

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-37 (rev. 4), “EMPLOYEE COMMERCIAL DRIVERS’ PHYSICAL EXAMINATION
AND ALCOHOL/DRUG TESTING PROGRAMS”

NOVEMBER 1, 2010

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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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EXECUTIVE DIRECTIVE

SUBJECT: EMPLOYEE COMMERCIAL DRIVERS' PHYSICAL EXAMINATION AND ALCOHOL/DRUG TESTING PROGRAMS

AUTHORITY: 49 CFR Parts 40, 382, 391; Texas Transportation Code §§ 522.001-.004, 522.101-.106

APPLICABILITY: Employees of the Texas Department of Criminal Justice (TDCJ) who operate a commercial motor vehicle (CMV) and final applicants for a TDCJ position requiring the operation of a CMV are subject to this directive. Such employees are also subject to the drug-free workplace requirements set forth in PD-17, "Drug-Free Workplace." For these employees, PD-37 takes precedence over PD-17 for the matters covered by PD-37.

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

In order to adhere to the Federal Highway Administration regulations and to ensure the safety of TDCJ commercial drivers, other TDCJ employees, and the general public, the TDCJ shall administer a Commercial Drivers' Physical Examination Program and Alcohol/Drug Testing Program in accordance with the provisions within this directive.

DEFINITIONS:

“Adequate Urine Specimen” is at least 45 milliliters of urine produced by and collected from a final applicant or commercial driver.

“Alcohol” is an intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

“Alcohol Test” consists of an alcohol screening test only or may also include an alcohol confirmation test.

- a. “Alcohol Screening Test” is an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.
- b. “Alcohol Confirmation Test” is a second test that: (a) is conducted not less than 15 and not more than 30 minutes after the completion of a post-accident, random, or reasonable suspicion alcohol screening test that revealed an alcohol concentration of 0.02 or greater; and (b) provides quantitative data of alcohol concentration.

“Alcohol Use” is drinking, swallowing, or inhaling any beverage, liquid mixture, or preparation (including medications) containing alcohol.

“Breath Alcohol Technician” (BAT) is an individual who instructs and assists employees in the alcohol testing process and operates an Evidential Breath Testing (EBT) device.

“Collection Site” is a place designated by the TDCJ where final applicants/commercial drivers present themselves for the purpose of providing a breath or urine specimen to be analyzed for the presence of alcohol or drugs.

“Collector” is a person who instructs and assists final applicants/commercial drivers at a collection site, who receives and makes an initial inspection of the specimen provided by those applicants/commercial drivers, and who initiates and completes the Federal Drug Testing Custody and Control Form.

“Commercial Driver” is an employee who has a commercial driver license (CDL) and operates a CMV for the TDCJ on any occasion.

“Commercial Motor Vehicle” (CMV) is a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- b. Has a gross vehicle weight rating of 26,001 or more pounds;

- c. Is designed to transport 16 or more passengers, including the commercial driver;
or
- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the *Hazardous Materials Transportation Act* and requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

“Contracted Vendor,” for the purpose of this directive, is an outside service agent meeting the requirements of 49 CFR Part 40 and contracted by the TDCJ to be responsible for: (1) collecting breath and urine specimens; (2) preserving the integrity of the collection and transfer process; and (3) analyzing the specimens for the presence of alcohol or drugs.

“Disabling Damage” is damage preventing a motor vehicle from being driven from the scene of an accident in the manner in which the vehicle is usually driven in daylight hours after simple repairs, or causing further damage to a vehicle if the vehicle is driven from the scene of an accident. The following are excluded from the definition of disabling damage: (1) damage that can be remedied temporarily at the scene of the accident without the use of special tools or parts; (2) tire disablement when no other disabling damage occurs (even if a spare tire is unavailable); (3) headlight or taillight damage; or (4) damages resulting in the vehicle’s turn signals, horn, or windshield wipers not working.

“Drug(s),” for the purpose of this directive, includes any of the following:

- a. Marijuana;
- b. Cocaine;
- c. Opiates;
- d. Phencyclidine (PCP); and
- e. Amphetamines.

“Drug Test,” consists of a drug screening test only or may also include a drug confirmation test.

- a. “Drug Screening Test” is an analytical procedure to eliminate “negative” urine specimens from further analysis or to identify a specimen requiring additional testing for the presence of drugs.
- b. “Drug Confirmation Test” is a second analytical procedure performed on the urine specimen provided for the drug screening test to identify and quantify the presence of a specific drug or metabolite.

“Employee Assistance Program” (EAP) is an outside company contracted by the TDCJ to provide information and referral services to employees and their family members. This information may be related to the promotion of general wellness programs, identification of and treatment for alcoholism, drug dependency, or psychological disorders, resources for financial or legal problems, and other personal problems affecting an employee’s job performance. The EAP shall refer employees or family members to proper treatment or assistance.

“Final Applicant,” for the purpose of this directive, is any applicant who has been selected for a position of commercial driver as defined within this directive.

“Inhalant,” for the purpose of this directive, is any substance inhaled contrary to the substance’s intended use.

“Medical Examiner” is a person licensed, certified, or registered to perform physical examinations, in accordance with applicable state laws and regulations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

“Medical Review Officer” (MRO) is a licensed physician under contract with the TDCJ’s contracted vendor responsible for receiving and reviewing laboratory results generated by the TDCJ’s drug testing program and evaluating medical explanations for certain drug test results.

“Negative Alcohol Test Result,” for a post-accident, random, or reasonable suspicion alcohol test, is a test result revealing an alcohol concentration less than 0.02.

“Negative Drug Test Result” is a drug test result revealing no presence of drugs, other than the presence of a drug for which the MRO has determined that a legitimate medical explanation exists.

“Positive Alcohol Test Result” is a test result based on a post-accident, reasonable suspicion, or random alcohol confirmation test revealing an alcohol concentration of 0.02 or greater.

“Split Specimen,” in drug testing, is a part of the urine specimen sent to a first laboratory and retained unopened, and then transported to a second laboratory in the event the applicant or employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result of the primary specimen.

“Substance Abuse” is the abuse or misuse of alcohol or inhalants or the use of drugs other than the use of a drug for which a legitimate explanation exists.

“Substance Control Officer” (SCO) is the TDCJ employee in the Labor Relations Section, Human Resources Division, authorized to be responsible for the coordination of the TDCJ’s Alcohol/Drug Testing Programs. Such coordination includes: (1) taking immediate action(s) to remove employees from safety-sensitive duties or causing employees to be removed from these covered duties; (2) making required decisions in the testing and evaluation processes; and (3) receiving test results and other communications for the TDCJ, consistent with the requirements of 49 CFR Part 40. (The SCO is also known as the TDCJ’s designated employer representative.)

“Supervisor” is an employee responsible for directing and overseeing the work of another employee, completing the subordinate employee’s performance evaluation, approving the subordinate employee’s leave requests, and performing other supervisory duties.

“Verified Confirmed Positive Drug Test Result” is a test result revealing the presence of drug(s) after all of the following:

- a. A drug confirmation test by gas chromatography/mass spectrometry (GC/MS); and
- b. A determination by the TDCJ designated MRO that no legitimate medical explanation exists for the positive test.

“Waiver” is a two year Vision or Limb Waiver issued by the Texas Department of Public Safety Driver License Division, License Issuance Bureau under the authority of Federal Motor Carrier Safety Regulations § 31.49. Waivers are valid for two years after issue.

“Workday” is Monday through Friday, excluding state and national holidays for which the TDCJ’s administrative offices are closed and days when offices are closed at the direction of the executive director (e.g., due to adverse weather).

DISCUSSION:

The TDCJ seeks to prevent substance abuse by commercial drivers through the following:

- A. Preventive education;
- B. Implementation of an Alcohol and Drug Testing Program that includes: (1) pre-employment drug testing; (2) random alcohol/drug testing; (3) post-accident alcohol/drug testing; (4) reasonable suspicion alcohol/drug testing; and (5) return-to-duty and follow-up alcohol/drug testing as part of an eligible employee’s rehabilitation program in accordance with the procedures in PD-17, “Drug-Free Workplace”;
- C. Referrals to the EAP in accordance with the procedures in PD-17, “Drug-Free Workplace”; and
- D. Disciplinary action in accordance with PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.”

PROCEDURES:

PART A: EMPLOYEE COMMERCIAL DRIVERS' PHYSICAL EXAMINATION PROGRAM

I. General Provisions

- A. Prior to operating a CMV for the TDCJ, an employee shall have on the employee's person the original or copy of the current Medical Examiner's Certificate (Attachment A). A commercial driver shall pass a Texas Department of Transportation (TxDOT) physical examination in order to renew the driver's Medical Examiner's Certificate, which expires every two years or less.
- B. A supervisor shall not allow an employee who does not have a current Medical Examiner's Certificate to operate a CMV for the TDCJ.

II. Notification of Medical Examiner's Certificate Pending Expiration

The SCO maintains a database that includes the date each commercial driver's Medical Examiner's Certificate expires and sends a notification to the commercial driver's supervisor at least 60 calendar days prior to the certificate's expiration date.

- A. Upon receipt of notification from the SCO, the supervisor shall coordinate with the commercial driver to arrange for the required physical examination to be performed prior to the Medical Examiner's Certificate's expiration date. If a commercial driver's certificate expires and the driver has not taken the required physical examination, the driver's supervisor shall immediately contact the SCO.
- B. A commercial driver shall renew the driver's Medical Examiner's Certificate before the driver's current certificate expires. Although the SCO is responsible for notifying the commercial driver's supervisor of the pending expiration date, the driver is responsible for ensuring the certificate does not expire.

If a commercial driver has not been contacted by the employee's supervisor to arrange for a medical examination within 15 calendar days prior to the certificate's expiration date, the driver shall notify the supervisor in writing of the certificate's pending expiration. The commercial driver shall also immediately notify the supervisor in writing if at any time the driver is experiencing a medical or physical problem that has the potential to interfere with the driver's ability to perform normal tasks associated with operating a CMV.

III. Performance of Physical Examination

Commercial drivers have the option to have the physical examination conducted at TDCJ contracted sites as determined by the SCO, or to have the examination conducted by a personal private medical examiner.

A. Physical Examination Conducted at TDCJ Contracted Sites

1. If a commercial driver elects to have the physical examination conducted at a TDCJ contracted site, the supervisor shall contact the SCO.
2. The funding for a physical examination conducted at a TDCJ contracted site shall be provided by the TDCJ. The time a driver is required to be available for such a physical examination shall be reported as time worked. In addition, the commercial driver shall report the time required to travel to and from the location of the physical examination as time worked, in accordance with state travel regulations and TDCJ policies. The driver shall receive state per diem reimbursement for eligible expenses incurred during the travel time reported as time worked.

B. Physical Examination Conducted by Driver's Personal Medical Examiner

If the commercial driver elects to have the physical examination performed by a personal medical examiner, the examination shall be at the commercial driver's expense. The driver shall not be entitled to record the time required to be available for the physical examination as time worked; however, the driver shall be allowed to take accrued leave or be placed in a leave without pay (LWOP) status in accordance with TDCJ leave policies to have the physical examination performed. The driver shall provide the driver's supervisor sufficient advance notice to provide for adequate staffing.

When a commercial driver indicates that the driver elects to have the physical examination performed by a personal medical examiner, the driver's supervisor shall contact the SCO. The SCO shall fax the Physical Examination of Drivers Form to the supervisor. The driver shall provide this form to the personal medical examiner performing the physical examination.

IV. Medical Examiner's Certificate is Renewed

- A. After the Medical Examiner's Certificate is renewed, the medical examiner or the commercial driver shall separate the completed certificate from the Medical Examination Report Form. The commercial driver shall keep the original or a Photostat copy of the Medical Examiner's Certificate on the driver's person and provide a copy of the renewed certificate to the driver's supervisor during the next shift of duty.
- B. If the commercial driver receives the Medical Examination Report Form from the medical examiner, the driver shall not provide this form to the driver's supervisor. If the supervisor receives the Medical Examination Report Form along with the renewed Medical Examiner's Certificate, the supervisor shall immediately return this form to the driver. The supervisor shall not maintain or make a copy of the Medical Examination Report Form.

C. Within three workdays of receipt of a copy of the renewed Medical Examiner's Certificate, the supervisor shall:

1. Fax a copy of the certificate to the SCO. (The supervisor shall not fax a copy of the Medical Examination Report Form.)
2. Provide the copy of the renewed certificate received from the driver to the human resources representative for placement in the miscellaneous section of the commercial driver's unit/department human resources file.

NOTE: A commercial driver's Medical Examiner's Certificate contains information similar to the information on a CDL and does not contain medical information or the driver's medical history. Therefore, the certificate shall not be maintained in the driver's medical file.

3. If the driver has a Driver's Qualification File that is maintained by a transportation terminal manager, fax a copy of the certificate to the transportation terminal manager for maintenance in this file.

V. Medical Examiner's Certificate Is Not Renewed

A. If a commercial driver fails the physical examination, the driver shall obtain a brief statement from the medical examiner stating the driver is not physically qualified to drive a CMV. The statement shall not include the reason why the driver is not physically qualified or any other medical-related facts. This statement shall be in addition to the completed Medical Examination Report Form.

1. The commercial driver shall provide a copy of the brief statement to the driver's supervisor. If the supervisor receives the Medical Examination Report Form instead of or in addition to the statement, the supervisor shall immediately return the form to the driver. The supervisor shall not maintain or make a copy of the Medical Examination Report Form.
2. The supervisor shall immediately:
 - a. Fax a copy of the statement to the SCO.
 - b. Provide the copy of the statement received from the employee to the human resources representative for placement in the miscellaneous section of the commercial driver's unit/department human resources file.
 - c. If the commercial driver has a Driver's Qualification File that is maintained by a transportation terminal manager, fax a copy of the statement to the transportation terminal manager for maintenance in this file.

- B. Further action by the TDCJ shall be dependent upon whether the requirement to drive a CMV is listed on the commercial driver's position description as an essential function or the driver only occasionally drives a CMV as a marginal function of the driver's position.

1. Essential Function

If the commercial driver holds a position that includes the operation of a CMV as one of the essential functions and the driver fails to pass the physical examination, the driver shall be removed from duty immediately. The driver shall contact the driver's human resources representative immediately and shall be required to use accrued leave or be placed in a LWOP status in accordance with TDCJ leave policies.

a. If the commercial driver has a permanent medical condition preventing the driver's performance of the position's essential functions, the human resources representative shall inform the driver that job placement assistance may be available from the ADA coordinator, Labor Relations Section, Human Resources Division, in accordance with PD-14, "Americans with Disabilities Act and Employment of Persons With a Permanent Medical Condition."

b. If the commercial driver does not have a permanent medical condition qualifying the driver for job placement assistance under the ADA, the driver may:

- (1) Apply for other positions in the TDCJ while using accrued leave or while in a LWOP status;
- (2) Apply for a waiver from TxDOT while on leave; or
- (3) Be re-examined while on leave, at the commercial driver's expense. If the driver passes a subsequent physical examination before the driver's leave options are exhausted, the driver shall be returned to duty.

2. Marginal Function

If the employee holds a position for which the operation of a CMV is only one of the marginal functions of the position (e.g., a correctional officer [CO] or an industrial specialist who only occasionally drives a CMV), the employee shall no longer be allowed to operate a CMV for the TDCJ. However, the employee shall be allowed to continue to hold the position with the TDCJ. If the employee is a CO, the employee may be reassigned to other CO duties.

PART B: EMPLOYEE COMMERCIAL DRIVERS' ALCOHOL AND DRUG TESTING PROGRAM

I. General Provisions

A. Reporting Requirements

1. In accordance with PD-17, "Drug-Free Workplace," a commercial driver shall report any prescribed drugs that may interfere with the commercial driver's assigned duties. (See PD-17, Section II.A). Such notification prevents side effects from being misinterpreted as substance abuse resulting in unnecessary drug tests.
2. If a commercial driver's job performance appears to be affected as a result of taking a prescription drug, a supervisor or manager shall contact the SCO. Based on the information provided by the supervisor, the SCO shall determine whether the commercial driver may remain at work. If the SCO determines the commercial driver may not remain at work, the supervisor shall document the conversation with the SCO via a note to file. Such documentation shall be maintained in the commercial driver's unit/department medical file.

B. Testing Sites

All alcohol/drug tests required by the TDCJ shall be conducted by a TDCJ contracted vendor. Final applicants and commercial drivers shall normally report to collection sites not located on TDCJ property. In some cases, onsite collections may be conducted by a contracted vendor.

C. Time Reporting for Testing

A commercial driver shall report the time required for travel to and from the collection site and the testing duration as time worked if:

1. The commercial driver is required to submit to an alcohol/drug test other than a return-to-duty or follow-up test; or
2. The commercial driver is transporting another employee to a testing site for a reasonable suspicion or post-accident alcohol/drug test.

D. Confidentiality

Alcohol and drug test results and medical information are confidential and may not be released without the applicant's/commercial driver's specific written consent, except in connection with legal or administrative proceedings relating to the information (e.g., lawsuit, unemployment compensation hearing, disciplinary or grievance process).

An employee who willfully discloses or releases information in violation of the procedures within this directive shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

II. Testing Occasions

A. Pre-Employment Testing

All final applicants for commercial driver positions within the TDCJ shall be required to pass a drug test.

1. If a final applicant indicates at the beginning of the conditional offer of employment that the applicant is still interested in the position being offered, the applicant shall be informed of the following:
 - a. The location of the nearest testing site; and
 - b. Pre-employment drug testing shall take place within 48 hours from the time the conditional offer of employment is extended in order to remain eligible for the position being offered or for any TDCJ position in the future. This requirement applies even if the applicant declines the position after being notified of the pre-employment drug test requirement.
2. A final applicant shall not be hired as a commercial driver by the TDCJ if the final applicant fails to have a negative drug test result. Failure to have a negative drug test result may be due to a refusal to test (including inability to provide an adequate specimen), specimen tampering, or a verified confirmed positive drug test result. (See testing process procedures in Part B, Section III.) If the applicant fails to have a negative drug test result, the SCO shall:
 - a. Notify the Employment Section and the TDCJ representative who made the conditional offer of employment that the applicant failed to have a negative drug test result;
 - b. Advise the applicant that due to the applicant's failure to have a negative drug test result the applicant is not eligible for any future employment with the TDCJ; and
 - c. Refer the applicant to the EAP.

Applicants are referred to the EAP as a courtesy only. This referral consists of informing the applicant they may contact the EAP. It is the applicant's decision to contact the EAP, and such contact does not result in any fees being charged to the TDCJ. If an applicant does contact the EAP, the EAP provides names/addresses of alcohol/drug treatment programs.

3. A newly-employed commercial driver shall sign a PERS 293, Request For Information, Pre-Employment Alcohol/Drug Test Requirements (Attachment B) for the release of information that allows the SCO to obtain information from each previous employer within the two years preceding the driver's application for employment, unless the commercial driver has been employed by the TDCJ for the two years preceding assignment to a commercial driver position.

B. Random Testing

1. The SCO shall ensure that:
 - a. Random alcohol and drug tests are conducted unannounced;
 - b. The dates for random testing are reasonably spread throughout a calendar year;
 - c. All commercial drivers are selected for testing on a random basis in a manner ensuring each driver has a substantially equal chance of selection on a scientifically valid basis;
 - d. The testing frequency and selection process is such that an employee's chance of selection continues to exist throughout the employee's employment as a commercial driver;
 - e. The random alcohol testing basis is at an annual rate of not less than 10 percent of the average number of commercial driver positions; and
 - f. The random drug testing basis is at an annual rate of not less than 50 percent of the average number of commercial driver positions.
2. A supervisor shall not disclose a random testing date to a commercial driver prior to the day of the test.
3. Each commercial driver selected for testing shall proceed to the testing site immediately upon notification.

C. Post-Accident Testing

1. Notification of Accident

a. Commercial Driver Responsibilities

A commercial driver shall:

- (1) Immediately notify the driver's supervisor of any accident involving a TDCJ CMV; and
- (2) Unless notified that alcohol/drug testing shall not be required, remain readily available for such testing for a maximum period of 32 hours after the accident. Failure to remain readily available shall be treated as a refusal to test. However, necessary medical attention for injuries resulting from an accident shall not be delayed. The commercial driver is not prohibited from leaving the scene of an accident to obtain assistance or necessary medical care.

b. Supervisor Responsibilities

Upon notification that an accident involving a TDCJ CMV has occurred, the supervisor shall:

- (1) Immediately contact the SCO by phone;
- (2) Document date and time the supervisor spoke with the SCO; and
- (3) Complete the PERS 295, Commercial Driver's Post-Accident Determination Checklist (Attachment C), as soon as possible after the telephone contact.

NOTE: If the SCO determines there is evidence the commercial driver should submit to a reasonable suspicion test, the supervisor shall also follow the guidelines within this directive for reasonable suspicion testing.

2. Reasons for Post-Accident Testing

A post-accident alcohol and drug test shall be administered to any commercial driver who is involved in an accident resulting in:

- a. Loss of human life;
- b. A citation issued to the driver;

- c. Bodily injury to any person who requires treatment away from the scene of the accident; or
- d. Disabling damage to any vehicle involved in the accident.

3. Timeframes for Conducting Post-Accident Alcohol and Drug Tests

a. Alcohol Tests

Alcohol testing shall be administered as soon as practicable following the accident.

If the test is not administered within eight hours following the accident, attempts to administer the alcohol test shall cease. The SCO shall prepare and maintain a record on file documenting the reason the test was not administered within the eight-hour time limit.

b. Drug Tests

Drug testing shall be administered as soon as practicable following the accident and shall be administered no later than 32 hours following the accident. If the drug test is not administered within the 32-hour time limit, attempts to administer the drug test shall cease. The SCO shall prepare and maintain a record on file stating the reasons the test was not administered within the 32-hour time limit.

4. Status Pending Drug Test Results

If a commercial driver is administered a post-accident alcohol and drug test, the driver shall not be removed from duty pending the test results unless the testing is also documented as reasonable suspicion testing.

D. Reasonable Suspicion Testing

A commercial driver who is reasonably suspected of using alcohol or drugs in the workplace or performing official duties while under the influence of alcohol or drugs shall be required to submit to a reasonable suspicion alcohol or drug test.

1. Conditions Required for Reasonable Suspicion Testing

Reasonable suspicion testing shall be conducted only when one of the following occurs.

- a. The supervisor observes specific, contemporaneous, articulable conduct or symptoms concerning the commercial driver's appearance, behavior, speech, body odors, or performance indicative of probable alcohol or drug use. The observations regarding suspected drug use may include indications of the chronic and withdrawal effects of controlled substances.
- b. Tangible evidence indicates that alcohol or drugs were a contributing factor in an accident involving a CMV.

2. Supervisor and SCO Responsibilities

- a. When one of the incidents listed in Part B, Section II.D.1 occurs, the supervisor shall immediately:
 - (1) Relieve the driver from work and all responsibility for performing work;
 - (2) Obtain a copy of the PERS 291, Commercial Drivers' Reasonable Suspicion Determination Checklist (Attachment D);
 - (3) Contact the SCO by telephone to discuss the incident;
 - (4) Complete the PERS 291; and
 - (5) Fax the completed PERS 291 to the SCO as soon as possible after the telephone contact.
- b. The decision to recommend reasonable suspicion testing shall be made by the SCO based on the supervisor's observations. The SCO, in conjunction with the appropriate managers or directors in salary groups B23 and C6 or above, shall have final authorization for reasonable suspicion testing to be conducted.
- c. If it is determined that a reasonable suspicion test shall be conducted, the supervisor or designee, and another employee of the same gender of the commercial driver being tested shall take the commercial driver to the testing site.

3. Timeframes for Conducting Reasonable Suspicion Alcohol and Drug Tests

a. Alcohol Tests

Alcohol testing shall be administered as soon as practicable following the observable incident.

If the test is not administered within eight hours following the incident, attempts to administer the alcohol test shall cease. The SCO shall prepare and maintain a record on file documenting the reason the test was not administered within the eight-hour time limit.

b. Drug Tests

Drug testing based on a reasonable suspicion determination shall be administered as soon as practicable following the observable incident and no later than 32 hours following the observable incident. If a drug test is not administered within the 32-hour time limit, attempts to administer the drug test shall cease. The SCO shall prepare and maintain a record on file stating the reasons the drug test was not administered within the 32-hour time limit.

4. Use of Leave/Providing the Commercial Driver with Transportation Home

If a commercial driver has a positive alcohol test result or has been administered a reasonable suspicion drug test, the commercial driver shall be removed from duty and placed in a leave status once the commercial driver has been returned from the test site to the worksite. The commercial driver shall be required to use the commercial driver's accrued leave or be placed in a LWOP status in accordance with TDCJ leave policies.

The supervisor or designee shall make a reasonable effort to ensure the commercial driver does not drive home. The supervisor or designee shall attempt to contact someone outside the TDCJ (e.g., commercial driver's relative or friend) to provide the commercial driver with a ride home from work. After all possibilities of contacting someone have been exhausted, the supervisor shall offer to take the commercial driver home. If the commercial driver refuses assistance, local law enforcement shall be immediately notified of the situation. The supervisor shall document any refusal of assistance and forward the documentation to the SCO.

III. Alcohol/Drug Testing Processes

A. Alcohol Test

All breath tests are conducted by a certified BAT and shall be conducted in a location allowing visual and auditory privacy sufficient to prevent unauthorized persons from seeing or hearing test results.

1. The commercial driver will be required to provide photo identification or be identified by a TDCJ representative. The driver may request the BAT to provide positive identification to the driver.

2. Prior to the alcohol test, the commercial driver shall sign the certification on the Breath Alcohol Testing Form provided by the BAT.
3. If the quantified test result of a post-accident, reasonable suspicion, or random alcohol screening test is an alcohol concentration of 0.02 or greater, the BAT will conduct an alcohol confirmation test not less than 15 and not more than 30 minutes after the completion of the screening test. The results of the alcohol confirmation test are final.
4. The BAT will transmit the alcohol test result directly to the SCO in a confidential manner that ensures the result is immediately received by the SCO.

B. Drug Test

Drug tests shall screen for marijuana, cocaine, opiates, PCP, and amphetamines.

1. The collector will require the applicant/commercial driver to provide photo identification or be identified by a TDCJ representative. At the request of the applicant/commercial driver, the collector will provide positive identification to the applicant/commercial driver.
2. The applicant/commercial driver will receive a securely wrapped specimen bottle that subdivides into a primary specimen and a split specimen. The bottle will be identified with a unique ID number identical to the number on the Federal Drug Testing Custody and Control Form provided by the collector. The applicant/commercial driver will be asked to sign or initial the Federal Drug Testing Custody and Control Form indicating it is the applicant's/commercial driver's specimen.
3. An applicant/commercial driver will be allowed to produce the urine specimen in private, unless the specimen must be collected under direct observation of a same gender observer because one of the following occurs:
 - a. The commercial driver is being required to submit to a reasonable suspicion test.
 - b. A second specimen is required because:
 - (1) The collector determined that the first provided urine specimen was outside the normal temperature range (32°-38°C/90°-100°F); or

(2) It was apparent the applicant/commercial driver had tampered with the specimen upon the collector's inspection of the first provided specimen for unusual color, presence of foreign objects or material, or other signs of tampering (e.g., unusual odor).

c. The collector observed materials brought to the collection site or the conduct of the applicant/commercial driver clearly indicated an attempt to tamper with the specimen.

4. The collector will immediately notify the SCO of any evidence of specimen tampering.

C. Refusal to Test for Alcohol or Drugs

The BAT or collector will immediately notify the SCO if an applicant/commercial driver refuses to test. The SCO shall contact the commercial driver's supervisor, who shall immediately remove the driver from duty.

An applicant/commercial driver shall be considered as refusing to test if the applicant or commercial driver:

1. Fails to arrive at the collection site on time, unless documentation is provided regarding a verifiable reason for a delay in pre-employment testing (e.g., health care provider's statement, jury summons, death notice for family member).
2. Fails to remain at the test facility until the testing process is complete.
3. Refuses to sign the certification on the Breath Alcohol Testing Form for alcohol tests or sign the Federal Drug Testing Custody and Control Form for drug tests.
4. Fails to provide adequate breath or adequate urine for reasonable suspicion alcohol/drug testing, regardless of whether there is a valid medical explanation for such failure. (See Part B, Section III.D.)
5. Fails to provide adequate breath for post-accident or random alcohol testing or adequate urine for pre-employment, post-accident, or random drug testing, and does not provide a valid medical explanation after notice of the requirement for such valid medical explanation. (See Part B, Section III.D.)
6. Fails to cooperate with the collector such that the behavior prevents the completion of the test.

7. Fails to remain readily available for alcohol/drug testing for a maximum period of 32 hours after an accident involving a commercial motor vehicle requiring testing as outlined in Part B, Section II.C.2 of this directive.

D. Inability to Provide an Adequate Specimen

1. Drug Tests

If an applicant/commercial driver is unable to provide an adequate urine specimen, the applicant/commercial driver may remain at the collection site for up to three hours or until the time limit for testing expires, whichever is less, and drink up to 40 ounces of fluid and then attempt to provide an adequate urine specimen. If the applicant/commercial driver is still unable to provide an adequate urine specimen, testing shall be discontinued. If the applicant/driver refuses to make the attempt or attempts but fails to provide an adequate amount of urine, the collector will immediately inform the SCO.

2. Alcohol Tests

If a commercial driver does not provide an adequate amount of breath for an alcohol test, the BAT will instruct the driver to make another attempt to provide an adequate amount of breath. If the driver refuses to make the attempt or attempts but fails to provide an adequate amount of breath, the BAT will immediately inform the SCO.

3. Pre-Employment Drug or Post-Accident/Random Alcohol/Drug Tests

The SCO shall inform an applicant/commercial driver who is unable to provide an adequate amount of breath or an adequate urine specimen for such an alcohol/drug test that the applicant/commercial driver shall furnish a signed and dated written statement from a personal physician, at the applicant's/commercial driver's own expense. The statement must include a valid medical explanation for the inability to provide an adequate amount of breath or an adequate urine specimen. A commercial driver shall take accrued leave or be placed in a LWOP status in accordance TDCJ leave policies for the visit to the personal physician.

- a. If such a statement is provided within five workdays from the date of the attempted alcohol/drug test, the SCO shall immediately reschedule an alcohol/drug test.

- (1) A final applicant shall be required to have a negative pre-employment drug test result before being hired or placed in a commercial driver position.

(2) A commercial driver shall be required to have a negative random alcohol/drug test result before returning to commercial driver duties.

b. If such a statement is not provided to the SCO within five workdays from the date of the attempted alcohol/drug test, such inaction shall be considered a refusal to test.

4. Reasonable Suspicion Alcohol/Drug Tests

If a commercial driver does not provide an adequate amount of breath or an adequate urine specimen for a reasonable suspicion alcohol/drug test, the commercial driver shall not have the option to provide a medical explanation. Not providing an adequate amount of breath or an adequate urine specimen for such an alcohol/drug test shall be considered a refusal to test.

E. MRO Review of Drug Test Results

Prior to notifying the SCO that a test has been verified as positive or as a refusal to test because of adulteration or substitution, the MRO shall attempt to contact the applicant/commercial driver. The applicant/commercial driver may provide information or records to the MRO to assist the MRO in reviewing the test.

1. If the MRO is unable to reach the applicant/commercial driver directly, the MRO shall contact the SCO and instruct the SCO to contact the applicant/commercial driver. The SCO shall not inform any other employee of the MRO's request to contact the applicant/commercial driver on behalf of the MRO. The SCO shall immediately attempt to contact the applicant/commercial driver through use of procedures that protect, as much as possible, the confidentiality of the MRO's request that the applicant/commercial driver contact the MRO.

a. If an attempt to contact the applicant/commercial driver is successful (i.e., the SCO actually talks to the applicant/commercial driver), the SCO shall:

(1) Document the date and time of the contact;

(2) Inform the applicant/commercial driver to contact the MRO immediately;

(3) Inform the applicant/commercial driver of the consequences of failing to contact the MRO within the next 72 hours; and

(4) Inform the MRO of the date and time of the contact.

- b. If the initial attempt to contact the applicant/commercial driver is unsuccessful, the SCO shall:
 - (1) Make a minimum of three calls, spaced reasonably over a 24-hour period, to reach the applicant/commercial driver at the day and evening telephone numbers listed on the Federal Drug Testing Custody and Control Form; and
 - (2) Document the dates and times of the attempted efforts to contact the applicant/commercial driver.
 - c. If the SCO is unable to contact the applicant/commercial driver within 24 hours after the MRO's request, the SCO shall:
 - (1) Leave a message for the applicant/commercial driver by any practicable means (e.g., voice mail, e-mail, letter) stating the applicant/commercial driver shall contact the MRO within 72 hours;
 - (2) Inform the MRO of the date and time of this attempted contact; and
 - (3) Continue attempts to contact the applicant/commercial driver for five workdays after the date the MRO receives the confirmed test from the laboratory.
2. In the following circumstances, the MRO may advise the SCO of a verified confirmed positive drug test result without communicating directly with the applicant/commercial driver regarding the test results:
- a. The applicant/commercial driver expressly declines the opportunity to discuss the test results with the MRO;
 - b. The SCO has successfully made and documented a contact with the applicant/commercial driver (i.e., actually talked to the applicant/commercial driver) and more than 72 hours have passed since the time the SCO contacted the applicant/commercial driver; or
 - c. After making and documenting all reasonable efforts, the SCO has not been able to contact the applicant/commercial driver within five workdays of the date on which the MRO received the confirmed test result from the laboratory.

3. If the MRO has verified a drug test as positive without communicating directly with the applicant/commercial driver, the applicant/commercial driver has 60 days in which to present information to the MRO documenting that serious illness, injury, or other circumstances unavoidably prevented the applicant/commercial driver from contacting the MRO in a timely manner.

On the basis of such information, the MRO may reopen the verification and allow the applicant/commercial driver to present information concerning a legitimate explanation for the verified confirmed positive drug test result. If the MRO determines there is a legitimate medical explanation for the presence of drugs, the MRO shall report the test result to the SCO as negative.

F. Retesting the Urine Specimen

Within 72 hours of notification from the MRO of a verified confirmed positive drug test result, the applicant/commercial driver may advise the SCO that the applicant/commercial driver wants the laboratory to retest the specimen. If the applicant/commercial driver has not requested a test of the split specimen within 72 hours of such notification, the applicant/commercial driver may present information to the SCO documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented the applicant/commercial driver from making a timely request.

All costs related to the retest are at the expense of the applicant/commercial driver. The SCO shall request the applicant/commercial driver to remit a certified check or money order to the SCO within 24 hours of contact by the MRO. The laboratory shall retest the original specimen in a timely manner even if the applicant/commercial driver does not remit the payment as requested.

IV. Commercial Driver Education Program and Supervisory Training

A. Commercial Driver Education

A commercial driver shall participate in a commercial driver education program within the first 30 days of commercial driver duties.

1. This program shall include training regarding:
 - a. The effects and consequences of alcohol and drug use on personal health, safety, and work environment; and
 - b. Indicators of alcohol abuse and drug use.

2. The program shall also include, but not be limited to, the following:
 - a. The display and distribution of informational materials;
 - b. The distribution of the EAP telephone number; and
 - c. The display and distribution of TDCJ policies regarding alcohol abuse and drug use.
3. A commercial driver shall complete the PERS 292, Commercial Driver Certification/Notification and Receipt of Materials Form (Attachment E), and return the PERS 292 form along with a current copy of their driver license to the SCO.

B. Supervisory Training

A supervisor of commercial drivers shall receive a minimum of 60 minutes training on alcohol misuse and 60 minutes training on drug use. This training shall cover the specific physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of drugs. If the supervisor is also a commercial driver who has not previously participated in the commercial driver education program, the supervisor shall participate in this program within 30 days of employment in the supervisory position.

V. Activities Subjecting an Employee to Disciplinary Action

A. Commercial Drivers

A commercial driver shall be subject to disciplinary action up to and including dismissal from employment in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," if the driver commits any one of the following:

1. Uses alcohol within four hours of coming to work.
2. Uses or possesses alcohol or a drug, other than a drug for which a legitimate medical explanation exists, while conducting TDCJ business.
3. Uses alcohol within eight hours following a work-related accident involving a CMV.
4. Participates in the unlawful manufacture, distribution, dispensing, possession, sale, purchase, or use of a controlled substance (on- or off-duty).
5. Refuses to submit to a required alcohol or drug test. (See Part B, Section III.C.)

6. Tampers with the driver's urine specimen. (See Part B, Section III.B.3.)
7. Has a positive alcohol test result or a verified confirmed positive drug test result.

B. Supervisors

A supervisor who has factual knowledge a commercial driver has participated in a prohibited activity identified within this section shall immediately:

1. Remove the commercial driver from duty or driving status; and
2. Notify the SCO of the alleged prohibited activity.

NOTE: A supervisor who allows such a commercial driver to remain on duty or driving status may be subject to disciplinary action, in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

VI. Impact on Future Employment Eligibility

The TDCJ has zero tolerance for substance abuse by applicants for employment or current employees. A final applicant or commercial driver who fails to have a negative alcohol/drug test result through a refusal to test, specimen tampering, or a positive alcohol or a verified confirmed drug test result shall be ineligible for future employment consideration with the TDCJ.

VII. Reporting to the Texas Department of Public Safety (DPS)

The SCO shall notify the DPS in accordance with DPS guidelines whenever an applicant for a commercial driver's position or a commercial driver has a positive alcohol test with an alcohol concentration of 0.04 or greater, has a positive drug test, refuses to test, or tampers with a urine specimen.

Brad Livingston
Executive Director

Example of Medical Examiner's Certificate

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of his/her duties, I find this person is qualified; and, if applicable, only when:

- | | |
|--|--|
| <input type="checkbox"/> wearing corrective lenses
<input type="checkbox"/> wearing hearing aid
<input type="checkbox"/> accompanied by a _____ waiver/exemption | <input type="checkbox"/> driving within an exempt intracity zone (49 CFR 391.62)
<input type="checkbox"/> accompanied by a Skill Performance Evaluation Certificate (SPE)
<input type="checkbox"/> qualified by operation of 49 CFR 391.64 |
|--|--|

This information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER	TELEPHONE	DATE
MEDICAL EXAMINER'S NAME (PRINT)	<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input type="checkbox"/> Physician Assistant <input type="checkbox"/> Advanced Practice Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE		
SIGNATURE OF DRIVER	DRIVER'S LICENSE NO.	STATE
ADDRESS OF DRIVER		
MEDICAL CERTIFICATE EXPIRATION DATE		

MOTOR CARRIER'S COPY

To reorder call TMTA at 800-727-7135 or visit www.TMTA.com
(Form 907A - Revised 08/01)



**REQUEST FOR INFORMATION
PRE-EMPLOYMENT ALCOHOL/DRUG TEST REQUIREMENTS**

Texas Department of Criminal Justice
Labor Relations Section, Human Resources Division
2 Financial Plaza, Suite #600, Huntsville, TX 77340
Phone: (936) 437-3171 Fax: (936) 437-3105

TO BE COMPLETED BY COMMERCIAL DRIVER: You shall provide the following information for each employer you have worked for in the past two years. Complete only this section, and complete a separate form for each employer. Sign this form on the back side where indicated, and return this form to the SCO, Labor Relations Section, Human Resources Division.

Date: _____
(MM/DD/YYYY)

Employee Name: _____

Employee SSN# _____

Previous Employer Information:

Name _____

Area Code/Phone Number _____

Mailing Address _____

City _____

State _____

Zip Code _____

TO BE COMPLETED BY PREVIOUS EMPLOYER:

The above named individual has been hired as a commercial driver for the Texas Department of Criminal Justice. This individual has given your name as a former employer. Pursuant to 49 CFR §§ 382.405(f), 382.413, and 382.401(b), please complete the following information and fax the completed form to (936) 437-4010. Your assistance is appreciated. See the reverse side for the "Release of Information" authorization. Failure to furnish information as requested by 49 CFR §§ 382.405(f) and 382.413 is a violation of D.O.T. regulations and may result in a fine and/or civil liability.

1. When was the individual employed by you? From: _____ to: _____

2. Individual's position with your firm: _____

3. Which one of the following applies? Still employed Laid off Fired
 Resigned with proper notice Resigned without proper notice Asked to resign

4. Reason for leaving: _____

5. Is the individual eligible for rehire? Yes No

6. Did/does the individual participate in the D.O.T. alcohol and drug testing program? Yes No

7. Does the program conform to the federal regulations noted above? Yes No

8. Did the individual refuse to be tested for alcohol and/or drugs, including having verified adulterated or substituted drug test results? Yes No

9. What was the most recent date the individual was tested for alcohol and/or drugs? _____

10. Has this individual ever tested positive for a controlled substance in the last two years? Yes No

11. Has this individual ever had an alcohol test with a Breath Alcohol Concentration 0.04 or greater in the last two years? Yes No

If an alcohol or drug test was positive, information shall be provided regarding the individual's previous evaluation by a substance abuse professional and compliance with recommended treatment: _____

12. Has this individual violated any other U.S. D.O.T. drug and alcohol testing regulations? Yes No
If yes, please explain: _____

Texas Department of Criminal Justice Commercial Driver's Post-Accident Determination Checklist

Commercial Driver's Name: _____ **Date:** _____
Please Print: Last First MI

Employee Commercial Driver's Month/Date of Birth
Or Offender Commercial Driver's I.D.# _____ **Unit:** _____

Supervisor's Name: _____ **Department:** _____
Please Print: Last First MI

When deciding whether or not a commercial driver should be tested after an accident, use the following checklist:

#	Question	Yes	No
1	Did the accident involve a commercial driver?	<input type="checkbox"/>	<input type="checkbox"/>
2	Did the accident involve a commercial motor vehicle?	<input type="checkbox"/>	<input type="checkbox"/>
If you answered Yes to questions #1 and #2, go on to question #3 & #4. If you answered Yes to question #1 and No to question #2, no testing shall be required. If you answered No to question #1 and #2, no testing shall be required.			
3	Did the accident involve loss of human life?	<input type="checkbox"/>	<input type="checkbox"/>
4	Did the commercial driver involved in the accident receive a citation?	<input type="checkbox"/>	<input type="checkbox"/>
5	Did the accident result in bodily injury to any person who required treatment away from the scene of the accident?	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the accident result in disabling damage to any vehicle involved in the accident?	<input type="checkbox"/>	<input type="checkbox"/>

If you answered yes to question #3, #4, #5 **or** #6, then the commercial driver(s) involved in the accident shall be tested for alcohol and drugs. Alcohol tests shall be administered as soon as practicable. No alcohol test shall be administered after 8 hours have passed. If this deadline is not met, the reason for the delay shall be documented. Drug tests shall be administered within 32 hours of the accident. If this deadline is not met, the reason for the delay shall be documented. No drug test shall be administered after 32 hours have passed.

Remind the commercial driver who is subject to alcohol and drug testing that he or she shall remain available for such testing after the accident. Failure to do this shall be treated as a refusal to test. In addition, any commercial driver subject to a post-accident test shall not consume alcohol for eight hours after the accident or until after an alcohol test is administered, whichever comes first.

Keep in mind that nothing in this document is intended to delay necessary medical attention for injured people following an accident, or to prohibit a driver from leaving the scene of an accident to obtain assistance or necessary medical care.

If a commercial driver is administered a post-accident alcohol and drug test which is also documented as a reasonable suspicion test, the commercial driver shall be removed from duty until the test results are known.

Title	Date	Initials	Statement	Yes	No
SUPERVISOR			I recommend that an alcohol and/or drug test be administered.	<input type="checkbox"/>	<input type="checkbox"/>
SCO			I authorize that an alcohol and/or drug test be administered.	<input type="checkbox"/>	<input type="checkbox"/>

Forward completed form to the SCO, Labor Relations Section, Human Resources Division.

**Texas Department of Criminal Justice
Commercial Drivers Reasonable Suspicion
Determination Checklist
(Confidential)**

TO BE COMPLETED BY THE SCO
Commercial Driver underwent <input type="checkbox"/> alcohol test <input type="checkbox"/> drug test at _____ on _____ . <div style="text-align: center; font-size: small;">(Time - Indicate a.m. or p.m.) (mm/dd/yyyy)</div>
Test was conducted at the following location:
Commercial Driver refused to test: <input type="checkbox"/> Yes / <input type="checkbox"/> No

TO BE COMPLETED BY THE OBSERVING SUPERVISOR:

Commercial Driver's Name: _____
Please Print: Last First MI

Unit/Department: _____

Observing Supervisor's Name: _____
Please Print: Last First MI

Second Observing Supervisor's Name: _____
(If applicable) Please Print: Last First MI

Date/Time of Incident: _____

Employee Commercial Driver's Month/Date of Birth or Offender Driver's ID#: _____

Work Phone#: (_____) _____
(Area Code)

Observing Supervisor's Month/Date of Birth: _____
(mm/dd)

Second Observing Supervisor's Month/Date of Birth: _____
(If applicable) (mm/dd)

This checklist is to be completed whenever an incident has occurred and there is reasonable suspicion that a commercial driver is under the influence of alcohol and/or a prohibited drug substance. The commercial driver's supervisor shall note all pertinent behavior and physical signs or symptoms that led the supervisor to reasonably believe that the commercial driver has recently used or is under the influence of alcohol and/or a prohibited drug substance. The supervisor shall mark each applicable item on this form and describe any additional facts or circumstances that the supervisor has noted.

#	Questions	Yes	No
1	Does the commercial driver have a history of documented performance problems? If yes, attach copy of documentation.	<input type="checkbox"/>	<input type="checkbox"/>
2	Has the commercial driver exhibited behavior that indicated that he or she was under the influence of alcohol and/or drugs? If yes, mark applicable items in Sections A, B, and C and describe behavior in Section D.	<input type="checkbox"/>	<input type="checkbox"/>

Time Limits: Alcohol/drug tests should be administered as soon as practicable following the accident or incident.

- a. Alcohol Tests: If an alcohol test is not administered within eight hours following the accident or incident, attempts to administer an alcohol test shall cease and the SCO shall document the reasons the test was not administered.
- b. Drug Tests: If a drug test is not administered within 32 hours following the accident or incident, attempts to administer a drug test shall cease. If a drug test is not administered with the 32-hour limit, the SCO shall document the reasons for the delay.

REASONABLE SUSPICION OBSERVATIONS

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

- | | |
|---|--|
| <input type="checkbox"/> 1. Observed/reported possession or use of a controlled substance | <input type="checkbox"/> 4. Arrest for a drug-related offense |
| <input type="checkbox"/> 2. Observed/reported possession or consumption of alcohol while on the job | <input type="checkbox"/> 5. Evidence of tampering on a previous drug/alcohol test |
| <input type="checkbox"/> 3. Observed abnormal or erratic behavior | <input type="checkbox"/> 6. Other* (e.g., flagrant violation of safety regulations, Serious misconduct, fighting or argumentative or abusive language, refusal of supervisor instruction, unauthorized absence on the job) |

*Specify exact other behavior:

B. UNUSUAL BEHAVIOR

- | | |
|---|--|
| <input type="checkbox"/> 1. Verbal abusiveness | <input type="checkbox"/> 4. Withdrawal, depression, mood changes, or unresponsiveness |
| <input type="checkbox"/> 2. Physical abusiveness | <input type="checkbox"/> 5. Inappropriate verbal response to questioning or instructions |
| <input type="checkbox"/> 3. Extreme aggressiveness or agitation | <input type="checkbox"/> 6. Other erratic or inappropriate behavior* (e.g., hallucinations, disorientation, excessive euphoria, confusion) |

*Specify exact other behavior:

C. PHYSICAL SIGNS OR SYMPTOMS

- | | |
|--|--|
| <input type="checkbox"/> 1. Possessing, dispensing, or using controlled substance | <input type="checkbox"/> 11. Odor of alcohol |
| <input type="checkbox"/> 2. Slurred or incoherent speech | <input type="checkbox"/> 12. Odor of marijuana |
| <input type="checkbox"/> 3. Unsteady gait or other loss of physical control; poor coordination | <input type="checkbox"/> 13. Dry mouth (frequent swallowing/lip wetting) |
| <input type="checkbox"/> 4. Dilated or constricted pupils or unusual eye movement | <input type="checkbox"/> 14. Dizziness or fainting |
| <input type="checkbox"/> 5. Bloodshot or watery eyes | <input type="checkbox"/> 15. Shaking hands or body tremors/twitching |
| <input type="checkbox"/> 6. Extreme fatigue or sleeping on the job | <input type="checkbox"/> 16. Irregular or difficult breathing |
| <input type="checkbox"/> 7. Excessive sweating or clamminess to the skin | <input type="checkbox"/> 17. Runny nose and/or sores around nostrils |
| <input type="checkbox"/> 8. Flushed or very pale face | <input type="checkbox"/> 18. Inappropriate wearing of sunglasses |
| <input type="checkbox"/> 9. Highly excited or nervous | <input type="checkbox"/> 19. Puncture marks or "tracks" |
| <input type="checkbox"/> 10. Nausea or vomiting | <input type="checkbox"/> 20. Other* |

*Specify other physical signs or symptoms:

D. WRITTEN SUMMARY

Summarize the facts and circumstances of the accident or incident, the commercial driver’s response, supervisor actions, and any other pertinent information not previously noted on this form. Attach additional sheets as needed.

Signature of Observing Supervisor: _____ Date: _____
(MM/DD/YYYY)

Signature of Second Observing Supervisor: _____ Date: _____
(if applicable) (MM/DD/YYYY)

Title	Date	Initials	Statement	Yes	No
Observing Supervisor			Based upon my observations as noted on this checklist, I recommend that an alcohol/drug test be administered in accordance with PD-37, “Employee Commercial Driver’s Physical Examination and Alcohol/Drug Testing Programs.”	<input type="checkbox"/>	<input type="checkbox"/>
Second Observing Supervisor (if applicable)			Based upon my observations as noted on this checklist, I recommend that an alcohol/drug test be administered in accordance with PD-37, “Employee Commercial Drivers’ Physical Examination and Alcohol/Drug Testing Programs.”	<input type="checkbox"/>	<input type="checkbox"/>
SCO			Based upon the observations as noted on this checklist and upon my discussion with the observing supervisor(s), I recommend that an alcohol/drug test be administered in accordance with PD-37, “Employee Commercial Drivers’ Physical Examination and Alcohol/Drug Testing Programs.”	<input type="checkbox"/>	<input type="checkbox"/>
Manager			Based upon my discussion with the SCO, on _____ (MM/DD/YYYY) I verbally authorized an alcohol/drug test be administered in accordance with PD-37, “Employee Commercial Drivers’ Physical Examination and Alcohol/Drug Testing Programs.”	<input type="checkbox"/>	<input type="checkbox"/>

Supervisor Instructions:

1. After contacting the SCO via telephone or in person, immediately fax or hand carry a copy of this checklist to the SCO.
2. Mail the original checklist with all applicable documentation to the SCO within 48 hours after the incident or accident. Do not retain a copy.

**Texas Department of Criminal Justice
Commercial Driver Certification/Notification and
Receipt of Materials Form**

Commercial Driver's Name: _____
Last First MI

Commercial Driver's License #: _____ State: _____

Employee Commercial Driver's Month/Date
of Birth or Offender Driver's ID#: _____
(mm/dd)

Position Title: _____

Supervisor's Name: _____
Last First MI

Supervisor's Month/Date
of Birth: _____
(mm/dd)

Work Location/Unit: _____ Work Phone/Ext.: _____

To Be Completed By The Commercial Driver

As required by the Federal Highway Administration regulations, the TDCJ shall identify employees and offenders who have a commercial driver license (CDL) and who operate a commercial vehicle for the TDCJ. A commercial motor vehicle is defined in your Commercial Driver Information Packet. Please check the appropriate answers to the questions listed below.

1. Do you have a commercial driver license? Yes No
2. Do you operate a commercial motor vehicle for the Texas Department of Criminal Justice on any occasion? Yes No

If you have answered "yes" to both questions listed above, you are subject to alcohol and drug testing as described in 49 CFR Part 382, issued by the Federal Highway Administration. The alcohol and drug testing categories consist of: (1) Pre-employment Testing; (2) Post-Accident Testing; (3) Reasonable Suspicion Testing; (4) Random Testing; (5) Return to Duty Testing; and (6) Follow-up Testing. If you have answered "yes" to only one question, you are not subject to alcohol and drug testing.

I acknowledge that I have been notified that I am subject to Alcohol and Drug testing in accordance with 49 CFR Part 382 and that I have received educational materials that relate to the Texas Department of Criminal Justice's implementation of 49 CFR Part 382, Subparts A-F.

I further certify that I *understand* the materials in the Commercial Driver Information Packet.

I understand that if I have any questions concerning the material in the Commercial Driver Information Packet that I should contact my supervisor or the substance control officer (SCO) in Huntsville Human Resources.

Commercial Driver's Signature

Date (MM/DD/YYYY)

Note to Employee Commercial Driver: With few exceptions you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023 to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request in accordance with TDCJ procedures that incorrect information the TDCJ has collected about you be corrected.

I have reviewed this form and do hereby certify that it is correct.

Supervisor's Signature

Date (MM/DD/YYYY)

Forward this form along with a copy of the commercial driver's current driver license to the SCO, Labor Relations Section, Human Resources Division.