



**Office of Human Resources
Standard Operating Procedure
HR SOP #202**

Subject: Alcohol Testing Program

Effective Date: September 1, 2020

Policy Statement:

The State of Georgia is committed to an alcohol free workplace. In support of this, the Department of Natural Resources (DNR) will administer an alcohol testing program in accordance with State Personnel Board Rules.

Definitions:

After-Hours Alcohol Testing: Post-accident and reasonable suspicion alcohol testing that is required to be done anytime other than the drug administrator's regular business hours.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred and ten (210) liters of breath as indicated by an alcohol test. For blood alcohol tests it means the level of alcohol in terms of grams of alcohol per 100 milliliters of blood.

Alcohol Confirmation Test: a test using an evidential breath testing device (EBT) following an alcohol screening test with a result of 0.02 or greater. The EBT must be approved by the National Highway Traffic Safety Administration (NHTSA) and placed on its "Conforming Products List of Evidential Breath Measurement Devices. Such testing must be performed by a certified Breath Technician.

Breath Alcohol Technician (BAT): An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device in accordance with the Rules of the United States Department of Transportation.

Classified Employee: An employee in the classified service as defined by the State Personnel Board Rules.

Federally-Regulated Transportation Employee: Employee that performs safety-sensitive duties in positions that require a Commercial Driver's License (CDL) or United States Coast Guard (USCG) licensure DNR Federally Regulated Transportation. Employees typically include vessel staff and those employees in positions requiring a CDL. (Also referred to as DOT-regulated.)

High Risk Work: Refers to those duties where inattention to duty or errors in judgment by the incumbent while on duty will have the potential for significant risk of harm to the individual, other individuals or the general public.

Reasonable Suspicion (Non-DOT): Non-DOT regulated reasonable suspicion testing refers to DNR's judgment that an employee has violated the State's Drug and Alcohol Free Workplace Policy. This judgment should be made as a result of an employee's behavior, appearance, speech, body odor, and/or job performance that is observed by a supervisor/manager or reported by a reliable individual and verified. The decision to test must be based on specific, timely, and describable observations of physical, behavioral, or performance indicators.

Reasonable Suspicion (DOT): DOT-regulated reasonable suspicion testing refers to DNR's determination that reasonable suspicion exists that a safety-sensitive employee may have broken a substance abuse prohibition. The decision to test must be based on specific, timely, and describable observations of appearance, behavior, speech, and/or body odor.

Safety-Sensitive Positions: Positions that require possession of a valid CDL or Coast Guard licensure or vessel staff.

Serious Marine Incident (SMI): Any reportable marine casualty that results, or, in the marine employer's estimation, may result, in any of the following: one or more fatalities; *an injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid* and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties; property damage in excess of \$100,000; actual or constructive total loss of any inspected vessel; actual or constructive total loss of any self-propelled uninspected vessel of 100 gross tons or more; a discharge of oil into a navigable water in excess of 10,000 gallons; a release of a Hazardous Substance greater than or equal to its reportable quantity into a navigable water, whether from a casualty or not. (Refer to 46 CFR 4.03-2.)

Substance Abuse Professional (SAP): As defined in State Personnel Board Rule 478-1-.21 Drug and Alcohol Free Workplace Program.

Unclassified Employee: An employee in the unclassified service, as defined by the State Personnel Board Rules. All employees in the unclassified service are employed in 'at-will' status.

Procedure:

Alcohol Free Standards:

- While in the workplace or otherwise in work status, employees must be free from alcohol.
- Employees who are using alcohol with a warning about a side effect that could substantially impair the safe performance of assigned duties must seek and receive authorization from a designated agency/entity official before performing high-risk work or safety-sensitive transportation functions.
- Appointing authorities are responsible for informing their staff of alcohol-free workplace expectations, including testing requirements, procedures, consequences for violations, resource information on possible effects of alcohol misuse, and available assistance.

- Applicants and employees are expected to report for and complete ordered substance abuse testing, as directed.

Self-Disclosure:

Employees may choose to notify the appointing authority of an alcohol problem. An employee who notifies the appointing authority of an alcohol problem shall not be dismissed from employment if the notification meets the criteria of SPB Rule 21-A, Self-Disclosure of Substance Abuse. The employee's failure to complete any requirement within the treatment and education program, failure to comply with the return-to-duty agreement, positive test or test refusal, will result in immediate dismissal and any applicable employment disqualification for a testing violation.

Random Alcohol Testing:

Who Is Subject To Random Alcohol Testing:

Employees assigned to positions in DNR that require a CDL are subject to random alcohol testing.

DNR Alcohol Testing Coordinator Random Alcohol Testing Responsibilities:

Employees that are selected for monthly random alcohol testing are selected electronically from a statewide pool of positions maintained by the Department of Administrative Services Human Resources Administration (DOAS – HRA). Only positions listed in this statewide pool can be selected for monthly random alcohol testing. Once notified by DOAS, the DNR Alcohol Testing Coordinator in OHR will notify the Division HR Representative when an employee in their Division is selected. If the Division HR Representative is not available, the employee's direct supervisor will be notified.

Division HR Representative or Designee Random Alcohol Testing Responsibilities:

- Notify the selected employee(s).
- Prior to notifying the employee of the requirement to test, identify an appropriate testing facility, ensure that the testing facility is open, ensure that the schedule of the employee required to test will allow for immediate testing and make the testing appointment.
- Complete the *Acknowledgement of Alcohol Testing* (Attachment 1). Check the boxes for Random, DOT or Non-DOT, and alcohol.
- Complete the *Order for Testing* (Attachment 2). Check the boxes indicating Random, DOT or Non-DOT, and alcohol.
- Notify the selected employee regarding the requirement for alcohol testing. Notification of the employee must be when the employee is available to immediately report for testing. Note exceptions to the Random Pool Selection:
 - If an employee is selected for random alcohol testing and is on any form of leave on the effective date, and returns to duty within thirty calendar days, the employee is required to report for testing immediately upon his/her return date. The selected employee **shall not** be notified of their selection for alcohol testing prior to his/her return to duty. If a selected employee does not return to work within the thirty day

testing period, the Division HR Representative, or designee, shall notify the DNR Alcohol Testing Coordinator.

- On the effective date that testing commences, if there is no incumbent in a selected position, no other employee will be selected as a substitute.
- If a position has more than one incumbent assigned on the effective date that testing commences, ALL incumbents assigned to that position number will participate in alcohol testing.
- The time to report for testing can be no later than two hours after the employee receives the directive to report.
- Give the employee the *Acknowledgement of Alcohol Testing* (Attachment 1) and the *Order for Testing* (Attachment 2).
- Have the employee read and sign the *Acknowledgement of Alcohol Testing*.
- Instruct the employee to take the *Order for Testing* and proceed immediately to the designated testing site.
- Assist the employee with directions to the testing site, if necessary.
- Retain a copy of Attachments 1 and 2. After the alcohol test, the employee will return the employer copy of the DOT Alcohol testing form provided by the testing site. Send a copy of Attachments 1 and 2 and the employer copy of the DOT Alcohol testing form to the DNR Alcohol Testing Coordinator.

Employee Random Alcohol Testing Responsibilities:

- Read and sign the *Acknowledgement of Alcohol Testing* (Attachment 1) acknowledging awareness of the alcohol testing procedures, the testing requirements, testing immediately; consequences of an alcohol test indicating an alcohol concentration of 0.02 percent or greater, or failing to appear by the stated report time, failing to remain for testing, or refusing to be tested;
- Obtain directions to the collection site;
- Take the *Order for Testing* (Attachment 2) to the collection site;
- Take a picture ID to the collection site for verification purposes;
- Report to the collection site immediately upon notification;
- Return the Employer copy of the DOT Alcohol testing form that was provided by the testing site to the Division HR Representative, or designee.

Employees selected for random alcohol testing will be considered 'on duty' and at work for all time spent participating in the testing process.

Consequences of a Positive Alcohol Result or Refusal:

- An employee whose test indicates an alcohol concentration of 0.02 or greater will be given an alcohol confirmation test not less than 15 minutes nor more than 20 minutes after the original screening test. Upon receiving a positive alcohol confirmation test result of 0.02 or greater from the testing facility, the appointing authority may take disciplinary action determined appropriate, up to and including dismissal from employment. At a minimum, the appointing authority will not allow the employee to resume high-risk work for at least 24 hours from the time the test was administered.

- As required by State Personnel Board Rules an employee who refuses alcohol testing will be immediately dismissed and disqualified from state employment for a period of two years from the date of refusal.

Reasonable Suspicion Alcohol Testing:

Reasonable suspicion alcohol testing of any employee for whom there is a reasonable suspicion of the use of alcohol will be based on specific, timely, describable observations concerning the appearance, behavior, speech or body odors of the employee. Examples of these observations may be based upon, but not limited to, the following:

- observation of behavior, appearance, speech, or odor likely to result from alcohol use;
- an on-the-job incident, such as a medical emergency, likely attributable to alcohol use by an employee;
- observation of behavior exhibited by an employee that might render the employee unable to perform her/his job or that might pose a threat to the safety or health of the employee or others;
- verifiable information that an employee might not be free from alcohol at work;
- physical on-the-job evidence or alcohol use by an employee;
- documented deterioration in an employee's job performance likely attributable to alcohol use by the employee;
- the results of other scientific test(s) that indicate possible use of alcohol; or
- Polygraph test results which indicate that an employee may have been in an alcohol induced condition at the time of the test or that the employee has been deceptive in response to a specific question concerning alcohol use or activity, or;
any other specific, timely, and describable action that would give the HR Director reason to suspect an employee might not be free from alcohol.

No employee is to be tested due to reasonable suspicion without prior consultation with, and approval from, the HR Director. The HR Director must be contacted immediately/without delay upon observation of the employee. It is not acceptable for managers or supervisors to delay the reporting of observations to Human Resources for any reason including reporting the observations up their chain of command. Situations where supervisors feel that an employee may be under the influence of alcohol must be reported as soon as possible to the Director of Human Resources (Larry Blankenship) at 404-401-1803.

The HR Director will complete a Behavior/Incident Documentation Form based on a conversation with the person(s) who observed the suspicious behavior leading to a reasonable suspicion alcohol test. This form must be completed within twenty-four hours of the observed incident or before the results of the alcohol test are released, whichever is earlier.

Employees selected for reasonable suspicion alcohol testing will be considered "on duty" and at work for all time spent participating in the testing process.

HR Representative or Designee Reasonable Suspicion Alcohol Testing Responsibilities:

- Prior to notifying the employee of the requirement to test, identify an appropriate testing facility, ensure that the testing facility is open and make an appointment.
- Complete the *Acknowledgement of Alcohol Testing* (Attachment 1). Check the box indicating to submit to a 'Reasonable Suspicion' alcohol test.
- Complete the *Order for Testing* (Attachment 2). Check the boxes indicating Reasonable Suspicion, DOT or Non-DOT, and alcohol.
- Notify the employee regarding the requirement for alcohol testing. Notification of the applicant must be when the applicant is available to immediately report for testing.
- Give the employee the *Acknowledgement of Alcohol Testing* and the *Order for Testing*.
- Have the employee read and sign the *Acknowledgement of Alcohol Testing*.
- Assist the employee with directions to the testing site, if necessary.
- Retain a copy of Attachment 1 and 2. After the alcohol test, the employee will return a copy of the alcohol testing form provided by the testing site. Send a copy of Attachment 1 and 2, and the alcohol testing form to the DNR Drug Testing Coordinator.
- Make arrangements for immediate transportation to and from the testing site and the employee's residence. Employees sent for reasonable suspicion alcohol testing will not be allowed to operate a vehicle.
- Ensure the employee does not work until test results are determined.

Employee Reasonable Suspicion Alcohol Testing Responsibilities:

- Read and sign the *Acknowledgement of Alcohol Testing* (Attachment 1) acknowledging awareness of the alcohol testing procedures, the testing requirements, testing immediately; consequences for an alcohol test indicating an alcohol concentration of 0.02 percent or greater, or failing to appear by the stated report time, failing to remain for testing, or refusing to be tested;
- Take the *Acknowledgement of Alcohol Testing* and the *Order for Testing* (Attachment 2) to the testing site;
- Take a picture ID to the testing site for verification purposes;
- Using transportation arranged by the employer, report to the testing site immediately upon notification that reasonable suspicion testing is necessary;
- Return the employer copy of the alcohol testing form to the Division HR Representative, or designee.

Consequences of a Positive Alcohol Result or Refusal:

- An employee whose test indicates an alcohol concentration of 0.02 or greater will be given an alcohol confirmation test not less than 15 minutes nor more than 20 minutes after the original screening test. Upon receiving a positive alcohol confirmation test result of 0.02 or greater from the testing facility, the appointing authority may take disciplinary action determined appropriate, up to and including dismissal from employment. At a minimum, the appointing authority will not allow the employee to resume high-risk work for at least 24 hours from the time the test was administered.

- As required by State Personnel Board Rules an employee who refuses alcohol testing will be immediately dismissed and disqualified from state employment for a period of two years from the date of refusal.

Post-Accident Alcohol Testing:

Who Is Subject To Post-Accident Alcohol Testing:

Post-accident drug testing may be required for employees performing *safety-sensitive duties* that are:

- In positions requiring a CDL;
- United States Coast Guard (USCG) regulated staff; or
- Marine vessel staff.

The circumstances under which a post-accident alcohol test must be administered are as follows:

- If a traffic fatality occurs, the driver and any employees in the vehicle are tested.
- If the driver is cited for a moving traffic violation, AND one of more of the vehicles involved in the accident is towed from the scene; OR
- If the driver is cited for a moving traffic violation, AND one or more persons involved in the accident immediately receives medical treatment away from the scene.
- For USCG regulated staff, if a SMI occurs, any employee(s) directly involved is tested.

Post-accident kits must be made available and must be placed in the vehicles in which employees perform safety-sensitive duties. This kit must contain the following:

- SOP **HR201** *Drug Testing Program* and all attachments; and
- SOP **HR202** *Alcohol Testing Program* and all attachments; and
- Federal *Custody and Control Forms* for all testing vendors.

Employee Post-Accident Alcohol Testing Responsibilities:

- Contact management immediately if involved in an accident to determine whether a post-accident alcohol test is required. (If post-accident alcohol testing is required, drug testing will also be required. See SOP **HR201**, *Drug Testing Program* for additional information.) The manager will assist with post-accident logistics.
- On the *Order for Testing* (Attachment 2) mark the boxes for Post-Accident, DOT or Non-DOT, and alcohol. Complete, read and sign the form.
- Read and sign the *Acknowledgement of Alcohol Testing* (Attachment 1) and mark the box to submit to a Post-Accident test. Return this form to the manager who will forward the form to the Division HR Representative, or designee.
- Take the *Order for Testing* to the testing site or give the form to the mobile collector, if applicable.
- Return the employer copy of the alcohol testing form, provided by the testing site, to the Division HR Representative, or designee.
- Proceed to the alcohol testing site immediately.

Manager Post-Accident Alcohol Testing Responsibilities:

- Determine if post-accident testing is necessary as per the criteria above.
- Assist in identifying an appropriate testing facility, and ensure that the testing facility is open.
- Assist the employee with completing the *Acknowledgement of Alcohol Testing* (Attachment 1) and the *Order for Testing* (Attachment 2).
- Forward a copy of all forms to the Division HR Representative who will forward them to the DNR Alcohol Testing Coordinator.
- Ensure the employee is tested immediately:
 - CDL post-accident alcohol testing should be completed *immediately*. If an alcohol test is not conducted within eight hours of an accident, cease any attempt to administer the test. Prepare documentation and maintain on file the reasons why the specimen(s) were not collected.
 - Federal regulations require that alcohol testing following a serious marine incident is completed *immediately*, unless precluded by safety concerns directly related to the SMI. After eight hours, cease any attempt to administer the test. Prepare documentation, and maintain it on file, stating the reasons why the test was not administered.

Consequences of Positive Alcohol Result or Refusal:

- An employee whose test indicates an alcohol concentration of 0.02 or greater will be given an alcohol confirmation test not less than 15 minutes nor more than 20 minutes after the original screening test. Upon receiving a positive alcohol confirmation test result of 0.02 or greater from the testing facility, the appointing authority may take disciplinary action determined appropriate, up to and including dismissal from employment. At a minimum, the appointing authority will not allow the employee to resume high-risk work for at least 24 hours from the time the test was administered.
- As required by State Personnel Board Rules an employee who refuses alcohol testing will be immediately dismissed and disqualified from state employment for a period of two years from the date of refusal.

Alcohol Testing Site Locations:

For convenience, the initial testing site location to be contacted may be the local law enforcement office (e.g. Sheriff's Department, Police Department). If the sheriff or police department's Breathalyzer shows the presence of alcohol or if they are unavailable to perform a Breathalyzer test, the employee must be sent to an authorized alcohol testing location. If after-hours testing is required and an authorized alcohol testing site cannot be located, the test may be administered by a mobile collector provided by the vendor at a location that is suitable to the collector and manager/employee.

A complete list of alcohol testing locations is located on the DOAS HRA website at:

<http://doas.ga.gov/human-resources-administration/substance-abuse-testing>

NOTE: Not all sites listed at this link offer alcohol testing. Ensure the site chosen offers alcohol testing.

After-Hours Alcohol Testing:

If a post-accident or reasonable suspicion alcohol test is required after regular business hours and a local law enforcement office is unavailable to perform the test or an open local alcohol testing site cannot be located, see the *Drug and Alcohol Testing Administrator After-Hours Instructions* (Attachment 3) for assistance in obtaining the alcohol test.

Refusal or Failure to Take an Authorized Alcohol Test:

The penalty for refusal or failure to take an authorized alcohol test at the time and location specified shall be dismissal. If an employee refuses testing, a 'No Rehire' code will be placed in the employee's Personnel records.

An employee is considered to have "refused testing" and must be dismissed from employment if the employee:

- Expressly refuses alcohol testing; and/or
- Engages in conduct that clearly obstructs the testing process; and/or
- Fails to remain readily available for testing.

Test Indicating an Alcohol Concentration of 0.02 Percent or More:

Any employee whose Alcohol Test indicates an alcohol concentration of less than 0.02 percent will have no action taken against him/her and will be allowed to return to work.

Any employee whose Alcohol Test indicates an alcohol concentration of 0.02 percent or greater will be given Alcohol Confirmation Test not less than fifteen minutes nor more than twenty minutes after the original test.

If an employee is allowed to remain in his/her job after an Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater, he/she must comply with a return-to-duty agreement established by the Appointing Authority.

Classified Employees:

Any **classified** employee whose Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater will be immediately removed from duty and placed on Suspension with Pay pending disciplinary action. Any disciplinary or adverse action deemed appropriate by the Appointing Authority/Designee will be administered, up to and including dismissal.

Unclassified Employees:

Any **unclassified** employee whose Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater will be immediately removed from duty and placed on Suspension without Pay pending disciplinary action. Any disciplinary or adverse action deemed appropriate by the Appointing Authority/Designee will be administered, up to and including dismissal.

DOT-Regulated Employees:

Any employee whose position requires a CDL and whose Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater will be immediately removed from safety-sensitive duties for a period of not less than twenty-four hours. Employees, **classified** or unclassified, in positions that require a CDL that are removed from duty while performing safety-sensitive duties due to alcohol test results, will be deemed to have voluntarily forfeited pay for any scheduled duty time during the twenty-four hour period immediately following their removal from duty. The employee should be notified, in writing, of the forfeiture of pay.

An employee in a position covered by USCG regulations who appears to be intoxicated will be immediately removed from safety-sensitive duties unless it is unsafe to do so.

Employees in a DOT-regulated position, whose test indicates an alcohol concentration of .02 percent or higher, will not be returned to safety-sensitive duties until a subsequent test indicates an alcohol concentration of less than .02 percent.

The DNR Alcohol Testing Coordinator will provide safety-sensitive employees, whose Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater, or who is dismissed, with a list of DOT qualified Substance Abuse Professionals.

Any federally-regulated transportation employee whose Alcohol Concentration Test indicates an alcohol concentration level of 0.04 percent or greater will not be returned to safety-sensitive duties until the employee has been evaluated by a Substance Abuse Professional and is able to provide documentation that the Substance Abuse Professional has certified that he/she is fit to return to duty. Employees may access Substance Abuse Professionals through the Employee Assistance Program.

Any disciplinary or adverse action that is deemed appropriate by the Appointing Authority may also be imposed, up to and including dismissal.

Dismissals:

If the employee is to be dismissed from employment, the HR Director will issue a letter to the employee, a copy to the Division Director and a copy to the Division HR Representative, providing a written notice of immediate dismissal. The dismissal must be effective as of the date of written notification.

The dismissal notice must include the following information:

- Date the employee was notified to report for testing; and
- Date the employee was tested or refused testing; and
- A statement notifying the employee of disqualification of employment with DNR or any position with a state employer for a period of two years from the date of notification, if applicable; and
- A statement notifying a classified employee of their right to file an appeal of the dismissal to the Office of State Administrative Hearings (OSAH) within ten calendar days of the effective date of dismissal.

Upon dismissal, the DNR Drug Testing Coordinator will complete a *Personnel Action Request* (PAR). The rehire recommendation must indicate 'NO'. A justification for the rehire code must be attached to the PAR.

Peace Officers Standards and Training Council (POST) Employees:

A POST certified employee whose Alcohol Confirmation Test indicates an alcohol concentration of 0.02 percent or greater will be dismissed immediately.

For POST certified employees, the Division HR Representative, or designee, must notify the POST Council of the dismissal and the reason for dismissal by completing the *C-11, Change of Status* form.

Appeals Process for the Dismissal of a Classified Employee:

If the Human Resources Director, or designee, receives notification from the Administrative Law Judge that an employee has appealed, the HR Director, or designee, will contact the DNR Legal Services team for guidance.

A decision of the Administrative Law Judge becomes the final decision of the State Personnel Board, unless the employee requests a review.

A classified employee may file an application for review by the State Personnel Board within thirty days of the date the Administrative Law Judge's decision was issued.

Federally Regulated Transportation Positions (CDL):

In addition to the requirements of this SOP there are several requirements that apply to federally regulated transportation positions (those positions which will require the use of a CDL). Prior to permitting an individual to operate a Commercial Motor Vehicle (CMV) due to the individual being hired or transferred into a position requiring CMV operation or assigning a current employee to operate a CMV, Division HR Representatives, drivers, and the central office Drug Testing Coordinator must complete several duties associated with the FMCSA Drug and Alcohol Clearinghouse database. PRIOR TO PERMITTING ANYONE OPERATE A CMV see the Requirements for Federally Regulated Transportation positions section of SOP HR101 and ensure the requirements are completed.

Records Retention:

Alcohol testing logs must be retained for two years in the Office of Human Resources (OHR).

Alcohol testing documents displaying a positive result must be retained for five years in OHR.

Alcohol testing documents displaying a negative result must be retained for two years in OHR.

Attachments:

Attachment 1 – *Acknowledgement of Alcohol Testing*

Attachment 2 – *Order for Testing*

Attachment 3 – Drug and Alcohol Testing Administrator After-Hours Instructions