

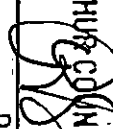
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**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
CONTROLLED SUBSTANCES AND ALCOHOL TESTING PLAN
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)**

**COUNTY NAME:
UPSHUR COUNTY
ORIGINAL DATE OF IMPLEMENTATION:
1/29/2021
NEW EFFECTIVE DATE:
JANUARY 1, 2020**

PREPARED BY:

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1) Introduction

- a) The primary objective of UPSHUR COUNTY, hereafter referred to as “the county” or “this county” in adopting this plan is to contribute to the maintenance of the safe and productive work environment for its employees. Upshur County believes that it is in the best interests of the County and its employees to maintain a work environment in which the health and safety of employees and guests is protected, and County business is conducted efficiently. The Controlled Substances and Alcohol Policy are to reduce accidents that result from the use of controlled substances and alcohol thereby reducing fatalities, injuries, and property damage. This policy is also to bring the county into compliance with all applicable federal and state regulations including the Drug-Free workplace requirements of the federal government and the Controlled substances and Alcohol Program requirements of certain agencies with the U.S. Department of Transportation (D.O.T.), which regulate the activities of this county.
- b) The presence in the body of prohibited substances is not condoned.

2) Implementation

- a) The County has implemented the Federal Motor Carrier Safety Administration regulation as set forth in 49 CFR Parts 40 and 382 and the Department of Transportation, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40.
- b) All definition, regulation, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to the correct driver, are found in 49 CFR Parts 40 and 382.303. They are incorporated into this plan and are attached.
- c) The county shall maintain confidential records of the testing results and chain of custody procedures as required by Part 382 and 40 of the DOT regulations. The County has designated the drug and alcohol program manager as the record-keeping agent for all drug and alcohol test records. The county shall provide all records, whenever deemed necessary, for inspection by any authorized agency and/or operator.
- d) The county shall provide educational materials that explain the requirements of this part and the employer’s plan and procedures with respect to meeting these requirements. (See Appendix B,C,D)
- e) The County shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a position requiring

driving a commercial motor vehicle. Required content of the materials to be made available to drivers shall include detailed discussion of at least the following:

- i) The identity of the person designated by the employer to answer driver questions about the materials; (See Appendix A)
- ii) The categories of drivers who are subject to the provisions of this part;(See Appendix E)
- iii) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance with this part;(see Appendix F)
- iv) Specific information concerning driver conduct that is prohibited by this part.

3) Driver Conduct that is Prohibited

(The DOT refers to the restrictions for the use of both alcohol and controlled substances as prohibitions.)

a) Alcohol Concentration

- i) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- ii) An employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall not permit the driver to perform or continue to perform safety-sensitive functions.
- iii) No driver shall use alcohol during the 4 hours before performing a safety-sensitive function.
- iv) No driver shall use alcohol during the 8 hours following an accident, or until the driver undergoes a post-accident test.
- v) Refusal to take a required test.

b) Other alcohol-related Conduct

- i) No driver tested under the provisions of subpart C of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for an employer, including driving a commercial motor vehicle, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Note: Except as provided in paragraph (a) of this section, no employer shall take any action under this part against a driver based solely on test results showing an alcohol concentration less than 0.04.

c) **Drug Prohibitions**

- i) Drivers will not report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances.
- ii) Any employee refusing to submit to a required drug test or inspection under any of the sections of this plan will be removed from his/her position and be subject to discipline up to and including termination.
- iii) Use of any drug, except by a doctor's prescription (and only if the doctor has advised the driver that the drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle)
- iv) Testing positive for drugs.

Note: An employer may require a driver to inform the employer of any therapeutic drug use.

4) **Violation of a Plan Provision**

Any violation of the provisions of this controlled substances and alcohol-testing plan by an employee will result in disciplinary action up to and including termination. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law.

5) **Applicability**

- a) This part applies to every person and to all employers of such persons who operate a commercial motor vehicle (CMV) in interstate or intrastate commerce in the United States, and is subject to the commercial driver's license (CDL) requirements of Part 383 and his/her employer.
- b) It also applies to drivers who operate CMV'S in the United States and are subject to the Licencia Federal dE Conductor (Mexico) or the CDL requirements of the Canadian National Safety Code.
 - i) The commercial driver's license requirements of part 383
 - ii) The Licencia Federal de Conductor (Mexico) requirements
 - iii) The commercial drivers license requirements of the Canadian National Safety Code

6) **Background**

The catalyst for the controlled substances and alcohol testing policy is Title 49 Code of Federal Regulations CFR) Parts 382 which requires motor carriers to test their employees for prohibited drugs and alcohol under the following work-related conditions

- a) Pre-Employment
- b) Post-Accident

- c) Random
- d) Reasonable Cause
- e) Return-to-duty
- f) Follow-up

7) Substances for which Testing Must be Conducted

The county shall test each employee who performs a function listed in (Appendix E) for evidence of the following substances:

DOT DRUG PANEL

Marijuana (THC)
Cocaine
Opioids
Phencyclidine (PCP)
Amphetamines

8) Definitions

a) **Accident:**

i) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

- (1) A fatality;
- (2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (3) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

ii) The term *accident* does not include:

- (1) An occurrence involving only boarding and alighting from a stationary motor vehicle; or
- (2) An occurrence involving only the loading or unloading of cargo.

b) **Actual knowledge:** Actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a (CMV) while under the influence of alcohol or controlled substances or an drivers admission of alcohol or controlled substance use, except as provided in §382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include

observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307

- c) **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- d) **Alcohol concentration (or content):** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.
- e) **Alcohol use:** The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.
- f) **Alcohol Screening Device (ASD) (or Content):** A breath or saliva device, other than an evidential breath testing device (EBT), that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CDL) for such devices.
- g) **Breath Alcohol Technician (BAT):** An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device (EBT).
- h) **Cancelled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- i) **Chain of Custody (COC):** The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).
- j) **Commerce:**
 - i) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States.
 - ii) Trade, traffic, and transportation in the United States, which affects any trade, traffic, and transportation described in paragraph (1) of this definition.
- k) **Commercial motor vehicle (CMV):** A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
 - i) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
 - ii) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
 - iii) Is designed to transport 16 or more passengers, including the driver; or
 - iv) 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

- l) **Confirmation (or confirmatory) drug test:** A second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite and to further support a validity test result in the case of an adulterated, diluted, or substituted specimen.
- m) **Confirmation (or confirmatory) validity test:** A second test performed on a urine specimen to further support a validity test result.
- n) **Confirmed alcohol test:** a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. An evidential breath-testing device must be used.
- o) **Confirmed drug test:** A confirmation test result received by an MRO from a laboratory.
- p) **Consortium/Third party administrator (C/TPA):** A service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPA's typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPA's are not "employers" for purposes of this part.
- q) **Controlled substances:** In the regulation, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to:
 - i) Marijuana (THC)
 - ii) Cocaine
 - iii) Opioids
 - iv) Phencyclidine (PCP)
 - v) Amphetamines
- r) **Designated employer representative (DER):** An individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the county. Service agents cannot serve as DER's.
- s) **Disabling damage:** Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) Exclusions:

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

(iii) Headlight or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

- t) **DOT Agency:** An agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with part 40 of this title.
- u) **Driver:** Any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.
- v) **Employer:** A person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.
- w) **Evidential Breath Testing Device (EBT):** A device used for alcohol breath testing that has been approved by the National Highway Traffic Safety Administration.
- x) **Interstate Commerce:** Trade, traffic, or transportation in the United States:
 - i) Between a place in a State and a place outside of such State (including a place outside of the United States);
 - ii) Between two places in a State through another State or a place outside of the United States; or
 - iii) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.
- y) **Intrastate Commerce:** Any trade, traffic, or transportation in any State which is not described in the term "interstate commerce."
- z) **Licensed medical practitioner:** A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- aa) **Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by and employer's drug testing program. The MRO must have

knowledge about and clinical experience in substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and other relevant bio-medical information.

- bb) **Motor Carrier:** A for hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms **employer** and **exempt motor carrier**.
- cc) **Performing (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.
- dd) **Positive rate for random drug testing:** The number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.
- ee) **Refusal to submit (to an alcohol or controlled substances test):**
- i) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see §40.61(a) of this title);
 - ii) Failure to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see §40.63(c) of this title) a pre-employment test is not deemed to have refused to test;
 - iii) Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c) of this title) for a pre-employment test is not deemed to have refused to test;
 - iv) Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2) of this title)
 - v) Failure or declination to take a second test the employer or collector has directed the driver to take;
 - vi) Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under

- §40.193(d) of this title. In the case of a pre- employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- vii) Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or is reported by the MRO as having a verified adulterated or substituted test result.
 - viii) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
 - ix) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
 - x) Admit to the collector or MRO that you adulterated or substituted the specimen.
 - xi) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- ff) **Safety-sensitive function:** All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include six specific items found in Section 382.107 of the Federal Motor Carrier Safety Regulations:
- i) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
 - ii) All time inspecting equipment as required by §§392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
 - iii) All time spent at the driving controls of a commercial motor vehicle in operation;
 - iv) All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth;
 - v) All time loading or unloading a commercial motor vehicle; supervising or assisting in the loading or unloading; attending a commercial motor vehicle being loaded or unloaded; remaining in readiness to operate the commercial motor vehicle; or in giving or receiving receipts for shipments loading or unloaded; and
 - vi) All time repairing, obtaining assistance, or remaining in attendance upon a disable commercial motor vehicle.

- gg) **Screening Test Technician (STT):** A person who instructs and assists employees in the alcohol testing process and operates an alcohol-screening device(ASD)
- hh) **Screening Test (initial Test) for alcohol:** Testing for alcohol; a procedure to determine if a driver has a prohibited concentration of alcohol I his/her system.
- ii) **Screening Test (initial Test) for drugs:** In testing for controlled substances, a test to eliminate “negative” urine specimens from further consideration or to identify a specimen that requires additional testing for the presence of drugs.
- jj) **Violation rate for random alcohol testing:** The number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.
- kk) **Stand-down:** The practice of temporarily removing a driver from the performance of safety-sensitive functions based only on a report from a laboratory to the medical review officer (MRO) of a confirmed positive drug test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.
- ll) **Substance Abuse Professional (SAP):** A licensed physician (medical doctor or doctor osteopathy), or licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor who evaluates employees who have violated a DOT drug and alcohol regulation. The SAP makes recommendations concerning education, treatment, follow-up testing, and aftercare.
- mm) **Substance Abuse:** Refers to patterns of use that result in health consequences or impairment in social, psychological, and occupational functioning.
- nn) **Supervisor:** County individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable cause; responsible for requests of second supervisor for substantiation and concurrence for reasonable cause testing, if applicable.

9) Responsibilities

- a) **Employer Responsibilities**
 - i) As an employer, you are responsible for meeting all applicable requirements and procedures of this part.
 - ii) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.
 - iii) All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require

compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements.

- iv) The county shall ensure that all covered employees are aware of the provisions and coverage of the county's controlled substances and alcohol testing policy.
- b) Designated Employee Representative Responsibilities
 - i) The Designated Employee Representative (DER) shall be responsible for the preparation of a drug testing alcohol and controlled substance abuse policy which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Part 40.
 - ii) The DER shall be responsible for providing oversight and evaluation on the plan; providing information on available guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling random drug testing and return-to-duty testing; maintaining a locked file system containing drug test results; and overseeing the employee assistance program (EAP) as it is defined in 49 CFR Part 382.605.
- c) Supervisor Responsibilities
 - i) Participating in communicating this plan to their employees
 - ii) Identifying any employee behavior that may indicate a violation of this plan
 - iii) Reporting to Upshur County when he/she has reason to believe that this plan may have been violated.
 - iv) Every supervisor covered by this policy will receive training that will assist in identifying performance indicators of probable drug abuse. Positions that are subject to supervisors training are outlined in Appendix E of this policy.
 - v) Note: Supervisors should warn drivers that over-the-counter medications, and even prescription medications, may interfere with their ability to drive safely and within the requirements of the alcohol and drug regulations. Supervisors should inform the drivers about the possible side effects of these drugs before the driver takes them, especially before driving. Drivers should consult their physician if you have any questions about a prescription and read the ingredient label and directions for use on every over-the- county drug you use.

10) Alcohol Testing Procedures

- a) All alcohol testing is conducted by a trained technician in a private setting where no one but you and the technician can see or hear the test results. A breath or saliva testing device approved by the National Highway Traffic Safety Administration must be used.

- b) The technician will ask for photo identification (driver's license, employer issued identification). You may ask for the technician's identification as well.
- c) The technician will complete the first part of the alcohol testing form (ATF), which includes your name, your county's name, and the reason for the test. You will be asked to complete the second part of the form stating that you understand that you are about to be tested and that all information given is correct. Refusal to sign the form is considered a refusal to take the test. Refusal to take the test is treated the same way as failing a test.
- d) A screening test is done first. If the evidential breath testing device (EBT) or non-evidential breath alcohol screening device (ASD) is used, an individually sealed mouthpiece will be opened in front of you and attached to the EBT or ASD. You must blow forcefully into the mouthpiece of the testing device for at least 6 seconds or until you have provided an adequate amount of breath for testing.
- e) The technician must show you the reading on the device and enter the result on the testing form or (if the device prints the results) affix the printed results to the form with tamper-evident tape.
- f) If a saliva testing device is used, the technician must check the expiration date on the device and show it to you. A device may not be used after its expiration date.
- g) The technician must open the individually sealed package containing the device in front of you.
- h) You or the technician will insert the swab into you mouth and allow it to be saturated with saliva. After the saliva is collected, the swab will be inserted into the testing device.
- i) The result on the device must be read within 15 minutes of the test, but no sooner that specified by the manufacturer of the device.
- j) The technician must show you the reading on the device and enter the result on the testing form.
- k) If a breath tube ASD is used, the technician must check the device's expiration date and show it to you. A device may not be used after its expiration date.
- l) The technician must remove the device from the package and break the tube's ampule in front of you. The technician will then put an inflation bag onto the end of the device.
- m) You will be asked to blow into the device until the inflation bag fills with air (about 12 seconds).
- n) Once this is completed the technician will take the device from you and wait for the reading to appear. The technician will compare the color of the crystals in the device with the colored crystals on the manufacturer-produced control tube within the time frame given by the manufacturer, but no later than 15 minutes after the test.
- o) If the reading on the breath or saliva testing device is 0.02 or greater, a confirmation test must be done using an approved EBT. The test must be done

after 15 minutes but within 30 minutes of the first test. You will be asked not to eat, drink, belch, or put anything in your mouth. These steps prevent the build-up of mouth alcohol, which could lead to an artificially high result. A new mouthpiece must be used for the confirmation test and an air blank must be conducted on the EBT. The result must be 0.00 for the test to proceed. Again, all this must be done in front of you.

- p) If the screening and confirmation test results are not the same, the confirmation test result is used.
- q) The results of the confirmation test are forwarded to the employer. However, these records (positive, negative, and refusal) are required to be released to any potential employers (with your consent) if you seek employment as a driver with another county.
- r) Failing an alcohol test will be handled according to regulation and your county policy.
- s) Remember, if you refuse to be tested or refuse to sign the testing form, the technician will immediately notify your employer. Again, a refusal is treated the same way as failing an alcohol test.

11) Drug Testing Procedures

- a) General
 - i) All drug testing is done by analyzing a urine sample and is conducted by a trained collection site person in an appropriate, private setting. The urine sample may be collected at your place of employment or at a certified testing lab. In either case, the collection must be conducted by an individual trained in compliance with Part 40 of the regulations and in a location that is clean and equipped with all the necessary materials to collect and secure the urine sample(s).
 - ii) To avoid a false positive test result and to ensure that your rights are being upheld, it is a good idea for you to understand the correct procedure for collecting specimens for testing. Too often, drivers realize that all or part of their drug testing was not conducted according to the regulations, but it's well after the test results have been released. If you have concerns about the way you drug test is being handled, consult your supervisor immediately and refer to the Drug Testing section of the Federal Motor Carrier Safety Regulations (FMCSRs).
- b) Regulated Documentation
 - i) The collection site, the laboratory and your carrier are required to follow the regulations for what's known as a *chain of custody* regarding your sample. This is the documentation that assures that the sample collected and tested is indeed the same one, and that steps have been taken to maintain the integrity

of the test results. It tracks the specimen from the moment it is collected and stored up to the point that it is tested at the laboratory and the results are known.

- ii) A federal drug testing custody and control form must be used and filled out appropriately. Unless it can't possibly be avoided, the person who collects your sample should not be your direct supervisor.

c) Specimen Collection

- i) You should be positively identified by the collection site person using some type of photo identification by a representative of your employer. You may request to see the collection site person's identification as well. If the collection is directly observed or monitored, that individual must be of the same gender as you.
- ii) You will be instructed to remove all unnecessary outer garments (coats, jackets, hats) and leave these garments along with any briefcase, purse, or other bag you may be carrying in a mutually agreeable location. You may keep your wallet. You will also be instructed to empty your pockets and display the items in them to ensure you are not carrying anything that could be used to tamper with a specimen. You will then be asked to wash and dry your hands prior to urination, immediately before providing a urine specimen.
- iii) Urine specimens must be collected in clean, single-use specimen bottles which are to remain in their protective, sealed wrapper until they can be unwrapped in front of you. This ensures that the specimen is not tainted or contaminated.
- iv) You will then be instructed to go into the room used for urination and provide a specimen of at least 45mL.
- v) The temperature of the urine specimen must be taken within four minutes of collection and fall within the acceptable range for testing (90-100 degrees F/32-38 degrees C).
- vi) If the collection site person suspects the urine sample has been contaminated or tampered with, any unusual signs must be recorded on the collection site form and you will be asked to provide a second sample. The first sample will still be tested as usual, but the second sample must be collected under direct observation of a same-gender collection site person.
- vii) The specimen is then divided into two containers by the collection site person and within your presence. This provides two samples for testing, should you dispute the results of the first test. These two samples, called *primary* and *split*, are sent to a testing laboratory certified by the Department of Health and Human Services and must be tracked using custody and control form.
- viii) Both you and the collection site person must keep the specimen in view at all times prior to the specimen container being sealed and labeled in your presence. The collection site person must place an identification label securely

on the bottle containing the date, the individual specimen number, and any other identifying information required by your employer. (If separate from the label, a tamperproof seal must also be applied and initialed by you and the collection site person.)

- ix) You must then initial the identification label on the specimen bottle to certify that the specimen collected was yours.
 - x) You will be instructed not to leave the collection site facility when a 2nd specimen under the regulations is required. For example: shy bladder, high/low temperature, etc.
 - xi) Regardless of where the sample is collected, steps must be taken to ensure that no other persons are present or may gain access to the area or specimens, which could lead to false positive result. This includes the process for shipping the sample(s) to the certified testing lab, which must follow Sec. 40.73 of the regulations
- d) Direct observation collection (§40.67). Failure of the employee to permit any part of the direct observation procedure is a refusal to test.
- i) Directly observed collections are authorized and required only when:
 - (1) The employee attempts to tamper with his or her specimen at the collection site
 - (a) The specimen temperature is outside the acceptable range;
 - (b) The specimen shows signs of tampering (unusual color/odor/characteristic); or
 - (c) The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen; or the collector notes conduct suggesting tampering.
 - (2) The Medical Review Officer (MRO) orders the direct observation because:
 - (a) The employee has no legitimate medical reason for certain atypical laboratory results; or
 - (b) The employee's positive or refusal (adulterated/substituted) test results had to be cancelled because the split specimen test could not be performed (for example, the split was not collected)
 - (3) The test is a follow-up test or a return-to-duty test
 - ii) The observer must be the same gender as the employee
 - iii) If the collector is not the observer, the collector must instruct the observer about the procedures for checking the employee for prosthetic or other devices designed to carry "clean" urine and urine substitutes and for watching the employee urinate into the collection container.
 - (1) The observer requests the employee to raise his or her shirt, blouse or dress/skirt, as appropriate, above the waist, just above the navel; and lower

clothing and underpants to mid-thigh and show the observer, by turning around, that the employee does not have such a device

- (a) If the employee has a device
 - (i) The observer immediately notifies the collector; the collector stops the collection
 - (ii) The collector thoroughly documents the circumstances surrounding the event in the remarks section of CCF.
 - (iii) The collector notifies the DER
 - (iv) THIS IS A REFUSAL TO TEST
- (b) If the employee does not have a device
 - (i) The employee is permitted to return clothing to its proper position for the observed collection.
 - (ii) The observer must watch the urine go from the employee's body into the collection container.
 - (iii) The observer must watch as the employee takes the specimen to the collector.
 - (iv) The collector then completes the collection process.

e) Laboratory Analysis

- i) At the laboratory, an **initial test** is performed on the primary sample.
- ii) If this test is positive for the presence of controlled substances, a **confirmation test** will be conducted.

f) Reporting the results

- i) All test results must be reported to the medical review officer (MRO) in a timely manner, preferably the same day that the review of the specimen by the certifying scientist is completed.
- ii) The laboratory and MRO must ensure that the results are transmitted in a confidential and secure manner.

iii) Stand-down Provision

- (1) An employer may not remove a driver from safety-sensitive functions (stand down) when the MRO receives a laboratory report of a confirmed positive, adulterated, or substituted drug test before the test result has been verified by the MRO.
- (2) An employer may apply for and receive a waiver from this prohibition by completing an application for a waiver with the Federal Motor Carrier Safety Administration. Consult your county policy and/or supervisor for details.

- iv) A review of the results must be done by an MRO, who is required to explore any possible medical explanations for a positive result or a result that indicates a specimen has been adulterated or substituted. At this time, the MRO must contact you about the test result and give you the opportunity to discuss the test result before making a final determination.

- v) A positive test result or a result that indicates a specimen has been adulterated or substituted does not automatically mean you have used drugs and are in violation of DOT regulations. In order to find other possible reasons, the MRO may interview you, review your medical history, and/or review any other biomedical factors. The MRO must look at all medical records and data you give him/her, such as information on any prescribed medications you are using.
 - vi) *After being notified of a positive test result or a result that indicates a specimen has been adulterated or substituted for the initial test, you have 72 hours to request the MRO for a test of the split specimen.* If you make this request, the split specimen must be tested at a *different* Department of Health and Human Services certified laboratory.
 - vii) If you do not contact the MRO within 72 hours but can provide a legitimate reason for not doing so, the MRO may order the split specimen test at his/her discretion.
 - viii) Please note that removal from safety-sensitive duties as required by the regulations following a positive drug test is NOT delayed to await the result of the split specimen test.
 - ix) If the analysis of the split sample fails to confirm the presence of a drug, or reconfirm that the specimen was adulterated or substituted, the MRO will cancel the test and report this to you and your employer.
 - x) The results of all tests must be forwarded to your employer in written form within three working days of completion of the MRO review. All records must be kept confidential. However, these records are required to be released to any potential employers (with your consent) if you seek employment as a driver with another carrier.
- g) **Collector Procedures to ensure Security of the Specimen**
 As a collector, you must take the following additional steps to ensure security during the collection process
- i) To avoid distraction that could compromise security, you are limited to conducting a collection for only one employee at a time. However, during the time one employee is in the period for drinking fluids in a “shy bladder” situation (see §40.193(b)), you may conduct a collection for another employee.
 - ii) To the greatest extent you can, keep an employee's collection container within view of both you and the employee between the time the employee has urinated and the specimen is sealed.
 - iii) Ensure you are the only person in addition to the employee who handles the specimen before it is poured into the bottles and sealed with tamper-evident seals.

- iv) In the time between when the employee gives you the specimen and when you seal the specimen, remain within the collection site.
- v) Maintain personal control over each specimen and CCF throughout the collection process.
- h) Consequences for Violators
 - i) For purposes of this subpart, a verified positive DOT drug test result and a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation constitutes a DOT drug and alcohol regulation violation.
 - ii) Any violation of the provisions of this Controlled Substances and Alcohol Plan by a contractor or contractor employee will result in the immediate removal from the work-site of the offending individual(s), a ban of the individual offenders from county property, and a possible loss of approved status by the contractor in question.
 - (1) All CDL drivers will be removed from any safety sensitive position.
 - (2) The driver must see a Substance Abuse Professional to ever drive again, anywhere.
 - iii) As an employee, when you have violated DOT drug and alcohol regulations, you cannot again perform any DOT safety-sensitive duties for any employer until and unless you complete the SAP evaluation, referral, and education/treatment process set forth in this subpart and in applicable DOT agency regulations. The first step in this process is a SAP evaluation.
 - iv) After the driver completes the SAP evaluation, the driver must take a Return-to-Duty test with a Negative result and/or an Alcohol test with results below .02.

12) Drug Test Requirements

- a) Pre-employment testing
 - i) A controlled substances test is required before a new hire or a person transferring into a driving position from elsewhere in the county can perform any safety-sensitive function.
 - ii) A pre-employment alcohol test is not required under Part 382 regulations, but an employer may conduct this type of test if it is in your alcohol testing county policy or if the following criteria are met:
 - (1) The test must be conducted before the driver performs any safety-sensitive functions;

- (2) The employer must treat all employees performing safety-sensitive functions the same (the employer may not test some employees and not others);
 - (3) The test must be conducted after the employer makes a contingent offer of employment or transfer, subject to the employee passing the test;
 - (4) All tests must follow Part 40 procedures; and
 - (5) The employee may not perform safety-sensitive functions if the test result is 0.04 or more.
- b) Post-accident testing
- i) General
 - (1) Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
 - (2) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol and controlled substances for each of its surviving drivers:
 - (3) Performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - (4) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

TABLE FOR §382.303 (A) and (B) Table

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage	YES	YES

to any motor vehicle requiring tow away	NO	NO
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ii) Alcohol Tests

- (1) An alcohol test is required following an accident when:
 - (a) A life was lost;
 - (b) A driver was cited within 8 hours of the accident for a moving traffic violation **and** the accident involved injury requiring medical treatment away from the scene; -OR-
 - (c) A driver was cited within 8 hours of the accident for a moving traffic violation **and** the accident resulted in the towing of one or more vehicles from the scene.
- (2) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing.
- (3) An employer shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.
- (4) If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- (5) If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

iii) Controlled substance tests:

If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

c) Random testing

- i) Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- ii) Random testing for alcohol must be completed just before, during, or immediately after performing a safety-sensitive function.
- iii) Random testing for drugs can be done anytime you are at work for your employer. Once you are notified that you have been selected for testing, you must proceed immediately to the test site.

- iv) The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- v) The minimum annual percentage rate for random controlled substances testing shall be 25% percent of the average number of driver positions.
- vi) Each employer shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

Note: DOT may change the testing rates. Since 1998, the random alcohol testing rate has been 10% of the average number of driver positions. Prior to 1998, the rate was 25%. Due to the potential for change, these rates should be verified with your supervisor.

d) Reasonable Suspicion Testing

- i) Observations for alcohol testing must be made just before, during, or just after the performance of a safety-sensitive function.
- ii) Observations for drug testing may be made at any time while you are at work for your employer.
- iii) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of this part concerning alcohol. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the driver.
- iv) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of this part concerning controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- v) The supervisor who makes the observation and determines that reasonable suspicion testing should be done **may not** be the one who conducts the alcohol test on the driver.
- vi) If the alcohol test cannot be given within 2 hours of the observation, the employer must prepare a record stating why the test could not be given.

- vii) If the alcohol test cannot be given within 8 hours of the observation, the employer should not give the test and must prepare a record stating why the test could not be given.
- viii) Even if reasonable suspicion is observed but a test could not be done, you cannot perform safety-sensitive functions until:
 - (1) A test is done and your alcohol concentration is determined to be less than 0.02
 - OR-
 - (2) 24 hours have passed from the time of the initial observation.
- ix) Your employer may not take action against you regarding alcohol misuse unless an alcohol test was administered within the required timetable.
- x) The chronic and withdrawal effects of drugs, as well as the conditions listed above, are used to determine reasonable suspicion for drug testing.
- xi) Documentation of the driver's conduct must be prepared and signed by the supervisor who made the observations within 24 of the observed behavior, or before the results of the alcohol or drug tests are released, whichever is first.
- e) Return-to-duty testing
 - i) Return-to-duty testing is required for drivers who tested positive for drugs, failed an alcohol test, or refused to take a drug or alcohol test.
 - ii) If the county decides to permit the employee to return to the performance of safety-sensitive functions after a positive drug or alcohol test, the employee must take a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.
 - iii) As an employer, the county must not return an employee to safety-sensitive duties until the employee meets the conditions of paragraph (a) of this section. However, you are not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that you have the discretion to make, subject to collective bargaining agreements or other legal requirements.
 - iv) A SAP or MRO, will not make a "fitness for duty" determination as part of this re-evaluation unless required to do so under an applicable DOT agency regulation. It is the employer, rather than the SAP OR MRO, who must decide whether to put the employee back to work in a safety-sensitive position.
- f) Follow-up testing
 - i) Follow-up testing is required for drivers who tested positive for drugs, failed an alcohol test, or refused to take a drug or alcohol test. The regulations call for a minimum of six (6) tests during the first year back in a safety-sensitive position. However, follow-up testing can continue for up to five (5) years.

- ii) Each employee who has committed a DOT drug or alcohol regulation violation, and who seeks to resume the performance of safety-sensitive functions, must establish a written follow-up testing plan. The county will not establish this plan until after the SAP has determined that the employee has successfully complied with the SAP'S recommendations for education and/or treatment.
- iii) The SAP must present a copy of this plan directly to the DER.
- iv) The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol.
- v) However, the SAP must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions.

g) DOT and Non-DOT Tests

- i) DOT tests must be separate from non-DOT tests in all respects.
- ii) DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test.
- iii) Except as provided in paragraph (d) of this section, you must not perform any tests on DOT urine or breath specimens other than those specifically authorized by this part or DOT agency regulations. For example, you may not test a DOT urine specimen for additional drugs, and a laboratory is prohibited from making a DOT urine specimen available for a DNA test or other types of specimen identity testing.
- iv) The single exception to paragraph (c) of this section is when a DOT drug test collection is conducted as part of a physical examination required by DOT agency regulations. It is permissible to conduct required medical tests related to this physical examination (e.g., for glucose) on any urine remaining in the collection container after the drug test urine specimens have been sealed into the specimen bottles.
- v) No one is permitted to change or disregard the results of DOT tests based on the results of non-DOT tests. For example, as an employer you must not disregard a verified positive DOT drug test result because the employee presents a negative test result from a blood or urine specimen collected by the

employee's physician or a DNA test result purporting to question the identity of the DOT specimen.

- vi) As an employer, you must not use Federal CCF or DOT ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the Federal CCF and DOT ATF for all your DOT-mandated drug and alcohol tests.

13) Drug and Alcohol Clearinghouse

The Clearinghouse is a secure online database that will give employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations.

The Clearinghouse will contain records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

49 CFR Part 40 §382.601(12)(b) The following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (i) A verified positive, adulterated, or substituted drug test result;
- (ii) An alcohol confirmation test with a concentration of 0.04 or higher;
- (iii) A refusal to submit to any test required by subpart C of this part;
- (iv) An employer's report of actual knowledge, as defined at §382.107:
 - (A) On duty alcohol use pursuant to §382.205;
 - (B) Pre-duty alcohol use pursuant to §382.207;
 - (C) Alcohol use following an accident pursuant to §382.209; and
 - (D) Controlled substance use pursuant to §382.213;

The Clearinghouse rule requires FMCSA-regulated employers, medical review officers (MROs), substance abuse professionals (SAPs), consortia/third-party administrators (C/TPAs), and other service agents to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, Parts 40 and 382 by current and prospective employees.

Employers will be required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a CMV on public roads.

Employers will be required to annually query the Clearinghouse for each driver they currently employ.

Drivers are not required to register for the Clearinghouse. However, a driver will need to be registered to provide electronic consent in the Clearinghouse if a prospective or current employer needs to conduct a full query of the driver's Clearinghouse record.

A driver must also be registered to electronically view the information in his or her own Clearinghouse record.

A full query is used for pre-employment, returned limited queries, the required annual query, or more frequent query at the county's discretion. Consent is completed electronically through the Clearinghouse.

A limited query is used only for yearly queries or periodic queries. A paper consent form is completed and stored outside the Clearinghouse.

APPENDIX A

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

Name: DRUG AND ALCOHOL TESTING COMPLIANCE SERVICES
Address: 4000 US HWY 259 N, LONGVIEW, TX 75605
Phone: (903) 234-1136

COLLECTION SITES

Name: DRUG AND ALCOHOL TESTING COMPLIANCE SERVICES
Address: 4000 US HWY 259 N, LONGVIEW, TX 75605
Phone: (903) 234-1136

Name: DRUG AND ALCOHOL TESTING COMPLIANCE SERVICES
Address: 3180 PARK CENTER DRIVE TYLER, TX 75701
Phone: (903) 534-3893

Name: DRUG AND ALCOHOL TESTING COMPLIANCE SERVICES
Address: 1701 OLD MINDEN RD. STE. 17 BOSSIER CITY, LA 71111
Phone: (318) 212-1125

Name: DRUG AND ALCOHOL TESTING COMPLIANCE SERVICES
Address: 4701 SW PARKWAY, #18 WICHITA FALLS, TX 76310
Phone: (940) 264-8805

DRUG PROGRAM MANAGER (DPM) OR DESIGNATED EMPLOYER REPRESENTATIVE (DER)

Name: Brandy Vick
Address: PO Box 730 Gilmer, TX 75644
Phone: 903-680-8137

MEDICAL REVIEW OFFICER (MRO)

Name: DONALD S. FREEDMAN, MD
Address: PO Box 550749, Jacksonville, FL 32255
Phone: (904) 332-0472

SUBSTANCE ABUSE PROFESSIONAL (SAP)

Name: CINDI BECK, LICENSED CHEMICAL DEPENDENCY COUNSELOR
Address: 1508-D.W. FAIRMONT LONGVIEW, TX 75604
Phone: (903) 753-9593

Name: DWAYNE M. COX, LICENSED CHEMICAL DEPENDENCY COUNSELOR
Address: 1121 ESE LOOP 323, STE. 105 TYLER, TX. 75701
Phone: (903)509-4232
Website: WWW.DWAYNEMCOX.COM

SUBSTANCE ABUSE MENTAL HEALTH LABORATORY (SAMHSA)

Name: ALERE LABORATORIES
Address: 1111 Newton Gretna, LA 70053
Phone: 1-800-433-3823

APPENDIX B

SUBSTANCE ABUSE PROFESSIONALS (S.A.P.) FOR D.O.T. ASSESSMENTS*

**Contact DATCS for a list of S.A.P.'s in your area OR visit www.saplist.com*

LONGVIEW TEXAS	CINDY BECK 1508 D W Fairmont Longview, TX 75604 (903) 753-9593	GENE PETTY, PhD 1693 Wood Place Longview, TX 75601 (903) 445-5204
SHREVEPORT LOUISIANA	KIM BAILEY Shreveport, LA (318) 222-0759	WILL JONES, PhD 2829 Youree Drive, STE 5 Shreveport, LA 71210 (318) 868-8717
TYLER TEXAS	DWAYNE COX 1121 ESE Loop 323, STE 105 Tyler, TX 75701 (903) 509-4232 www.dwaynemcox.com	
WICHITA FALLS TEXAS	GARY FASHIMPAR 4111 Call Field Rd Wichita Falls, TX (940) 631-1781 (CELL) (940) 696-0201 (PHONE/FAX)	PAULIE GUTHRIE 1310 Main Street Duncan, OK 73533 (580) 606-2031

TREATMENT FACILITIES

800-232-1289	Ouachita Medical Center (www.ouachitamedicalcenter.com)
800-292-0148	Starlite Recovery Center (www.starliterecovery.com)
800-203-6612	Palmetto Addiction Recovery Center (www.palmettocenter.com)

LOCAL ASSISTANCE / NON-D.O.T. ASSESSMENTS

903-753-7633	ETCADA (East Texas Council on Alcoholism & Drug Abuse)
903-234-2796	Sabine Valley Center Substance Abuse Services
903-758-0569	WoodBine Substance Abuse Treatment Center
800-566-0088	ETMC Behavioral Health
903-655-6453	Scott & White Dependence Treatment (Henderson, TX)
903-938-1146	Grove Moore Regional Substance Abuse Recover (Marshall, TX)

NATIONAL HOTLINE NUMBERS

800-356-9996	Al-Anon (www.al-anon.org)
800-252-6465	Alcohol & Drug Referral Hotline
800-NCA-CALL	National Council on Alcoholism & Drug Dependency (www.ncadd.org)
800-662-HELP	NIDA - National Institute on Drug Abuse (www.nida.nih.gov)
800-66-AYUDA	NIDA en Espanol (www.nida.nih.gov/NIDAEspanol.html)
800-527-5344	American Council on Alcoholism (www.aca-usa.org)
800-COCAINE	Cocaine Hotline
800-241-7946	PRIDE (Parent's Resource Institute for Drug Education)
877-767-7676	Narcotics Anonymous (www.na.org)
800-662-HELP	National Drug & Alcohol Treatment Referral Service
800-422-HOPE	National Youth Crisis Hotline

A Final Word about Drugs and Alcohol

It's important that you find ways to relieve your stress and handle the pressures of your job without resorting to mind-altering substances, especially if those substances remain in your body and affect your performance on the job.

Repeated alcohol and drug use may lead to an addiction that cannot be overcome alone. Alcohol and drugs will have a devastating effect on your health, your relationships and your job if you let occasional and legal use cross the line into dependency and the use of illegal substances.

If you are concerned about your drinking or drug tendencies or someone else's abusing behavior, you can contact the person in charge of your county's Drug and Alcohol program for help.

APPENDIX C

What Are the Effects of Alcohol and Drugs on the Body?

ALCOHOL

A central nervous system depressant found in beer, wine, hard liquor and in some over-the-counter medications (for example: some allergy and cold medications).

Alcohol is widely abused primarily due to its social acceptance and availability. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. "Abuse" occurs when it is used primarily for its physical and mood-altering affects. About half of all auto accident fatalities in the United States are related to alcohol abuse.

Signs and symptoms of Use:

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Pupils may be constricted
- Sleepy or stuporous condition
- Slowed reactions
- Slurred speech

Note: With the exception of the odor of alcohol, these are general signs and symptoms of any depressant substance.

Other Effects:

- Greatly impaired driving ability
- Reduced coordination and reflex actions
- Impaired vision and judgment
- Inability to divide attention
- Lowering of inhibitions
- Headaches, nausea, dehydration, unclear thinking, unsettled digestion and aching muscles are associated with overindulgence (hangover).

How Does it Work in the Body?

Alcohol first acts on the parts of the brain that affect self-control and other learned behaviors. Diminishing self-control often leads to aggressive behavior. In large doses, alcohol dulls sensations and impairs muscular coordination, memory and judgment. Taken in large quantities over a long period of time, alcohol can damage the liver and heart, and may cause permanent brain damage. On average, heavy drinkers shorten their life span by about 10 years.

After ingestion, alcohol is absorbed through the stomach and intestine into the bloodstream. Here it passes through the liver, where it is metabolized in several steps. Metabolism helps prevent alcohol from accumulating in the body and destroying cells and organs. The liver can't metabolize alcohol as quickly as the body can absorb it. This

is the point of intoxication. Any concentration of alcohol that remains unmetabolized can be detected and measured during a blood alcohol concentration test.

Many factors contribute to levels of alcohol absorption, rates of metabolism, and intoxication. Among them are: body size and weight, food ingested, gender, physical condition, and other drugs or medication in the body. Impairment begins with one drink.

Health Effects

Over time, chronic consumption of alcohol may result in the following health hazards.

- Liver damage
- Inflammation of the esophagus
- Aggravation of peptic ulcers
- Acute and chronic pancreatitis
- Malabsorption of food nutrients that may lead to malnutrition
- Heart attack
- Hypertension
- Stroke
- Immune system depression (makes body more susceptible to infections)
- Cancers of the liver, esophagus, nasopharynx or larynx
- Brain damage (dementia, blackouts, seizures, hallucinations, peripheral neuropathy)

*Chronic consumption of alcohol = Average of three servings per day of 12 ounces of beer, one ounce of whiskey or six ounces of wine.

How Alcohol Impairs Functions Needed for Driving

The subtlety and complexity of the skills required to operate a motor vehicle safely make people susceptible to impairment from even low doses of alcohol. The evidence linking alcohol and transportation accidents is supported by experimental studies conducted by the National Institute on Alcohol Abuse and Alcoholism, relating the effect of alcohol on specific driving-related skills. Impairment is related to alcohol in terms of its concentration (BAC) of 0.04 percent might be achieved by a 150-pound man consuming two drinks in one hour.

In driving, the eyes must focus briefly on important objects in the visual field and track them as they move (along with the vehicle). Low to moderate BAC's (0.03 to 0.05) interfere with voluntary eye movements, impairing the eye's ability to rapidly track a moving target.

Steering is a complex psychomotor task. A delay in the body's eye-to-hand reaction time is compounded by the visual effects described above, causing significant impairment in steering ability at about 0.035 percent BAC.

Alcohol impairs nearly every aspect of the brain's information processing. Alcohol impaired drivers require more time to read street signs or respond to traffic signals than unimpaired drivers. As a result, impaired drivers tend to look at fewer sources of information. A narrowing of the field of attention begins at about 0.04 percent BAC.

Drivers must divide their attention among many skills in order to keep a vehicle in the proper lane while monitoring the environment for vital safety information, such as other vehicles, traffic signals, and pedestrians. Results of numerous studies show that a deficit in the ability to divide attention may occur at 0.02 percent BAC.

Fact:

- About two in every five Americans will be involved in an alcohol-related vehicle accident in their lifetime.
- The risk of a traffic fatality per mile driven is at least eight times higher for a drunk driver than a sober one.
- A 12-ounce can of beer, a 5 ounce glass of wine, and a 1 ½ ounce shot of hard liquor all contain the same amount of alcohol.
- Each 1 ½ ounce of alcohol takes the average body about one hour to process and eliminate.
- Coffee, cold showers, and exercise do not quicken sobriety.

MARIJUANA

Also known as grass, pot, weed, gold, joint, hemp, reefer. Active chemical – THC

Marijuana is one of the most misunderstood and underestimated drugs of abuse. It is used for its mildly tranquilizing, mood and perception altering effects. It alters the brain's interpretation of incoming messages but does not depress the reactions of the central nervous system. It alters a person's sense of time and reduces the ability to perform tasks requiring concentration, swift reflexes and coordination. The drug has a significant effect on a user's judgment, caution and sensory/motor abilities.

Signs and Symptoms of Use:

- Reddened eyes
- Slowed speech
- Distinctive, pungent odor on clothing (aroma of alfalfa combined with incense)
- Lackadaisical "I don't care" attitude
- Chronic fatigue and lack of motivation
- Irritating cough
- Chronic sore throat

Other Effects:

- Restlessness
- Inability to concentrate
- Increased pulse rate and blood pressure
- Rapidly changing emotions and erratic behavior
- Impaired memory and attention
- Hallucinations, fantasies and paranoia
- Decrease in/temporary loss of fertility
- Distorted perception of time
- Apathy
- Delayed decision making
- Aggressive urges
- Anxiety
- Confusion
- Hallucinations

Health Effects:

Over time, long-term inhalation of marijuana smoke may result in the following health hazards:

- Lung irritations
- Emphysema-like conditions
- Respiratory tract and sinus infections caused by the fungus *Aspergillus*, a common contaminant of marijuana
- Lowered immune system response
- Aggravation of ulcers
- Brain damage

(Marijuana causes long-term negative effects on mental function – also known as “acute brain syndrome,” characterized by disorders in memory, cognitive function, sleep patterns and physical condition.)

How Marijuana Impairs Functions Needed for Driving:

Marijuana impairs driving ability for at least 4-6 hours after smoking one “joint” (cigarette); it impairs signal detection (ability to detect a brief flash of light); it impairs tracking (ability to follow moving objects with the eyes); it impairs visual distance measurements and it chemically alters the brain and gross motor functioning of the body, having a direct impact on the complex system of critical thinking skills and reflexes that allow people to drive safely and conscientiously.

Note: THC is stored in body fat and is slowly released over time, causing a long-term effect on overall performance.

Facts:

- Marijuana remains in the body for 28 days. This is in contrast to alcohol which dissipates in a matter of hours.
- A 500% to 800% increase in THC potency in the past several years makes smoking three to five joints (cigarettes) per week today the equivalent of 15 to 40 joints per week in 1978.
- Combining marijuana with alcohol or other depressant drugs can produce a multiplied effect, increasing the impairment caused by all substances.

COCAINE

A stimulant drug also known as coke or blow when it is inhaled (snorted), ingested, or injected. Free-base cocaine, known as crack or rock, is smoked.

Cocaine is used medically as a local anesthetic. It is abused for its powerful physical and mental stimulant properties. The entire central nervous system is energized by cocaine. Heart rate and blood pressure are elevated. Muscles become more tense and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Crack or rock cocaine gets its name from the popping sound heard with it is heated. The most dangerous effect of crack is that it can cause vomiting, rapid heart beat, tremors, and convulsive movements. All of this muscle activity increases the demand for oxygen, which can result in a cocaine-induced heart attack. Since the heat regulating center in the brain is also disrupted, dangerously high body temperatures can occur. With high doses, brain functioning, breathing and heartbeat are depressed – leading to death.

Signs and Symptoms of Use:

- Fatigue
- Anxiety and agitation
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- High blood pressure, heart palpitations and irregular heart rhythm
- Insomnia
- Profuse sweating and dry mouth

Other Effects:

- Impaired driving ability
- Hallucinations
- Talkativeness
- Restless, aggressive behavior
- Wide mood swings
- Increased physical activity
- Heightened, but momentary, feeling of confidence, strength and endurance
- Paranoia (which can trigger mental disorders in users prone to mental instability)
- Repeated sniffing/snorting causes irritation of the nostrils and nasal membrane, which may cause nosebleeds
- Compulsive behavior such as teeth grinding or repeated hand washing
- Craving for more cocaine

Health Effects:

- Accelerated pulse, blood pressure and respiration. May cause spasms of blood vessels in the brain and heart, leaving to ruptured vessels that can cause heart attack and stroke.

- Regular use may upset the chemical balance of the brain, which may speed up the aging process by causing irreparable damage to critical nerve cells.
- Mental dependency on crack cocaine occurs within days (within several months when coke is snorted).
- Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose can be rapid, and the potentially fatal effects of an overdose are often not reversible.

How Cocaine Impairs Functions Needed for Driving:

Cocaine chemically alters the brain and gross motor functioning of the body, having a direct impact on the complex system of critical thinking skills and reflexes that allow people to drive safely and conscientiously.

Facts:

- The number of cocaine overdose deaths has tripled in the last four years.
- Treatment success rates are lower for cocaine than for other chemical dependencies.
- Cocaine causes the strongest mental dependency of any known drug. Strong psychological dependency can occur within one “hit” of crack.
- Many people think that because crack is smoked, it is safer than other forms of cocaine use. It is not. Crack cocaine is one of the most addictive substances known today. The crack “high” is reached in 4-6 seconds and lasts about 15 minutes.

AMPHETAMINES AND METHAMPHETAMINES

Stimulant drugs: Some common street names for amphetamines are speed, uppers, black beauties, bennies, wake-ups and dexies. Some common street names for methamphetamines are ice, crank, crystal, meth, 64 glass, cristy, go fast, zip, and in smokeable form "LA" (as in the city of Los Angeles)

Amphetamines and methamphetamines are drugs that stimulate the central nervous system and promote a feeling of alertness and an increase in speech and general physical activity. While amphetamines are usually sold in tablet form, methamphetamines are available as powders, and may be swallowed, snorted or injected.

Although they were widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. In action, methamphetamines are nearly identical to amphetamines. It is abused for the physical sense of energy at lower doses and the mental exhilaration of higher doses. Even small, infrequent doses can produce toxic effects in some people.

Signs and Symptoms of Use:

- Hyper-excitability, restlessness, anxiety
- Dilated pupils
- Profuse sweating
- Rapid respiration
- Difficulty in focusing eyes
- Exaggerated reflexes, body tremors

Other Effects:

- Impaired driving ability
- Loss of appetite
- Headaches/dizziness
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Short-term insomnia
- Paranoid thoughts
- Hallucinations

Health Effects:

- Heartbeat disturbances or heart damage caused by a severe constriction of capillary blood vessels
- Increased blood pressure
- Convulsions
- Coma
- Brain damage resulting in speech disturbances
- High doses may cause toxic psychosis resembling schizophrenia
- Long-term users often have acne resembling measles, trouble with their teeth, gums and nails, and dry, dull hair

How Amphetamines and Methamphetamines Impair Functions Needed for Driving:

They chemically alter the brain and gross motor functioning of the body, having a direct impact on the complex system of critical thinking skills and reflexes that allow people to drive safely and conscientiously.

Fact:

- People with a history of sustained low-dose use quite often become dependent and believe they need to take the drug to “get by.” These users frequently keep taking amphetamines to avoid the “down” mood they experience when the “high” wears off.

OPIOIDS

Narcotics, including heroin, morphine, codeine and many synthetic drugs used to alleviate pain, depress body functions and reactions. In large doses, opioids cause a strong euphoric feeling. Common street names are: horse, morpho, China, M, brown sugar, Harry, and dope.

Sometimes narcotics found in medicines are abused. This includes pain relievers containing opium and cough syrups containing codeine. Heroin is illegal and cannot even be obtained with a physician's prescription. Most medical problems associated with the use of opioids are caused by uncertain dosages, use of unsterile needles, contamination of the drug, or from combining a narcotic with other drugs.

Signs and Symptoms of Use:

- Mood changes
- Impaired mental function and alertness
- Impaired vision
- Constricted pupils
- Impaired coordination

Other Effects:

- Impaired driving ability
- Drowsiness followed by sleep
- Decreased physical activity
- Sleeplessness and drug craving
- Depression and apathy
- Constipation
- Nausea and vomiting

Health Effects:

- IV needle users have a high risk for contracting hepatitis and HIV due to the sharing of needles.
- Narcotics increase pain tolerance. As a result, people could more severely injure themselves and fail to seek medical attention due to a lack of pain sensitivity.
- The effects of narcotics are multiplied when used in combination with alcohol and other depressant drugs, causing an increased risk for overdose.

How Opioids Impair Functions Needed for Driving:

Opioids chemically alter the brain and gross motor functioning of the body, having a direct impact on the complex system of critical thinking skills and reflexes that allow people to drive safely and conscientiously.

Fact:

- Heroin, also called "junk" or "smack" accounts for 90% of the narcotic abuse in the United States.

PHENCYCLIDINE (PCP)

PCP acts as both a depressant and a hallucinogen, and sometimes as a stimulant. Also called angel dust, rocket fuel, embalming fluid and killer weed.

PCP was developed as a surgical anesthetic in the late 1950's. Later, due to its unusual side effects in humans, it was restricted to use as a veterinary anesthetic and tranquilizer. Today it has no lawful use and is no longer legally manufactured. It is abused largely for its variety of mood-altering effects.

PCP scrambled the brain's internal stimuli and alters how users see and deal with their environment. Routine activities like driving and walking become very difficult.

A low dose produces sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Increased doses produce an excited, confused state including any of the following: muscle rigidity, loss of concentration and memory, visual disturbances, delirium, feelings of isolation, and convulsions.

Signs and Symptoms of Use:

- Impaired driving ability
- Impaired coordination
- Thick, slurred speech
- Severe confusion and agitation
- Muscle rigidity
- Profuse sweating

Other Effects:

- Loss of concentration and memory
- Extreme mood shift
- Nystagmus (jerky, involuntary eye movements)
- Rapid heartbeat
- Dizziness
- Convulsions
- Memory loss

Health Effects:

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- PCP becomes more potent in combination with other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction.

How PCP Impairs Functions Needed For Driving:

PCP chemically alters the brain and gross motor functioning of the body, having a direct impact on the complex system of critical thinking skills and reflexes that allow people to drive safely and conscientiously. PCP also causes severe disorientation.

Facts:

- PCP abuse is less common today than in the past.
- There are four phases to PCP use: toxicity (which may be accompanied by convulsions, combativeness, catatonia and even coma), toxic psychosis (including visual delusions and paranoia), schizophrenia and depression.

OVER-THE-COUNTER & PRESCRIPTION MEDICATIONS

Over-the-counter medications, and even prescriptions medications, may interfere with your ability to drive safely and within the requirements of the Alcohol and Drug Regulations. Make sure you know about the possible side effects of these drugs before you take them, especially before driving. Consult your physician if you have any questions about a prescription and read the ingredient label and directions for use on every over-the-counter drug you use.

APPENDIX D

DRUG ABUSE IN THE WORKPLACE

In a reasonable cause situation, the supervisor is required to decide whether or not to order a drug or alcohol test of an employee whose on-duty conduct indicates impairment by drug or alcohol.

Impairment from drug or alcohol use can be seen in how an employee looks or act, and how an employee performs or does not perform his or her assigned job duties.

The following indicators relate to how an impaired employee looks or acts:

- Rapid change in mood. The employee may go back and forth from being uncooperative to cooperative, quiet to talkative, sad to happy, confident to anxious, calm to jittery, trusting to suspicious, and so forth.
- Weight loss and loss of appetite
- Nervousness that might appear in the form of starting to smoke or increasing a smoking habit
- Reluctance to show the arms and legs. If an employee is taking drugs intravenously, he or she will try to hide the injection marks by wearing long sleeve garments and wearing slacks in place of skirts and dresses.
- The common signs of withdrawal symptoms are runny nose, sniffing, and red eyes, trembling of hands or mouth, unsteady gait and a general tiredness.
- Generally, a drug will either relax or excite. A person who has taken a relaxant (depressant) tends to be slow moving and likely to talk with slurring of words. The person who has taken an excitant (stimulant) tends to be energetic, twitchy, fast moving, and likely to talk in a rapid and non-stop manner.
- Change in the size of eye pupils. The pupils will greatly constrict immediately after taking an opioid. The pupils of an amphetamine user will dilate.
- Change in moods
- Change in eating habits. The abuser of stimulants will go for long periods of time without eating. The narcotics user may have a loss of appetite or consume candy, cookies, soda pop, and sweet tasting food items.
- Illness symptoms. For example, the opioid user in withdrawal may have the sniffles, flushed skin, muscular twitching and nausea; the user of hallucinogens may experience an increase in blood pressure, heart rate, and blood sugar, irregular breathing sweating, trembling, dizziness and nausea; the cocaine user may have inflamed nasal membranes.
- Absence from the job for 15-30 minutes every 4 or 5 hours, especially in cases where the individual isolates himself in absolute privacy. This is the time when an addict "shoots up" or "snorts".
- A discrepancy between income and expenditures for necessities. Addicts will spend most of what they earn (and steal) on the substances they crave.
- A constant need for money. This may appear as borrowing from fellow workers, stealing, writing bad checks, working as a prostitute, etc.

Following are indicators that can be seen in an impaired employee's work performance:

- Frequent no shows and lateness. Examples include not showing up for work on Friday and Mondays, and repeated lateness in arriving at work.
- Unexplained absences from the assigned workstation.
- Frequent telephone calls, perhaps for the purpose of arranging to meet with a supplier.
- Frequent and long visits to the restroom or locker room, perhaps to take a drug.
- Visits to the employee by strangers or other employees for matters unrelated to the job.
- Taking unnecessary risks, showing a disregard for safety, and having a higher than average accident rate.
- Inconsistency in quality of work, poor judgment, mistakes, lapses in concentration, slow output, and difficulty in handling complex situations.
- Overreacting to constructive criticism, avoiding contact with supervisor, and withdrawing from co-workers.

Heed this important note of caution: It cannot be assumed that every observed indicator is proof positive of abuse. All of the indicators present in an individual case will have to be carefully weighed both individually and collectively before reaching a conclusion.

APPENDIX E

EMPLOYEE/SUPERVISORY POSITIONS SUBJECT TO DRUG TESTING

[JOB CLASSIFICATION/TESTING SUPERVISORY POSITIONS SUBJECT TO DRUG AND ALCOHOL TRAINING (120 MINUTES)]

Employee titles

CDL/Operator/Driver
Commercial vehicle drivers possessing
CDL licenses

Supervisor Titles

Road & Bridge Administrator
Road & Bridge Area Crew Leader
Road & Bridge Crew Leader
Road & Bridge Secretary
(DER) Designated Employee Representative

Acknowledgement and Agreement With Respect to UPSHUR COUNTY 's Drug and Alcohol Testing Plan

I, _____ the undersigned employee of UPSHUR COUNTY, hereby certify that I have been furnished with a copy of the county's DOT Alcohol and Drug testing program, including its Employee Assistance Program, and that I have read and understand same. I further certify that I have been provided with informational material, education and training on the dangers and problems of drug and alcohol misuse.

I am fully aware, and agree that I may be discharged or otherwise disciplined for any violation by me of said DOT Alcohol and Drug Plan, for any failure or refusal to provide urine and /or breath specimens when requested by my employer, for the failure or refusal to identify and certify same, for the failure to cooperate with the forms and other documents, and/or for any other failure or refusal to cooperate with my employer in its said DOT Alcohol and Drug Testing Program.

Employee Printed Name

Employee Signature

Date

**Consent for Limited Queries of the Federal Motor Carrier Safety Administration
(FMCSA) Drug and Alcohol Clearinghouse**

I, _____ the undersigned employee of UPSHUR COUNTY, hereby provide consent to UPSHUR COUNTY to conduct a limited query of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse to determine whether drug or alcohol violation information about me exists in the Clearinghouse. I give permission to UPSHUR COUNTY to conduct limited queries throughout the duration of my employment at the county's discretion.

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

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

Employee Printed Name/ Driver's License number/ State of Issuance / DOB

Employee Signature

Date

Signature Page

3-15-2021

Todd T

Todd Tefteller County Judge

Gene Dolle

Gene Dolle County Commissioner PCT 1

Dustin Nicholson

Dustin Nicholson County Commissioner PCT 2

Mike Ashley

Mike Ashley County Commissioner PCT 3

JW Miller

JW. Miller County Commissioner PCT 4

FILED
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2021 MAR 15 AM 11:04
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