDL) for the use of alcohol and controlled substances.

II. STATEMENT OF NEED

Chesterfield County has a strong commitment to the health, safety, and welfare of its employees and their families and its customers. Widely available national and local statistics and information report that drug and alcohol abuse is increasing, and the effect is devastating to lives, businesses, and the community at large. Our commitment to maintain a safe and secure workplace requires clear procedural guidelines and supportive programs relating to the education, detection, treatment, and prevention of substance abuse by employees.

While the county has no intention of intruding into private lives, drivers and employees are required to report to work free from the effects of drugs and alcohol. A driver is required to report to work in condition to perform a safety-sensitive function.

A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. Safety-sensitive functions include, but are not limited to, waiting to be dispatched; inspecting, servicing, or conditioning a commercial motor vehicle; all time in or upon any commercial motor vehicle; all time loading and unloading a vehicle; and all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

III. SCOPE

These procedures apply to all CDL applicants and all current employees (full-time, part-time, or temporary) who operate a commercial motor vehicle for Chesterfield County government and Chesterfield County Public Schools and are required by federal law to have a commercial driver's license (CDL). Chesterfield County also reserves the right to test any employee for drug and alcohol abuse. Separate procedures for employees not covered by these regulations are outlined in Administrative Procedure 6-19.

IV. IMPLEMENTATION

The Drug and Alcohol Testing Coordinator is designated to answer questions regarding federal regulations and these procedures. The Coordinator will be responsible for maintaining records required by OTETA for county employees and School Board employees.

The Drug and Alcohol Testing Coordinator will update and distribute the testing procedure, provide educational materials, conduct supervisory training, inform new employees of the Drug and Alcohol Testing Program, obtain appropriate authorizations and serve as the contact person for inquiries pertaining to the county's Drug and Alcohol Testing Program. The Drug and Alcohol Testing Coordinator can be reached at 748-1551 or 804-201-5107.

V. DEFINITIONS

Words or phrases used in this procedure are defined in the Appendix.

VI. PROCEDURAL STATEMENT

In accordance with federal law, the county must provide a safe work environment for all employees. The abuse of drugs or alcohol in the county workplace jeopardizes the productivity of employees, poses a safety and health threat to the employees and public, and erodes public trust and confidence in county government. The county prohibits the use, sale, dispensing, possession, or manufacture of illegal drugs on county premises or while conducting county business. Misuse of drugs or alcohol, whether on or off duty, may result in disciplinary action, up to and including dismissal. (Chesterfield County Personnel Policies: Section 8-5 and School Board Policy #538)

VII. OTETA REQUIREMENTS

Under OTETA, the county is required to test CDL drivers and CDL applicants for the use of alcohol, marijuana, cocaine, PCP, amphetamines, and opioids. Amphetamines and opioids also have subcategories of testing that are regulated by the Department of Transportation (DOT).

Copies of these procedures shall be provided to all CDL drivers. All employees subject to testing are required to sign an authorization form acknowledging receipt of these procedures.

Federal regulations require at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use before a person can be designated to determine whether reasonable suspicion exists to require a driver to undergo alcohol or controlled substance testing. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

VIII. EMPLOYEE RESPONSIBILITIES

- A. Alcohol concentration: If the breath analysis test determines that the employee's blood alcohol content is at a level of 0.04 or higher, the employee shall be deemed to have tested positive for alcohol. A blood alcohol content of 0.02 or greater but less than 0.04 is not considered to be a positive test, however, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater or while under the influence of or impaired by alcohol.
- B. Alcohol possession and use: No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol or performs safety-sensitive functions within four (4) hours after using alcohol.
- C. Alcohol use following an accident: A driver who is subject to post-accident testing shall remain readily available for such testing and shall not use alcohol within eight hours following the accident or until he/she undergoes the alcohol test, whichever occurs first.
- D. Controlled substance use: No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
- E. Prescriptions and over-the-counter drug use: Employees are responsible for informing their supervisor if taking a prescription or over-the-counter medication that may impair their ability to perform safety-sensitive functions. (Insulin users can drive under a CDL. Information from the employee's personal physician will be required by DMV on a medical questionnaire form. DMV will review the medical information and determine whether to issue the CDL. Failure to disclose accurate medical information to DMV will be cause for disciplinary action, up to and including termination.)

- F. Refusal to submit to test: No driver shall refuse to submit to an alcohol or controlled substance test. Refusal to submit to these tests under any category of testing will result in termination.

IX. TESTING PROCEDURES

- A. The county will use a Department of Health and Human Services (DHHS)/National Institute on Drug Abuse (NIDA) approved drug testing lab to conduct any test pursuant to this procedure. The county is required to test for the use of alcohol, marijuana, cocaine, PCP, amphetamines and opioids. Amphetamines and opioids also have subcategories of testing that are regulated by DOT.
- B. The county will maintain a contract with a Medical Review Officer (MRO), who is responsible for analyzing results of drug tests and contacting the employee if results are positive. All controlled substance testing will be conducted under split sample collection procedures. A driver has 72 hours following notification of a positive test, to request in writing to the MRO or the Drug and Alcohol Testing Coordinator, to test the split specimen. The MRO shall direct the laboratory in writing, to provide the split specimen to another DHHS-certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report cancellation and the reason for it to the Department of Transportation (DOT), the county, and the employee.
- C. A driver is not authorized to request a reanalysis of the primary sample. The driver will be responsible for the cost of testing the split specimen. The county will reimburse the driver for these costs only if the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen. When the laboratory reports that the specimen is dilute, the next time the driver is selected for any drug test, the employer may require the specimen to be collected under direct observation. When the Drug and Alcohol Testing Coordinator or designee receives notification from the MRO or a collection site indicating that the driver's specimen was unsuitable for testing or rejected for testing, the driver will be directed to immediately provide a new specimen under direct observation. The collector will note on the chain of custody the same reason for collection as the original sample.

X. PRE-EMPLOYMENT AND SAFETY SENSITIVE TESTING

- A. Prior to the first time a driver performs a safety-sensitive function, the driver shall undergo testing for controlled substances.
- B. It is the supervisor's responsibility to advise candidates interviewed that a drug test is required prior to Chesterfield County Government employment or prior to performance of safety-sensitive functions for employees of Chesterfield County Public Schools. The supervisor or HR liaison is required to inform the selected candidate of test collection sites and time frames for testing. Pre-employment drug tests must not be taken earlier than 40 calendar days (excluding public safety employees) from the applicant's start date. Exceptions may be granted for out-of-town applicants. Exceptions will be reviewed on a case-by-case basis. Pre-employment drug testing of Chesterfield County Government applicants must be completed no later than the Monday before the orientation date to ensure results are received prior to the candidate's orientation/start date. Failure to complete the drug test by the Monday before orientation will affect the candidate's scheduled start date.
- C. County government employees shall also submit to drug testing when being promoted to a position in their own or another department or when transferring to a position in another

department, unless the employee is currently in a random testing pool and will be promoted to a position that will also be placed in a random testing pool. These employees must register at the collection site and complete all required drug testing no later than the Monday prior to their promotion/transfer effective date.

- D. Refusal to submit to DOT pre-employment drug testing will result in withdrawal of a conditional offer of employment. An applicant who fails a pre-employment drug test or refuses to submit to such a test will be denied employment and will be ineligible for hire by any county department for a minimum of five years. After five years, the applicant may request that their ability to apply for county positions be restored. The County Administrator, upon recommendation of the HR Director, may grant approval of the request.
- E. DOT controlled substance tests performed by other employers are NOT acceptable substitutions for testing performed through Chesterfield's CDL testing program.
- F. DOT controlled substance tests performed through Chesterfield's CDL testing program will be accepted if the driver has been employed by Chesterfield County Government or Chesterfield County Public Schools as a Commercial Driver within the previous 30 days of the current offer of employment.
- G. The Drug and Alcohol Testing Coordinator shall obtain the following information from the candidate's previous employers concerning tests administered within the preceding two years:
 - 1. Information on the driver's alcohol tests with a concentration result of 0.04 or greater;
 - 2. Positive controlled substance test results; and
 - 3. Refusal to be tested.
- H. Chesterfield must provide to each of the driver's employers within the preceding two years the driver's written authorization for release of the above information. The release of any information may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. A written, confidential record with respect to each past employer contacted will be maintained.
- I. This information must be obtained and reviewed no later than 14 calendar days after employment. If it is not feasible to obtain the information prior to the driver performing safety-sensitive functions, Chesterfield County may not permit a driver to perform safety-sensitive functions after 14 days without obtaining the information. If the driver stops performing safety-sensitive functions before expiration of the 14-day period or before the above information had been obtained, the Drug and Alcohol Testing Coordinator must still obtain the information.
- J. A driver may not perform safety-sensitive functions if information obtained by a former employer indicates an alcohol test with a concentration of 0.04 or greater, verified positive controlled substances test result, or a refusal to be tested unless the county is satisfied that the driver has successfully completed return to work requirements.

XI. POST-ACCIDENT TESTING FOR COMMERCIAL VEHICLE DRIVER

If the supervisor cannot be reached, the Department Director or their designee shall be asked to come to the scene.

- A. Employees must undergo Post-Accident Testing for Alcohol and Controlled Substances immediately after a motor vehicle accident which occurred while operating a county vehicle if:
 - 1. A person was killed in the accident and the employee was engaged in a safety-sensitive job activity.
 - 2. The employee received a moving vehicle traffic citation for the accident and a vehicle was towed from the scene because of property damage sustained in the accident.
 - 3. The employee received a moving vehicle traffic citation for the accident and a person was transported from the accident scene to receive medical treatment.

4. In the opinion of the employee's supervisor or the risk manager, there is a reasonable suspicion that the employee was using, was under the influence of or has present in his or her body, illegal drugs or alcohol based on objective facts as listed in part XIV (Reasonable Suspicion) of this policy.

If charges are pending, post-accident controlled substance and alcohol testing will be required.

- B. If the above criteria for Post Accident Testing are met, the supervisor or their representative shall ensure immediate transport of the driver to the nearest test collection site. A driver required to go to the test collection site after an accident may not drive himself/herself to the test collection site. The Drug and Alcohol Testing Coordinator shall be notified as soon as possible by calling 748-1551 or 804-201-5107.
- C. Nothing in this section shall preclude an ill or injured driver from receiving essential medical attention. In such cases of illness or injury, the supervisor or departmental representative shall apprise the medical personnel in attendance of this Procedure and request the appropriate testing without delay, if feasible.
- D. Nothing in this section shall preclude examination, breath or blood alcohol testing, or controlled substance testing of the driver by on-site police or public safety officials under separate authority, if required by law. Results of such test may be used in lieu of testing under this procedure, provided such testing complies with procedures required by the local jurisdiction.
- E. A driver who is subject to post-accident testing shall remain readily available for such testing and shall not use alcohol within 8 hours following the accident or until he/she undergoes the alcohol test, whichever occurs first.
- F. If a post-accident alcohol test is not administered within two hours following the accident, the county shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight hours, the employer shall cease attempts to administer the test, and shall prepare and maintain the record listed above.
- G. If a post-accident controlled substance test is not administered within 32 hours, the county shall cease attempts to administer the test, and shall prepare and maintain on file a record stating the reasons the controlled substance test was not administered promptly.
- H. A driver will not be permitted to perform a safety-sensitive function if the alcohol results are 0.02 or greater or the controlled substance test is positive. Please refer to the definition for "removal from safety-sensitive function" in the Appendix.

XII. RANDOM ALCOHOL AND CONTROLLED SUBSTANCE TESTING

- A. All CDL drivers shall be subjected to unannounced random alcohol and controlled substances tests. The county's Drug and Alcohol Testing Coordinator will notify the employee's supervisor or designee when the employee's name is randomly selected for testing. To accommodate scheduling needs, the supervisor may wait up to 10 calendar days to notify the selected employee that a drug test is required. When the supervisor notifies the employee that they have been selected for random drug testing, the employee must immediately proceed to the collection site.
- B. In the event a driver, who is selected for a random controlled substance test or alcohol test, is on vacation or a medical absence, the Drug and Alcohol Testing Coordinator may postpone the random test until the driver returns to duty.
- C. A driver shall only be tested for alcohol while the driver is performing a safety-sensitive function, or immediately before or immediately after performing a safety-sensitive function.
- D. Employees shall be paid, or receive compensatory time, for the time expended for a random test. Time expended includes travel time to and from the collection site.
- E. If a driver refuses to be tested, the driver will be disciplined up to and including termination.

- F. A driver will not be permitted to perform a safety-sensitive function if the alcohol results are 0.02 or greater or the controlled substance test is positive. Please refer to the definition for “removal from safety-sensitive function” in the Appendix.

XIII. RANDOM TEST ADMINISTRATION

- A. Each Department Director is responsible for forwarding to the Drug and Alcohol Testing Coordinator the name, employee identification number, and supervisor of employees possessing a Commercial Motor Vehicle Driver’s License. For new employees, this data will be provided to the Drug and Alcohol Testing Coordinator by Human Resources employment staff. Information on employees who are terminated, resign, or are no longer performing safety-sensitive functions shall be forwarded immediately by the department to the Drug and Alcohol Testing Coordinator. (County only: The Personnel Requisition Form and Report of Separation Form will provide notice of termination and advertisement activity. The department’s HR liaison is responsible for notifying the Drug and Alcohol Testing Coordinator of changes in position responsibilities, which impact whether the employee is performing safety-sensitive functions.)
- B. The actual number of CDL positions shall be calculated on January 1 of each year. Twenty-five to fifty percent (consistent with DOT guidelines, which may vary) of this number shall determine the number of Controlled Substance tests that will be conducted during the next 12 months. Ten to twenty-five percent (consistent with DOT guidelines, which may vary) of this number will determine the number of alcohol tests that will be conducted during the next 12 months.
- C. A computer program shall be used to periodically generate random selections of CDL employee’s names and employee ID numbers.

XIV. REASONABLE SUSPICION TESTING

- A. A driver shall be subject to alcohol and controlled substance testing when there is reasonable suspicion to believe the driver is impaired. Some examples of behavior which may result in reasonable suspicion testing include but are not limited to: smell of alcohol; unusual lack of coordination; unexplained hyperactivity, depression, or withdrawal; unexplained inability to think or reason; or inability to perform job functions.
- B. A reasonable suspicion determination shall only be made by a supervisor that has completed the training required under OTETA on the symptoms of alcohol or controlled substance abuse. Whenever possible, a supervisor’s reasonable suspicion should be confirmed by a second trained supervisor before requiring a driver to undergo Alcohol and Controlled Substance testing.

A driver required to go to a test collection site for reasonable suspicion testing may not drive himself/herself to the test collection site.
- C. If a reasonable suspicion alcohol test is not administered within two hours following the observations, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight hours, the employer shall cease attempts to administer the test, and shall prepare and maintain related documentation.
- D. Documentation of reasonable suspicion shall be prepared, and signed, by the supervisor making the reasonable suspicion determination. A copy shall be promptly forwarded to the Drug and Alcohol Testing Coordinator.
- E. A driver will not be permitted to perform a safety-sensitive function if the alcohol results are 0.02 or greater or the controlled substance test is positive. Please refer to the definition for “removal from safety-sensitive function” in Appendix.

XV. RETURN-TO-DUTY TESTING AND FOLLOW-UP TESTING

- A. Before a driver returns to duty requiring the performance of a safety-sensitive function after failing an alcohol or controlled substance test, the driver shall undergo an alcohol test with a result indicating an alcohol concentration of less than 0.02 or a controlled substance test with a negative result.
- B. Follow-up tests may be performed when deemed appropriate by supervisors or the Drug and Alcohol Testing Coordinator in accordance with the schedule provided by the employee's substance abuse professional.
- C. Federal requirements specify that at least six follow-up tests must be conducted over the next twelve-month period for employees who have failed a test. All return-to-duty and follow-up tests must be conducted under direct observation.
- D. If the return to duty test is deemed positive and is not ruled as a residual positive by the Medical Review Officer, Chesterfield County must treat the results as a failure to comply with the Substance Abuse Professional's (SAP) instructions and a second positive. The driver will be disciplined in accordance with the section below and referred to a SAP for additional evaluation. The driver will not be returned to regular safety sensitive duties until a negative return to duty test is reported by the Medical Review Officer.

XVI. REFERRAL, EVALUATION AND TREATMENT

Any employee with a substance abuse problem is encouraged to seek medical assistance and counseling. Eligible employees may utilize the Employee Assistance Program at no cost. Employees who violate this policy will be disciplined in accordance with the policy irrespective of whether they have received or are receiving voluntary assistance for alcohol or substance abuse problems.

XVII. DISCIPLINARY ACTIONS

- A. Violation of these procedures will result in disciplinary action up to and including termination. Chesterfield County will take disciplinary action up to and including terminating employees in CDL positions who test positive for illegal drugs or controlled substances, unless the employee establishes a legal basis for the use of the controlled substance. Any employee who refuses to be tested will be disciplined up to and including termination.
- B. A driver whose alcohol test results are greater than 0.02 shall be referred to counseling resources. Alcohol results of 0.04 or greater will result in disciplinary action up to and including termination. This determination will be made on a case-by-case basis, and other performance and behavioral factors will be considered. Referral to counseling resources will also be made.

XVIII. EMPLOYMENT ELIGIBILITY

Employment Eligibility – Any applicant that fails a pre-employment drug test or refuses to submit to such a test will be denied employment and any employee that is terminated for violating this policy will be ineligible for hire by any county department for a minimum of five years. After five years, the applicant may request that their ability to apply for county positions be restored. The County Administrator, upon recommendation of the Director of HR Services, may grant approval of the request.

APPENDIX

Definitions

- A. Alcohol – means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl and isopropyl alcohol.
- B. Alcohol use – means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- C. Drug and Alcohol Testing Coordinator – is that person employed by Chesterfield County and Chesterfield County Public Schools to maintain the records required by federal law regarding the implementation of OTETA of 1991 at Chesterfield County and Chesterfield County Public Schools.
- D. Commercial Motor Vehicle (CMV) - means a motor vehicle that has a gross weight rating of 26,001 or more pounds, designed to transport 16 or more passengers including driver, or transporting hazardous material that are required to be placarded.
- E. County vehicle – means a Commercial Motor Vehicle titled to Chesterfield County or Chesterfield County Public Schools.
- F. Controlled Substance – means any substance set forth in the Virginia Drug Control Act Section 54.1-3400 et seq code of Virginia 1950 as amended. The controlled substance required for OTETA testing include: marijuana, cocaine, opioids, phencyclidine (PCP), and amphetamines. Amphetamines and opioids also have subcategories of testing that are regulated by the Department of Transportation (DOT).
- G. Driver – means any person who operates a commercial motor vehicle, including, but not limited to, full-time, part-time, temporary, voluntary, intermittent and occasional drivers and, for purposes of pre-employment testing, persons applying for positions requiring a CDL.
- H. Immediately – means without delay.
- I. Medical Review Officer (MRO) - means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual’s confirmed positive test result, together with his/her medical history and any other relevant biomedical information.
- J. Moving Vehicle Traffic Offense Citation – means failure to yield; speeding; reckless driving; etc. It does not mean failure to wear a safety belt; expired drivers license; expired vehicle inspection sticker; failure to have a current decal, etc.
- K. Performing a safety-sensitive function – means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform any safety-sensitive function.
- L. Reasonable suspicion – means belief that the driver has violated the alcohol or controlled substance prohibition, based upon specific observation concerning appearance, behavior, speech or body odors of the driver.
- M. Refusal to submit (to an alcohol or controlled substance test) – means a driver, after he or she has received notice of the requirement for alcohol or controlled substance testing, (1) fails to provide adequate breath for testing without a valid medical explanation, (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation, (3) engages in conduct that clearly obstructs the testing process, (4) refuses to submit to federal required testing, (5) fails to drink fluids as directed by the collector following a failure to provide a sufficient amount of urine, (6) fails to undergo an additional medical examinations as part of a “shy bladder” procedure, (7) if specimen is found to have been adulterated or substituted, or (8) leaving the collection site before the collection process is completed.

N. Removal from safety sensitive function – If an employee’s controlled substance test result is positive, the employee shall be removed from safety-sensitive functions. If the breath analysis test determines that the employee’s blood alcohol content is at a level of 0.04 or higher, the employee shall be deemed to have tested positive for alcohol and will be removed from safety-sensitive functions. A blood alcohol content of 0.02 or greater but less than 0.04 is not considered to be a positive test, however, the employee cannot perform safety-sensitive functions as defined by the Department Director/Office Administrator within 24 hours after the test. Thus, if the department has a non-safety sensitive job available for the employee to perform, he may remain at the workplace; otherwise, he must leave the workplace and his pay shall be docked for hours not worked.

If an employee’s alcohol results are 0.02 or greater, the employee will be required to take a breath alcohol test in which the result is .000 before he is able to return to work. This test is to be performed at least 24 hours after the initial test.

- O. Safety-sensitive function - means any of those on-safety functions including, but not limited to, waiting to be dispatched; inspecting, servicing or conditioning a commercial motor vehicle; all driving time; all time in or upon any commercial motor vehicle; all time loading and unloading a vehicle; and all time repairing, obtaining assistance or remaining in attendance upon disabled vehicle.
- P. Substance Abuse Professional – means a licensed medical doctor, or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorder.
- Q. Test Collection Site – means that facility or business selected annually to perform alcohol and/or controlled substance tests in full compliance with the federal regulations.