

December 2024

FMCSA Drug & Alcohol Policy

49 CFR Part 382 – Federal Motor Carrier Safety Administration (FMCSA)

49 CFR Part 40 – United States Department of Transportation (DOT)

Policy Objective

To comply with applicable Federal Regulations governing workplace drug and alcohol abuse and misuse.

Applicability

This policy applies to all E Light Electric Services Inc. employees and to any future employees that the company may hire to operate commercial motor vehicles. Also covered are casual, intermittent, and occasional employees who perform transportation/safety sensitive functions. Employees covered by this policy shall also be covered by E Light Electric Services Inc.'s general Substance Abuse policy where this policy does not take regulatory precedent.

A person who holds a Commercial Driver's License (CDL) and operates a Commercial Motor Vehicle (CMV) means a motor vehicle or a combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross vehicle weight rating of 26,001 pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or
- Has a gross vehicle weight rating of 26,001 pounds, or
- Is designed to transport 16 or more passengers including the driver, or
- Is any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to have a placard under the Hazardous Materials Regulations.

Safety-Sensitive Functions

Safety-sensitive functions include all the following activities as they pertain to Drivers:

- Waiting to be dispatched
- All time spent at the driving controls.
- All loading and unloading time.
- All supervising of loading and unloading
- Servicing, conditioning, or inspecting motor vehicles.
- Waiting or acquiring assistance for disabled motor vehicles
- All time other than driving time spent resting in or upon the commercial

motor vehicle.

Regulated Substances

1. Controlled Substances

- a. Marijuana
- b. Cocaine
- c. Amphetamine
- d. Opioids
- e. Phencyclidine (PCP)

2. Alcohol

Prohibited Use

Alcohol – No driver shall or supervisor having knowledge of, permit a driver to:

1. Report for duty or remain on duty requiring performance of any safety sensitive functions while having an alcohol concentration of 0.02 or greater.
2. Consume alcohol while on duty.
3. Report for duty within four hours of alcohol consumption.
4. Possess alcohol while on duty or operating a commercial motor vehicle.
5. Consume alcohol within eight hours of an accident (if required to be tested) or until testing is completed.

Controlled Substances – No driver shall, or supervisor having knowledge of, shall permit a driver to:

1. Report for duty or remain on duty requiring performance of safety sensitive functions when using any controlled substance. Exception: If the use is pursuant to instructions of a physician who has provided written documentation that the substance does not adversely affect the ability to safely operate a motor vehicle.
2. Report for duty or remain on duty requiring performance of safety sensitive function having tested positive for controlled substances.
3. Employees covered under this policy must report any therapeutic drug use to his/her supervisor immediately.

Required Testing Circumstances

1. Pre-employment

E Light Electric Services Inc. shall cover the cost of pre-employment testing. Those employed by E Light Electric Services Inc. to operate motor vehicles

or perform safety sensitive functions must have a verified negative controlled substance test result prior to driving and/or performing a safety sensitive function.

2. Post-Accident testing

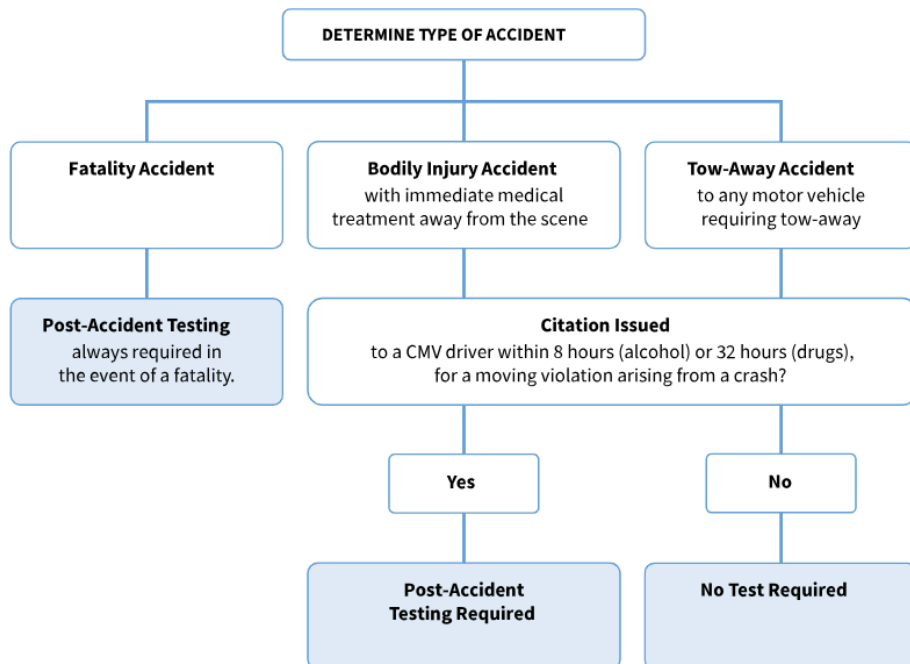
E Light Electric Services Inc. shall cover the cost of post-accident testing.

E Light Electric Services Inc. employees must be tested for alcohol and controlled substances as soon as possible when the accident meets 1 of the 3 following DOT criteria:

- The accident involved the loss of life.
- A citation for a moving violation was issued to the CDL holder and one of the vehicles involved in the accident had to be towed.
- A citation for a moving violation was issued to the CDL holder and one of the people involved in the accident had to receive medical attention immediately away from the scene of the accident.

Employees must report all accidents to his/her supervisor or designee immediately following the accident. The Director of Education and Loss Prevention shall be immediately notified of all accidents.

Testing should take place as soon as possible. The supervisor or designee will transport the employee to the test site for a breath alcohol test within 2 hours or at least by 8 hours after the accident. Employees must submit to a controlled substance test within 32 hours of accident.



Post-Accident Policy

When an accident occurs involving a commercial driver but does not meet the FMCSA definition of a DOT recordable accident as stated above, drug and alcohol testing may still be required per the E Light Electric Services Inc. Substance Abuse Policy.

3. Random Testing

E Light Electric Services Inc. shall cover the cost of random testing.

An annual rate of **10%** of those enrolled in the consortium who operate commercial motor vehicles will be tested for alcohol and **50%** of those enrolled in the consortium will be tested for controlled substances. Testing will be unannounced and spread throughout the year. Each driver has an equal chance of being selected for testing each time a selection is done.

E Light Electric Services Inc. will be enrolled in the US Drug Testing Centers (USDTC) consortium for random testing. The number of drivers tested may be calculated based on the total number of drivers covered by the consortium.

Testing shall be conducted while drivers are on duty, just before or after driving.

This selection is done by scientifically valid computer method. Once notified of selection, the employee will proceed immediately to the lab for testing.

4. Reasonable Suspicion

E Light Electric Services Inc. shall cover the cost of Reasonable Suspicion Testing.

Trained supervisors will be authorized to determine, based on observations or behaviors, that alcohol and/or controlled substance testing be conducted. Such testing **MUST** occur immediately. This includes care, custody, and responsibility for the employee. In the event of Alcohol suspicion, if the test is not completed within 2 hours the reason must be documented and attempts to test discontinued after 8 hours. For Drug suspicion then the discontinuation after 32 hours applies. A Breath Alcohol Technician will make an immediate determination of alcohol level. In the event of a drug test the individual may not be returned to a safety sensitive function until a Negative Test result is reported to the Director of Education and Loss Prevention.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours

of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

5. Return to Duty Testing

E Light Electric Services shall cover the cost of Return to Duty testing.

If any of the testing results are positive, employees must obtain the service of an SAP (substance abuse professional) and abide by his or her recommendation at the employee's expense, to rehabilitate before resuming safety sensitive functions. Once treatment is completed employee must take a return to duty test. If the test is negative, employee may, upon approval from program supervisor return to his/her previous duties.

6. Follow Up Testing

Employees shall be responsible for the cost of follow-up testing.

If it is determined that an employee needs assistance in resolving misuse, the employee understands that they are subject to unannounced follow-up testing as directed through a cooperative effort between the SAP and program supervisor. A minimum of 6 follow up tests must take place during the 12 consecutive months after treatment was completed. Follow up testing may continue for up to 5 years.

Follow-up testing shall be conducted while the driver is on duty, and just prior to driving or after.

Testing Procedures

Testing shall be conducted in a manner to ensure adherence to standards of confidentiality, privacy, accuracy, and reliability as approved by the Department of Transportation and the Department of Health and Human Services.

All controlled substance testing will take place at an HHS certified laboratory.

Controlled Substance Testing

1. Urine will be the required substance and will be collected under controlled circumstances.
2. Urine shall be divided into split specimens (2 containers) and each shall be labeled thoroughly to preserve identity.
3. Specimens are transported to Department of Health and Human Services approved testing lab.
4. Specimens undergo testing by an initial screening procedure, which is followed by GC-MS confirmation testing if necessary.
5. The urine is positive for a substance if the substance is present in an amount greater than the minimum threshold.
6. A Medical Review Officer, or their assistant will contact the employee if there is a positive result, to verify the result.
7. The Medical Review Officer or MRO assistant reports the result to the

company DER.

8. The Medical Review Officer gives the donor/employee the option of testing the remaining split specimen at an HHS certified laboratory of their choice at their expense.

Alcohol

1. A breath specimen or a saliva specimen is required to test for alcohol.
2. Breath Test or Saliva test will be conducted by a certified alcohol technician.
3. Tester uses an approved Evidential Breath testing device, or DOT approved saliva test kit.
4. The initial test must give results of less than 0.02 or a retest (confirmation) test must be done following a 15-minute wait.
5. If the confirmation reveals a concentration of greater than 0.02, the individual is in violation of this policy.

Post accident breath or blood testing may be conducted by Federal, State, or local official having independent authority if the results can be obtained by the employer.

Refusal to Submit

Refusal to Submit to a Test: It is prohibited conduct to refuse to submit to a controlled substance or alcohol test as required by this policy. A refusal to submit is defined as follows:

1. Fail 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 to appear for a test when notified.
2. Fail 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 a pre-employment test is not deemed to have refused to test.
3. Fail 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 for a pre-employment test is not deemed to have refused to test.
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen.
5. Fail 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.
6. Fail or declines to take a second test the employer or collector has

directed the driver to take.

7. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER. 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.
8. Fail 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
9. Is reported by the MRO as having a verified adulterated or substituted test result.
10. An employee admits to the collector that he or she adulterated or substituted their specimen.
11. The employee behaves in a confrontational way that disrupts the collection process.
12. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
13. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
14. The employee refuses to wash his or her hands – after being directed to do so.

Consequences

Any employee who fails or refuses a test under this policy shall be immediately removed from safety sensitive functions and may be subject to dismissal.

Other Prohibitions

- **Hemp** - Recently, a number of products have appeared on the markets that are advertised as “Hemp” products. The hemp contained in these products is Cannabis Sativa, or Marijuana. The legal counsel for the department of transportation has issued the following guidance regarding Hemp products. Whatever else it may be, consuming Hemp food products is not a legitimate medical explanation for a prohibited substance or metabolite in an individual's specimen.

E Light Electric Services Inc. will not accept the ingestion of a hemp-based product as an excuse for testing positive for the marijuana metabolite.

- **Adulterants** - If an employee is found to have adulterated, substituted, tampered, misidentified, or otherwise act to deceive the employer regarding test samples will be immediately terminated.
- **Dilute Specimens** - Employees are required to provide a normal urine specimen for testing. If the drug screen test result is reported as dilute the employee must be tested again immediately. The employee will be required to re-test at their

expense until a normal sample is given.

- Medical Marijuana (49 CFR Part 40, at 40.151(e) - Marijuana is a federally prohibited substance. An authorization for use of marijuana for medical purposes will not be an acceptable excuse for testing positive for THC the marijuana metabolite. Marijuana is considered a prohibited substance. Anyone testing positive for marijuana will be subject to the consequences of this policy for a positive drug test. No exceptions.

Records

All records must be made available at the place of business within 2 days of a request by the FMCSA.

Not all records must be kept on site, some may be the responsibility of the consortium or testing site.

Retention Period

1. The following records must be retained for 5 years:
 - a. Verified positive results.
 - b. Alcohol results over 0.02
 - c. Documentations of refusals.
 - d. Employee referrals to the SAP
 - e. Annual management system information reports.
2. The following results must be retained for 2 years:
 - a. Records related to all processes and employee training.
3. The following results must be retained for 1 year:
 - a. Records of negative drug and alcohol results less than 0.02

Types of Record

1. Collection processes:
 - a. Logbooks (if used)
 - b. Random selection documents
 - c. Calibration documents (EBT)
 - d. BAT training documents.
 - e. Reasonable suspicion documents
 - f. Post accident decision documents.
 - g. Documents verifying medical inability to provide adequate breath or urine.
 - h. MIS reports
2. Test Results:
 - a. Employer's copy of alcohol test
 - b. Employer's copy of controlled substance chain of custody

- c. Documents from MRO
- d. Documents related to refusal to submit.
- e. Documents presented by driver to dispute refusal to submit.
3. Evaluations:
 - a. Determinations by the SAP of assistance needed to resolve misuse.
 - b. Compliance with SAP
4. Education and Training:
 - a. Materials on misuse awareness, including the policy.
 - b. Driver's signed receipt of education materials
 - c. Documents of supervisor training to qualify for making reasonable suspicion of judgements.
5. Agreements with collection site, labs, MRO, and consortium.

Access to Records

- The driver is entitled to a copy of his/her records.
- Records are available for officials with regulatory authority of the NTSB.
- Subsequent employers or others may have a copy of the records upon specific written request from the driver.
- Records are available to State and/or Federal inspection officers.

Training

1. Those designated to determine if reasonable suspicion exists must receive 60 minutes of alcohol and 60 minutes of controlled substance training, which covers the physical, speech, and Promotions indicators of misuse.
2. Each covered employee must be provided materials about the effects of drug and alcohol use (such as film or written) and the company policy and the name of the supervisor who can answer their questions about the material.
3. Each employee must sign a certificate of receipt of the materials.

Reporting by Employees

The following procedure shall be used when an employee suspects controlled substance use or

alcohol misuse by an employee subject to the requirements of this policy/procedure.

1. The employee shall report the concern to his/her supervisor. If the supervisor is not available, the employee shall report the concern to the Director of Education and Loss Prevention. All such reports shall be held in confidence and only be divulged on a NEED-TO-KNOW basis.
2. The employee shall not discuss the concern with other employees.
3. The supervisor or other authorized person to whom the report has been



made shall take the necessary steps to confront the employee suspected of having the controlled substance and/or alcohol problems and take the necessary action pursuant to this policy.

Inquiries from Previous Employers

E Light Electric Services Inc. shall inquire from previous employers, on all applicants offered a driver's position or employee transferred to a driver's position, pursuant to the driver's written authorization, for each individual and/or entity, inquiries about the following information during the preceding three years from the date of application:

- Alcohol tests with a result of 0.04 alcohol concentration or greater.
- Verified positive controlled substances test results.
- Refusals to be tested.
- Any information from previous employer obtained from other previous employers.

This required information must be obtained prior to the first time a driver performs a safety sensitive function or no later than 30 days after the driver performs a safety sensitive function.

In addition to the above requested information, this employer will require each employee to sign an affidavit whether he or she has tested positive, or refused to test, an any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past three years. If the employee admits that he or she had a positive test or a refusal to test, he or she will not be used to perform a safety sensitive function until and unless the employee documents successful completion of the return to duty process.

INFORMATION FOR THE FMCSA DRUG AND ALCOHOL PROGRAM

Notice to CDL Applicants & Employees

Required drug testing is conducted for the following substances:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines

Alcohol is tested for when required:

- Saliva Screening
- Breath Alcohol Testing

The Company Designated Employer Representative (DER) – All questions regarding the Drug & Alcohol Testing Program should be directed to:

E Light Electric Services Inc. DER: Ted Smith

Phone: 303-550-5292