# I. INTRODUCTION

The U.S. Department of Transportation (DOT) and its operating administrations, such as the Federal Highway Administration (FHWA), have issued regulations which require that regulated employers institute anti-drug programs and drug testing of employees covered under the regulations. These regulations are found in 49 CFR Parts 40 and 391 which will be provided to you for your review and reference. These regulations specify which employees are to be tested, when they are to be tested and what procedures are to be followed.

The stated purpose of these regulations is to reduce highway accidents that result from driver use of controlled substances, thereby reducing fatalities, injuries and property damage. In general, these regulations only apply to certain classifications of commercial vehicle drivers as will be detailed below.

The individual is safe-guarded in a variety of ways, including strict specimen chain of custody control, NIDA certified laboratory analysis with confirmatory testing via quantitative GC/MS analysis, independent Medical Review Officer (MRO) examination of all medical and testing records, and required training on the effects of substance abuse. The regulations further require that collection site personnel ensure the modesty and privacy of the employee, unless certain extenuating circumstances apply.

# II. SCOPE

A. EFFECTIVE DATE FOR DOT/FHWA TESTING

The DOT/FHWA drug testing requirements became effective on December 21,1989. For motor carriers with less than 50 "drivers subject to testing", a controlled substance testing program which meets the provisions of 49 CFR Part 391 must be in place by December 21, 1990, for all drivers.

Implementation Dates - Final Rule

The effective date of the final rule for the previously enjoined types of controlled substances testing is November 14, 1991, for motor carriers with 50 or more drivers subject to testing on December 21, 1989, and January 1, 1992, for all other motor carriers (the Company's drivers are subject to the latter date).

B. EMPLOYEES SUBJECT TO DOT/FHWA DRUG TESTING REQUIREMENTS

Affected employees are employees who operate a commercial motor vehicle in interstate commerce and are subject to the driver qualification requirements of 49 CFR, Part 391. In general, the Company will require DOT drug testing for any employee who has driving duties that require DOT certification. This includes driving vehicles that have a gross vehicle weight rating (GVWR) of 26,001 or more pounds, or vehicles that are used in the transportation of hazardous materials in a quantity requiring placarding of the vehicle.

C. CIRCUMSTANCES REQUIRING DOT/FHWA DRUG TESTING

1. Pre-employment Testing

Applicants for employment whom the Company intends to use as drivers will be required to provide a urine sample which will be tested for controlled substances pursuant to DOT regulations. Such applicants will submit to DOT controlled substance testing as a prequalification condition.

2. Biennial Testing (DOT Medical Examination)

DOT regulations require that any certified driver will provide a urine sample for DOT drug testing at the time of the first periodic medical examination after December 21, 1989. Thereafter, this requirement may be suspended when randomness testing is instituted.

3. Post-Accident Testing

A DOT certified driver shall provide a urine sample for DOT drug testing as soon as possible after a DOT reportable accident, but in no case later than 32 hours. A DOT reportable accident is defined in CFR 394.3. If the driver is seriously injured and cannot provide a specimen, the driver must provide an authorization for obtaining hospital reports and other documents that indicate whether there were any controlled substances in the driver's system.

With respect to post-accident testing, motor carriers will be required to test their CMV drivers who are involved in reportable accidents if they are issued citations for moving violations, in accordance with the schedule set forth in the applicable CFR and in the Company's DOT drug policy (as soon as possible or in no case later than 32 hours after the accident). This must now be done without regard to whether the carrier has any reasonable suspicion of drug usage, reasonable cause to believe a driver has been operating a vehicle while under the influence of drugs or reasonable cause to believe the driver was at fault in the accident and drug usage may have been a factor. The involvement of a CMV driver in a reportable accident, provided the CMV driver is issued a citation for a moving traffic violation arising from the accident, is ***ALL*** that is needed to trigger a post-accident controlled substance test.

4. Random Testing

DOT regulations also require random drug testing of 50% of the Company's DOT certified drivers. The random selection testing must meet the DOT requirements listed in 49 CFR, Part 40.

The phase-in schedule of random testing as provided in 391.93(d) continues to apply. In essence, the Company must insure random drug testing is spread reasonably through the 12 month period following the implementation date, and that in the first 12 months at least 25 percent of the drivers are subject to the testing, and that the last test collection during the year is conducted at an annualized rate of 50 percent.

5. Reasonable Cause Testing

An employee who is a DOT certified driver will also be subject to DOT drug testing based upon reasonable cause when the Company determines such testing is warranted by the driver's behavior. The driver's behavior must be witnessed by supervisory personnel who have received training in detection of probable drug use by observing a person's behavior. At least two supervisory personnel must have witnessed the driver's behavior if at all feasible. Written documentation of the driver's behavior shall be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the drug test are released whichever is earlier.

# III. PROCEDURES FOR COLLECTING OF URINE SPECIMEN

A. IMPORTANCE OF SPECIMEN COLLECTION

Specimen collection is an important part of any drug testing program. The DOT regulations have established strict requirements for sample collection, including a written chain of custody procedure to document proper sample identification, integrity and security from the time of collection until the receipt of laboratory test results.

B. SPECIMEN COLLECTION PROCEDURES

The Company shall work closely with the designated collection site(s) (independent medical facility(s) which are off Company premises), to insure proper collection site security, specimen collection, completion of the chain of custody and shipment of the specimen to the designated laboratory for all DOT drug testing.

Collection site personnel shall respect the privacy of the individual, but may require removal of unnecessary outer garments, such as coats or jackets, and setting aside of personal belongings, such as a purse or briefcase. This is to insure that there is no possibility for concealment of items or substances that could be used to tamper, adulterate or dilute the specimen sample.

The DOT regulations require at least 60 milliliters of urine. The individual may be given a glass of water to drink, and sufficient time to produce a specimen. The specimen temperature must be measured and recorded immediately. The individual will either be required to maintain possession of the specimen throughout the sealing and labeling process, or the specimen container will be kept in full view of both the collection site person and the individual. The individual will be required to initial the container label as well as sign the chain of custody form. The specimen will be immediately placed in a tamper proof mailing envelope, and mailed to the designated laboratory within 24 hours. The individual will be given a copy of the chain of custody form.

The individual shall be provided an opportunity to set forth on the urine chain of custody and control form information concerning medications taken or administered in the past 30 days.

# IV. LABORATORY PRACTICES

A. LABORATORY QUALIFICATIONS

The Company will select a forensic toxicology laboratory to conduct the laboratory test for controlled substances as required by DOT. The U.S. Department of Health and Human Services certifies this laboratory. The National Institute on Drug Abuse (NIDA) regularly inspects NIDA certified laboratories and further requires that the laboratory submit to blind performance testings. The Company, or an independent contractor retained by the Company, will also routinely submit the designated laboratory to blind proficiency testing if required by DOT regulations.

B. SECURITY AND CHAIN OF CUSTODY

The designated laboratory shall maintain strict security at its facility and rigorously follow proper chain of custody procedures, including NIDA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.

C. INITIAL TEST

The designated laboratory shall use an immunoassay initial screening test as approved for commercial use by the U.S. Food and Drug Administration. Initial cutoff levels for initial testing are as follows:

| Substance | Initial Test (ng/ml) |
|---|---|
| Marijuana Metabolites | 100 |
| Cocaine Metabolites | 300 |
| Opiate Metabolites | 300 |
| Phencyclidine | 25 |
| Amphetamines | 1000 |

D. CONFIRMATORY TEST

The designated laboratory shall confirm all initially positive test results by gas chromatography/mass spectrometry (GC/MS). Quantitative analysis shall be used for all GC/MS confirmation tests and the cutoff levels for confirmation tests for DOT testing purposes are:

| Substance | Confirmation Test (ng/ml) |
|---|---|
| Marijuana Metabolites | 15 |
| Cocaine Metabolites | 150 |
| Opiate Metabolites | 300 |
| Phencyclidine | 25 |
| Amphetamines | 500 |

E. REPORTING RESULTS

The designated laboratory shall report as positive only those specimens confirmed positive by GC/MS. The designated laboratory will report the results in writing to the Company's independent Medical Review Officer. Other regulations may require reporting of statistical test results, including reporting of initial test positives.

F. RECORD RETENTION

Unless otherwise notified, the designated laboratory retains all records pertaining to a given urine specimen for five years.

G. STORAGE OF SPECIMENS

The designated laboratory shall store all specimens for a period of at least one year, or longer whenever requested.

H. NIDA REPORTS

The designated laboratory will promptly transmit to the Company's independent Medical Review Officer a copy of any report the laboratory receives from any Federal agency pursuant to the National Institute on Drug Abuse's Mandatory Guidelines for Federal Workplace Drug Testing Programs. Such reports shall include all reports relating to blind performance testing, investigations of deficiencies in performance testing and routine laboratory inspection reports. The designated laboratory shall also promptly provide to the Company's Medical Review Officer any notice of proposed suspension, suspension, proposed revocation of certification or revocation of certification received from the U.S. Department of Health and Human Services.

## V. THE MEDICAL REVIEW OFFICER

A. MEDICAL REVIEW OFFICER QUALIFICATIONS AND FUNCTION

The Company shall retain the services of a licensed physician knowledgeable in the medical use of prescription drugs and the pharmacology and toxicology of alcohol and other drugs of abuse. He shall be independent (not an employee of the Company). His function is to review and interpret positive test results obtained through the Company's testing program for the purpose of determining alternate medical explanations for any positive test result. This could include conducting a medical interview with the individual, review of the individual's medical history or review of any other relevant biomedical factors.

B. LABORATORY COMMUNICATION OF POSITIVE TEST RESULTS

The designated laboratory will communicate test results to the Company's Medical Review Officer in writing. All test results, whether positive or negative, will be communicated.

C. REVIEW PROCESS BY THE MEDICAL REVIEW OFFICER

1. The MRO shall review and interpret all test results identified by the designated laboratory.

2. The MRO shall examine all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall give the individual an opportunity to discuss the positive test result if the positive test result could have been caused by legally prescribed medication.

3. The MRO shall determine whether the positive test results are scientifically sufficient to establish the individual's drug use. If the MRO has reason to question the accuracy or validity of a positive test, the MRO may review quality control data and other pertinent records.

4. Unless the designated laboratory confirmation test (GC/MS) confirms the presence of 6-monoacetylmorphine (heroin), the MRO shall not report as confirmed a positive test for opiates unless the MRO identifies clinical evidence, in addition to the urine test, of illegal use of an opiate.

5. If the MRO determines that the positive test result was consistent with lawful drug use, that the positive test results are not scientifically sufficient, or, in the case of opiates, that the test results are not confirmed by either the presence of 6-monoacetylmorphine (heroin) or independent clinical evidence of illegal opiate use, the MRO shall declare the test results to be negative and take no further action.

6. If the MRO determines that the laboratory results properly represent a positive test result, the MRO shall promptly inform the Company in writing.

7. The designated laboratory shall promptly provide to the Company's Medical Review Officer a copy of any report the laboratory receives from any Federal agency pursuant to the National Institute on Drug Abuse's Mandatory Guidelines for Federal Workplace Drug Testing Programs. Such reports shall include all reports relating to blind performance testing, investigations of deficiencies in performance testing and routine laboratory inspection reports. The designated laboratory shall also promptly provide to the Company's Medical Review Officer any notice of proposed suspension, suspension, proposed revocation of certification or revocation of certification received form the U.S. Department of Health and Human Service.

8. When required, the Company, or an independent contractor retained by the Company, will submit through the Company blind performance test specimens to the designated laboratory. The Company or its contractor shall ensure that at least 10 percent of all samples submitted through the Company to the designated laboratory will be blind performance test specimens.

9. The Medical Review Officer shall review all Federal agency reports provided by the designated laboratory and the results of the blind performance testing procedures and

shall notify the Company of any reason to question the continued use of the designated laboratory.

## VI. NOTIFICATION OF TEST RESULTS

Driver-applicants will be notified of the DOT drug test results by the Company if the applicant requests the information in writing within 60 days of the disposition of the employment application. The Company will notify current employee drivers of a positive DOT drug test. Any request for drug test results from applicants should be forwarded to the Corporate office for further handling.

## VII. DISCIPLINARY ACTION

A driver-applicant who refuses to take a required drug test or who has a positive drug test result will not be hired. A current employee who tests positive on a DOT drug test is medically unqualified to operate a commercial motor vehicle and will be terminated. Further, a refusal by a current employee to submit to a DOT drug test will be considered to have been positive and will result in termination from employment.

Further, a driver who was involved in a fatal accident will be disqualified by issuance of a letter of disqualification from DOT for a period of one (1) year if the driver tests positive or refuses to submit to a DOT drug test.

## VIII. RECORD KEEPING REQUIREMENTS

A. DRIVER QUALIFICATION FILE

These records are retained at the Corporate office. Below is a list of the information to be maintained in these files regarding DOT driver substance abuse testing:

1. The name of the driver submitted to a drug test;
2. Date the drug test was conducted;
3. Location of the drug test;
4. Laboratory that performed the analysis; and
5. Results of the drug test.

B. ANNUAL SUMMARY

The Company will keep an annual summary of the DOT drug testing statistics in the Corporate office. The summary will consist of the following categories:

1. Number of tests conducted;
2. Number of tests conducted by category (pre-employment, periodic, reasonable cause, random and post accident);

3. Number of positive test results;
4. Number of positives per testing categories;
5. Disciplinary action taken on each individual who tested positive;
6. Number of tests that indicated positive on the screening test;
7. Number of test that were reported out as positive after confirmatory test was run; and
8. Number of tests reported out as positive by drug category.

The Company will maintain the above records and any other records related to the administration and results of the DOT drug testing program for a period of five (5) years, except that individual negative test results will be maintained for a minimum of twelve (12) months in DOT driver qualification files. The designated laboratory will maintain all data concerning DOT drug tests for a minimum of five (5) years.

C. INDIVIDUAL TEST RESULTS

The Medical Review Officer (MRO) is the sole custodian of individual DOT drug test results (except for those maintained in driver qualification files). The Medical Review Officer will retain these results for a minimum of five (5) years.

## IX. EMPLOYEE ASSISTANCE PROGRAM (EAP)

The Company shall institute an Employee Assistance Program (EAP) as defined by DOT regulations. This program has an educational and training component which includes the adverse effects of controlled substances on personal health, safety and the work environment and a discussion of behavior and other manifestations which might indicate use or abuse of controlled substances.

The EAP education and training program shall include a minimum of 60 minutes of instruction pertaining to drug and alcohol abuse and testing. The program may include video tape(s), discussion, workbook exercises and other material.

The education and training program is presented to all drivers and their supervisors, and documentation evidencing such training is maintained by the Company. Rehabilitation or leave of absence for the purpose of rehabilitation is specifically excluded from the EAP. Again, positive tests result in termination of employment.

## X. QUESTIONS ABOUT DOT DRUG TESTING

**Questions regarding testing, accident reporting, record keeping requirements, education and training, etc., should be directed to the Corporate office. Questions concerning the collection of samples, completion of the chain of custody forms, mailing of samples, etc., under DOT requirements, should be directed to the designated laboratory representative, or personnel at the designated collection sit Purpose**

The purpose of this procedure is to insure right of access to relevant exposure and medical records to employees and/or their designated representatives.

## Key Responsibilities

**CARDINAL SURVEYS COMPANY Safety Manager**

- Develops local medical records practices for all worksites in accordance with this procedure and ensures employees are aware of the requirements of this procedure.
- Responsible for the review, implementation and maintenance of the local worksite medical records procedure.

**Project Manager**

Responsible for the implementation and maintenance of the medical records procedure for their facility and ensuring all assets are made available for compliance with the procedure.

**Employees**

All shall be familiar with this procedure and have access to their records.

## Overview

This section applies to all employee exposure and medical record, and analysis thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis.

- Trade secret information disclosure must follow requirements as stated in 29 CFR 1910.1020 (f) (8).
- Recognized collective bargaining agents who have statutory authority to represent the interests of the employees within the bargaining unit are automatically considered designated representatives. While these representatives do not have the right to secure individual medical records without written consent of the employee, they have the right of access to employee exposure records and analysis without employee consent.

## Definitions

Access means the right and opportunity to examine and copy.

Analysis of exposure or medical records means any compilation of data, and research, or other studies based, at least in part, on information collected from individual employee exposure or medical records or other sources including information from health insurance claim forms provided that either the analysis must have been reported to the employer or no further work is being done by the person responsible for preparing the analysis.

Designated representative will mean any individual or organization to which an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

Employee exposure records means a record containing any of the following kinds of information:

- Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;
- Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;
- Material safety data sheets indicating that the material may pose a hazard to human health; or In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

Employee medical record means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including medical and employment questionnaires or histories (including job description and occupational exposures),

NOTE: The following will not be considered a medical record.

- Physical specimens, such as blood or urine samples, which are routinely discarded.
- Health insurance claims, accident investigation reports and other non-medical correspondence if maintained separately from the medical file.
- The record of any voluntary employee assistance program (alcohol, drug, etc.) if maintained separately.
- Records created solely in preparation for litigation which are privileged from discovery under applicable rules of procedure or evidence.

Specific Written Consent means a written authorization containing the following:

- The name and signature of the employee authorizing the release of medical information.
- The date of the written authorization.
- The name of the individual or organization that is authorized to release the medical information.
- The name of the designated representative (individual or organization) that is authorized to receive the released information.
- A general description of the medical information that is authorized to be released.
- A general description of the purpose for release of the medical information.
- A date or condition upon which the written authorization will expire (if less than one year).

A toxic substance or harmful physical agent is defined as any chemical substance, biological agent (bacteria, fungus, virus, etc.) or physical stress (noise, heat, cold, ionizing radiation or non-ionizing radiation, hypo or hyperbaric pressure, etc.) which:

- Is regulated under federal law or rule due to a hazard to health.

- Is listed in the National Institute of Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS).
- Shows positive evidence of acute or chronic health hazard in human, animal or other biological test by or known to the employer.
- Has a Material Safety Data Sheet indicating that the substance may pose hazard to human health.

## Procedure

The Safety Manager will maintain applicable medical and exposure records for all employees. All requests to access medical and exposure records and analysis based on those records must be submitted to using the forms provided for that purpose.

Whenever an employee or designated representative requests a copy of a record CARDINAL SURVEYS COMPANY shall assure that records must be provided at no cost.

Whenever an employee or designated representative requests access to a record, CARDINAL SURVEYS COMPANY shall assure that access is provided in a reasonable time, place, and manner. If CARDINAL SURVEYS COMPANY cannot reasonably provide access to the record within fifteen (15) working days CARDINAL SURVEYS COMPANY shall within the fifteen (15) working day apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record can be made available.

Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), CARDINAL SURVEYS COMPANY shall assure that personal identifiers are removed before access is provided. If CARDINAL SURVEYS COMPANY can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

CARDINAL SURVEYS COMPANY, upon request, will assure the prompt access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records.

Except for a recognized collective bargaining agent, any designated representative must have the employee's written permission for access to exposure records and analyses. It is necessary however, for the union representative to specify the occupational need for access to records absent the employees consent. Union representatives must have the employee's written permission to access medical records.

Employees or their representatives will be provided with one copy of the records at no cost or free use of a copying machine. There will also be no charge for the first request for information by a recognized collective bargaining agent, even if the employee has previously received a copy of the same record. Each copy provided will be stamped with the word COPY. At no time will original records and/or x-rays be loaned out to enable the requesting party to make a copy.

Any review of medical or exposure records by an employee or union representative shall be done on his or her own time, outside of normal working hours, at a time mutually agreeable to the parties. The review will be conducted in person with the individual requesting access to the records.

The employee is entitled access to his or her medical records except when a physician determines that this knowledge would be detrimental to the employee's health as in such cases of terminal illness or psychological conditions. However, if the employee provides a designated representative with specific written consent, access to medical records must be provided even if the physician has denied the employee access to the records.

The authorized physician, nurse or other responsible health care personnel maintaining employee's medical records may delete the identity of anyone who has provided confidential information concerning the employee's health status but cannot withhold the information itself.

When an analysis of medical records identifies the employee, a physician may remove direct or indirect personal identification. If this cannot be done, the personally identifiable portions need not be provided to the person seeking such information.

Employees and their designated representatives will be permitted upon request access to past and present exposure data to toxic substances or harmful physical agents.

Copies of exposure records of other employees with past or present job duties or working conditions like or similar to those of the employee will also be provided upon request.

Any employee or designated representative is also permitted access to any record of exposure information which pertains to a new workplace or condition(s) to which the employee is being assigned or transferred.

## Records Retention

- Medical records must be retained for the duration of employment plus 30 years.
- Employee exposure records must be retained for 30 years

## Transfer of Records

Whenever CARDINAL SURVEYS COMPANY ceases to do business it shall transfer all records subject to this section to the successor employer. Whenever CARDINAL SURVEYS COMPANY either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, CARDINAL SURVEYS COMPANY shall transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard.

## Employee Information

Upon an employee's first entering into employment, and at least annually thereafter, CARDINAL SURVEYS COMPANY shall inform current employees covered by this section of the following:

- The existence, location, and availability of any records;

- The person responsible for maintaining and providing access to records; and
- Each employee's rights of access to these records.

The Access to Employee Exposure and Medical Records Standard (29 CFR 1910.1020) will be readily available for review by employees upon request.

A copy of the employee notice that will be used to comply with the employee information requirements is included with policy. This notice will be posted on those bulletin boards where other notices normally appear.

## AUTHORIZATION LETTER FOR THE RELEASE OF EMPLOYEE MEDICAL RECORDS

I, _____ hereby authorize the _____
(Full name of employee) (Name of Organization)

to release to CARDINAL SURVEYS COMPANY the following medical record(s):

_____
Give specific description of the information to be released)

I give my permission for the medical information to be used for the following purpose(s):

_____

_____

_____ I do not give permission for any other use or reason.

_____ I understand that this authorization expires twelve (12) months from today's date unless I specify a particular date less than twelve months which is _____

_____ _____
Signature of employee or his/her legal representative — Date of Signature

Reviewed on: _____ with: _____
(Date) (Signature of Organization's Representative)

Copies given: Yes _____ No _____

## ACCESS TO MEDICAL/EXPOSURE RECORDS NOTICE

Federal Regulation 29 CFR 1910.1020 requires us to inform you that CARDINAL SURVEYS COMPANY does keep records designated as Employee Exposure and Employee Medical Records.

The above regulation gives you the right to review those records with certain exceptions.

The records are maintained in the Safety Department and the Safety Manager is responsible for the records.

A copy of CFR 1910.1020 is available for viewing upon request to the Safety Manager.

_____ _____

Signature Date

Note: This notice must be posted annually