



MISSOURI DEPARTMENT OF TRANSPORTATION PERSONNEL POLICY MANUAL

POLICY TITLE: Alcohol Testing Program

NUMBER: 2511

CHAPTER TITLE: Employee Conduct

EFFECTIVE DATE: April 1, 2022

PRIOR EFFECTIVE DATE: August 1, 2021

POLICY STATEMENT

The department will conduct breath alcohol tests on employees as described in this policy. MoDOT's goal is to provide an efficient, safe work environment for department employees, and protect the public. Violation of this policy will result in discipline up to and including termination.

PROVISIONS / REQUIREMENTS

SECTION I - GENERAL

1. Employees are prohibited from possessing or consuming alcohol on the job, including having an opened or unopened container in a department owned or leased vehicle/equipment at any time (i.e., before, during, or after work hours). Employees are also prohibited from performing work or reporting for work while affected by alcohol. Employees are prohibited from performing safety-sensitive functions within four hours after consuming alcohol (eight hours for pilots). Employees who perform safety-sensitive duties are also prohibited from consuming alcohol within eight hours following an on-the-job accident or until they complete an alcohol test, whichever occurs first.
2. Wage employees and salaried employees who have not completed their initial probationary period (first six months in a salaried position) will be dismissed from employment with the department if they test positive on an alcohol test with a breath-alcohol content (BrAC) level of 0.02 or higher.
3. Salaried employees who have completed their initial probationary period and test positive on an alcohol test with a BrAC level of 0.04 or higher will be dismissed from employment with the department.
4. Salaried employees who have completed their initial probationary period and test positive on an alcohol test with a BrAC level of 0.02-0.039 will receive a 40-hour suspension without pay, a recommendation to contact the Employee Assistance Program (EAP), and will be subject to and must pass a return-to-duty test. These employees will also be on disciplinary probation for one year. If a second positive test occurs (at a BrAC level of 0.02 or above), the employee will be dismissed from employment with the department.
5. The department will conduct alcohol tests on employees in positions which require a commercial driver's license (CDL position) if performing safety-sensitive functions during

the work shift in which the test is to be conducted. The department will also conduct alcohol tests on employees who hold a CDL and volunteer or are required by the department to perform a safety-sensitive function during the work shift in which the test is to be conducted.

The department will also conduct alcohol tests on employees who work in positions which are safety-sensitive but do not require a CDL. Alcohol testing conducted on these employees who work in positions which are safety-sensitive, but do not require a CDL, is done under department personnel policy rather than DOT requirements.

Employees and testing facilities must be notified whether an alcohol test is being conducted due to DOT requirements or department requirements. This notification may be provided by the local human resources staff, district safety office staff, Central Office Employee Health and Wellness Unit (HW), or the supervisor.

Employees who volunteer to perform safety-sensitive duties are required to sign the "Volunteer for Safety-Sensitive Job Duties Drug and Alcohol Testing Acknowledgement" Form.

6. The department will not conduct alcohol tests for:
 - a. External applicants.
 - b. Employees in non-safety-sensitive positions, unless they hold a CDL and are required by the department to perform a safety-sensitive function during the work shift in which the test is to be conducted.
 - c. Employees in safety-sensitive positions who are performing non-safety-sensitive functions during their work shift.

Examples of when employees are not performing safety-sensitive functions during their work shift include

- 1) Attendance at an all-day training program such as computer training. If the training involves the use of a commercial motor vehicle (CMV), such as operation of equipment for snow removal, the training is considered to be a safety-sensitive function.
- 2) Attendance at an all-day staff meeting, team meeting, or conference. If employees drive a CMV to and from training programs, meetings, etc., they have performed safety-sensitive functions during their work shift and are subject to testing.

SECTION II – TESTING CATEGORIES

Employee Testing

7. Wage and salaried employees who perform safety-sensitive functions will be subject to alcohol testing as listed below. Further explanations of these conditions for alcohol testing are provided in paragraphs 8-11.
 - a. Random testing is required for employees who hold a CDL and are required by the department to perform a safety-sensitive function during the work shift in which the

- random alcohol test is to be conducted (see paragraph 8).
- b. Reasonable suspicion testing is required when evidence provides reasonable suspicion that an employee reported to work or performed work while affected by alcohol, or consumed alcohol on the job (see paragraph 9).
 - c. Post-accident testing is required when an employee is involved in a serious accident (see paragraph 10).
 - d. Return-to-duty testing is required before a salaried employee is allowed to return to work if a salaried employee (beyond initial probation) tests positive on an alcohol test with a BrAC level of 0.02 – 0.039 (see paragraph 11). Return-to-duty testing is also required after an employee voluntarily participates in an alcohol rehabilitation program under Section III of this Policy (see paragraph 11).

Random Testing

8. Wage and salaried employees who perform safety-sensitive functions will be subject to random alcohol testing. Alcohol tests will be conducted in this random category only if employees volunteer or are required by the department to perform a safety-sensitive function during the work shift in which the random alcohol test is to be conducted.

Reasonable Suspicion Testing

9. Wage and salaried employees performing safety-sensitive functions during their work shift will be required to complete an alcohol test when evidence shows reasonable suspicion that employees have:
 - a. Reported for work while affected by alcohol;
 - b. Performed safety-sensitive functions while affected by alcohol;
 - c. Consumed alcohol while performing safety-sensitive functions;

Alcohol tests will be conducted in this category only if employees are performing safety-sensitive functions during their work shift.

While possession of alcohol **alone** is not sufficient evidence to conduct a reasonable suspicion alcohol test, possession of alcohol may be a factor in determining whether reasonable suspicion exists. Also, per paragraph 1 of this policy, all employees are prohibited from possessing alcohol on the job.

The decision to test must be based on direct observation by a supervisor who has been trained in the detection of alcohol abuse, that employees have violated A, B, or C above. The supervisor is required to immediately complete the Reasonable Suspicion Observation Form, but no later than 24 hours after making observations. **At the time of observation, the supervisor must contact either the district safety office or local HR representative for further guidance.** Information on what may provide reasonable suspicion is outlined in Procedure 2511, "Alcohol Testing Program."

If an alcohol test is required, it should be completed within two hours but must be completed within eight hours after the suspicious behavior was observed. Employees

must only be sent to a MoDOT authorized testing facility as directed by their local human resources or district safety office. Law enforcement agencies are **not** permitted to conduct reasonable suspicion testing on behalf of the Department, unless the officer is specifically listed as a consortium or third party administrator providing drug and alcohol testing services to MoDOT. This policy does not prohibit employees from complying with an alcohol test that is independently required by a law enforcement agency; however, such test will not be considered a reasonable suspicion test under this policy. Employees who have a BrAC level of 0-0.019 will be allowed to immediately return to work with no loss in pay.

Post-Accident Testing

10. There are two categories of testing under post-accident testing noted below. Employees tested under post-accident testing criteria will not be suspended without pay while waiting for test results. These employees will be allowed to return to their normal assignments pending their test results. **At the time of the accident, the supervisor must contact either the district safety office or local HR representative for further guidance.**
 - a. DOT Required Testing: Wage and salaried employees who perform DOT safety-sensitive functions will be required to complete an alcohol test when directly involved in a serious accident - an accident in which they are driving a CMV on a public road and the accident resulted in either:
 - 1) A human fatality; or
 - 2) A citation being issued, within 8 hours of the accident, to the driver under state or local laws for a moving traffic violation arising from the accident and one of the following two situations existed:
 - a) Bodily injury occurred to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or
 - b) Disabling damage occurred to one or more of the motor vehicles, which required the vehicle to be transported away from the scene of the accident.

Due to the restrictions for testing under this category, especially when an accident occurs on a public road, supervisors are expected to contact law enforcement officials to help investigate the accident. Whether a law enforcement official arrives or not, supervisors are responsible for determining if an alcohol test should be required. Even if a law enforcement official conducts an alcohol test, MoDOT must take all necessary steps to conduct its own DOT alcohol test in a timely manner.

If an alcohol test is required, it should be completed within two hours and must be completed within eight hours after the accident. Testing cannot be required after eight hours. Employees involved in serious accidents must be told they cannot consume alcohol for eight hours following the accident or until an alcohol test is completed, whichever occurs first.

- b. Department Personnel Policy Required Testing: Although not specifically required by DOT regulations, the department will also conduct post-accident alcohol testing on

wage and salaried employees in CDL positions and employees who perform safety-sensitive duties under the circumstances listed below. The criteria in (1), (2), and (3) below must all be met to require an alcohol test by department personnel policy.

- 1) When an employee is on department business and directly involved in an accident on public or private property, in which the circumstances show the employee either caused the accident or failed to take reasonable measures to avoid the accident.
- 2) The employee was operating a CMV or any type of heavy equipment other than a motor vehicle (car, pickup, etc.).
- 3) The accident caused either:
 - a) A fatality or bodily injury requiring immediate medical treatment away from the scene of the accident; or
 - b) Property damage (to public or private property) in excess of \$5,000.00.

Return-to-Duty Testing

11. There are two categories of testing under return-to-duty testing noted below:
 - a. Salaried employees (beyond initial probation) who test positive on an alcohol test with a BrAC level of 0.02 – 0.039 will not be allowed to return to work until they pass an alcohol test (return to duty test) and complete the required suspension without pay.
 - b. After voluntarily participating in an alcohol rehabilitation program under Section III of this Policy, an employee must undergo a return-to-duty alcohol test with a BrAC level of less than 0.02.

SECTION III – VOLUNTARY REHABILITATION OR EDUCATION

12. The department encourages employees who feel they have problems with alcohol to voluntarily participate in an alcohol rehabilitation program; however, even if in such a program, employees should be aware that they are subject to the same tests as any other employee and they may not enter an alcohol rehabilitation program to avoid disciplinary action. Employees must notify their supervisor if they are voluntarily participating in an alcohol rehabilitation program under section III of this Policy. **Upon notification, the supervisor must contact the local HR representative and the Employee Health and Wellness Unit for further guidance.**

Employees are responsible for the cost of their alcohol rehabilitation program. Employees may contact the EAP or their insurance provider to learn what coverage they have for a rehabilitation program. Information about alcohol rehabilitation centers in Missouri will be provided by the Human Resources Division.

Salaried employees who attend an alcohol rehabilitation program must utilize accumulated sick leave, annual leave, or compensatory time for time spent in the program. ShareLeave will not be available for time spent in an alcohol rehabilitation program. Employees who use all their paid leave time may be placed on sick leave without pay status to complete the program; or they may be allowed to claim unpaid Family and Medical Leave Act (FMLA) leave, if they have not used their limit of FMLA

leave during the previous 12 months and the leave time qualifies under the FMLA.

After voluntarily participating in an alcohol rehabilitation program under Section III of this Policy, an employee must do the following prior to returning to work:

- a. Provide proof of successful completion of an educational or treatment program, as determined by an alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor);
AND
- b. Undergo a return-to-duty alcohol test with a BrAC level of less than 0.02.

Failure to meet these return-to-work requirements will result in termination of employment.

Participation in long-term outpatient or support programs (i.e., Alcoholics Anonymous) is not included in the requirements of this section.

SECTION IV - DISCIPLINE

13. Testing positive on an alcohol test is considered misconduct connected to work.
14. Employees who complete an alcohol test will be immediately informed of the results of their test. Employees who have a BrAC level of 0-0.019 will be allowed to immediately return to work.
15. All employees who refuse to complete any required alcohol test or fail to report for an alcohol test when scheduled will be dismissed from employment. Salaried employees (beyond initial probation) who test positive on an alcohol test at a BrAC level of 0.02-0.039 and refuse to take the required return-to-duty test will be dismissed from employment. Employees dismissed from employment under this paragraph may have rights to appeal such termination as outlined in Personnel Policy 2100, "Grievance."
16. Employees who are dismissed from employment or voluntarily resign as a result of any action related to this alcohol testing policy will be ineligible for rehire with the department.

SECTION V – TEST RESULT CHALLENGES

17. When an alcohol test is performed, employees will be given a confirmation test if their initial (screening) test is at or above 0.02 BrAC. The confirmation test will be completed in no less than 15 minutes from the completion of the screening test. The confirmation test will be used to determine the results of the alcohol test. Employees may not request further tests or challenge the results of the confirmation test.

SECTION VI – ADMINISTRATION

18. The department's alcohol testing program will be administered by the Employee Health and Wellness Unit who will be responsible for maintaining all records relating to the alcohol testing program. All information specifically related to alcohol testing of

employees is confidential and will be treated as such by those who have a need for the information in the performance of their duties.

19. Except as specifically required by DOT regulations, the director of MoDOT shall have discretion to vary the terms of this personnel policy if individual circumstances warrant.

Steve Meystrik
Human Resources Director,
Signature on File

CROSS REFERENCES

[Personnel Policy 2100, "Grievance"](#)

PROCEDURES

[Procedure 2511, "Alcohol Testing Program"](#)

FORMS

["Volunteer for Safety-Sensitive Job Duties Drug and Alcohol Testing Acknowledgement" Form](#)