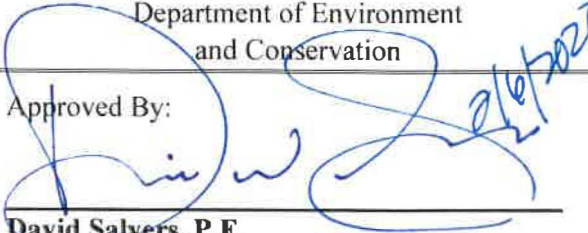


 CDL DRIVER EMPLOYEE ALCOHOL AND DRUG TESTING POLICY State of Tennessee Department of Environment and Conservation	Policy Directive: POD-P-001-CDL Testing 020120 Effective Date: February 1, 2020
Approved By:  David Salyers, P.E. Commissioner	First Issue Date: Review/Revised: 2/1/20 (issued)
SUBJECT: Procedures for drug and alcohol testing for TDEC CDL drivers	

I. RESPONSIBLE OFFICE:

The Tennessee Department of Environment & Conservation ("Department"), Division of People and Organizational Development (POD) is responsible for overseeing this Commercial Driver's License (CDL) Driver Employee Alcohol and Drug Testing Policy ("Policy").

II. PURPOSE:

The purpose of this Policy is to protect Department employees and the public from the risks of impaired driving of commercial vehicles and ensure that Department employees who hold a CDL and operate a commercial motor vehicle are tested for controlled substances and alcohol under state and federal statutes, regulations, and policies.

III. DISCLAIMER:

This policy is a basis for internal administrative review and guidance only. It is not intended to, does not, and may not be relied upon to create any substantive or procedural rights. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall remain in full force and effect.

IV. SCOPE:

This policy shall apply to all employees within the Department who hold a current CDL and who operate a commercial motor vehicle as part of their employment with the Department ("CDL Employees") as well as the supervisors of CDL Employees ("CDL Supervisors").

V. AUTHORITY:

Tennessee Code Annotated § 4-3-504
49 U.S.C. § 31305

21 U.S.C. § 812
41 U.S.C. § 8103
21 C.F.R. § 1308
49 C.F.R. § 382
49 C.F.R. § 40.

VI. PROCEDURES:

The Office of General Counsel has created a Standard Operating Procedure (SOP), based on guidelines for implementation of the federal regulatory scheme for CDL controlled substance and alcohol testing (POD-060 TDEC Commercial Driver's License (CDL) Program SOP). POD has adopted this SOP for use by all of the divisions, and is responsible for updating the SOP as appropriate.

VII. DEFINITIONS:

- a. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- b. "Controlled substance" means those substances identified in 49 C.F.R. § 40.85—marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). For the purposes of this policy, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning.
- c. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - Has a gross vehicle weight rating of 26,001 or more pounds;
 - Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
 - Is designed to transport 16 or more passengers, including the driver; or
 - Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 C.F.R. § 172, subpart F).

VIII. POLICY:

All testing and procedures for controlled substance and alcohol testing for CDL employees shall be done in compliance with all applicable state and federal laws and rules, including 49 C.F.R. § 382.

CDL Employees are responsible for the safety and welfare of the general public and fellow employees. CDL Employees shall work free of impaired judgment or impaired physical ability to avoid injury to themselves, other employees, and the public.

Controlled substance and alcohol testing helps ensure that CDL Employees operate commercial motor vehicles free of impaired judgment or impaired physical ability. CDL Supervisors shall ensure that CDL Employees under their supervision undergo appropriate testing and that all procedures regarding such testing are done in compliance with this Policy, the SOP adopted pursuant to this Policy, and all state and federal law, including 49 C.F.R. § 382.

It is the policy of the Department that all CDL Employees will be subject to the following types of controlled substance and alcohol testing, as circumstances require:

- a. Pre-employment testing
- b. Random testing
- c. Critical Incident testing
- d. Reasonable Suspicion testing
- e. Return-to-Duty testing
- f. Follow-Up testing

The definitions, procedures, and triggering circumstances for each type of testing listed above shall be set forth in an SOP to be used by each division that employs one or more CDL Employees. Participation in the controlled substances and alcohol testing program is a requirement and a condition of any employment involving driving commercial motor vehicles.

The Department shall, from time to time, contract for testing and recordkeeping services to ensure compliance with state and federal laws and regulations and this Policy.

IX. DISCIPLINE:

Appropriate disciplinary action, up to and including dismissal, will be taken for those CDL Employees and CDL Supervisors not in compliance with this Policy or the SOP. Any CDL Employee who has a verified positive drug test for the use of controlled substances or a verified positive alcohol test will be subject to the following disciplinary actions:

- a. First offense:
 - i. A five-day suspension without pay.
 - 1. Completion of mandatory Employee Assistance Program (EAP) recommendation for treatment. Employees assigned to EAP must ensure the EAP representative is communicating the employee's treatment compliance to the employee's supervisor.
 - ii. Any employee who is out of work due to the testing and procedures

outlined in this policy will be required to use the employee's accumulated annual or sick leave. This does not apply to an employee who voluntarily self-reports prescribed medications for approval and who is approved to perform non-CDL-related duty.

- iii. Any employee on initial probation with the Department will be dismissed from State service as a result of the first offense of a verified positive test.

- b. Second offense: Immediate separation from service.

Refusal to take an alcohol or drug test at the time it is requested shall be treated the same as a positive test and shall be subject to the same disciplinary action.

A CDL Supervisor is responsible for ensuring an employee's compliance with all parts of this Policy. Any CDL Supervisor who compromises the integrity of this Policy or who fails to enforce it shall be subject to disciplinary action up to and including separation from state service, in the Department's discretion.