

CITY of KALAMA

Drug and Alcohol Policy

Effective as of [January 1st 2020]

Adopted by: _Kalama City Council

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Purpose of Policy

This policy complies with 49 CFR Part 40, as amended, 49 CFR Part 382, as amended, and RCW 46.25, as amended. Copies of 49 CFR Parts 382 and 40 and RCW 46.25 are available in the drug and alcohol program manager’s office. Copies of 49 CFR Parts 382 and 40 can be found on the Internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>. A copy of RCW 46.25 may be found on the Internet at the Washington State Legislature Uniform Commercial Driver's License Act Website <https://app.leg.wa.gov/RCW/default.aspx?cite=46.25>

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

Portions of this policy are not DOT-mandated, but reflect City of Kalama policy. These additional provisions are identified by **bold text**.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in **or outside of** the workplace shall notify the Public Works Director no later than five days after such conviction.

Covered Employees

This policy applies to every person whose position requires the possession of a commercial driver’s license (CDL); every employee performing a “safety-sensitive function” as defined below, and any person applying for such positions.

Under FMCSA (49 CFR Part 382), you are a covered employee if you perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a CDL:
 - (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
 - (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
 - (3) Is designed to transport 16 or more passengers, including the driver; or
 - (4) 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle

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- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

A volunteer is a covered employee if:

- (1) the volunteer is required to have a commercial driver's license to operate the vehicle; or
- (2) the volunteer performs a safety-sensitive function and receives remuneration in excess of his or her actual expenses incurred

Prohibited Behavior

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in 49 CFR Part 40. Prohibited drugs include:

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

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

Consequences for Violations

FMCSA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP) in accordance with 49 CFR Part 40, Part 382 and RCW 46.25, et al. **A violation of this policy will result in disciplinary action, up to and including termination of employment, at the company's discretion.**

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Treatment/Discipline

Per City of Kalama policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test (as defined by 49 CFR Part 40) will be referred to a Substance Abuse Professional (SAP). **A violation of this policy will result in disciplinary action, up to and including termination of employment, at the company's discretion. Treatment programs are available through the employee benefits (health insurance) provided by the City of Kalama. QCL also offers resources through its Employee Assistance Program 1(800) 465-9707. Treatment qualifies for the use of sick leave.**

Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions (as defined by 49 CFR Part 40). If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 30 or more consecutive calendar days and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements. **If the employee has a Washington State issued Driver's License, they must provide proof of reinstatement of that CDL endorsement.**

FMCSA Drug Testing Exceptions

A driver is not required to undergo a pre-employment test if:

- (1) The driver has participated in a DOT testing program within the previous 30 days; and

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- (2) While participating in that program, either:
 - (i) Was drug tested within the past six months (from the date of application with the City of Kalama, or
 - (ii) Participated in the random drug testing program for the previous 12 months (from the date of application with the City of Kalama); and
- (3) The City of Kalama can ensure that no prior employer of the driver of whom The City of Kalama has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

Reasonable Suspicion Testing

All DOT covered employees shall be subject to a drug and/or alcohol test when The City of Kalama has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee (See Appendix A).

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Post-Accident Testing

DOT FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances (Also, see Appendix B):

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or

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- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

It is the City of Kalama’s policy that all employees involved in motor vehicle accidents (both commercial vehicles and non-commercial vehicles) are required to have a drug/alcohol test within 8 hours after the accident or as soon as practicable.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by DOT FMCSA. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver’s function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

Testing Procedures

All DOT FMCSA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Dilute Urine Specimen

If there is a negative dilute test result, [Employer] will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL will require an immediate recollection (as indicated on the MRO result letter). The re-collection will be conducted under direct observation as required under 49 CFR Part 40.

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee (and only the employee) can request to the MRO that the split specimen be tested at a second laboratory. The City of Kalama guarantees that the split specimen test will be conducted in a timely fashion. **It is the responsibility of the employee to cover all costs associated with the testing of a split specimen.**

Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by The City of Kalama.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or The City of Kalama for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or The City of Kalama's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to an SAP. **A violation of this policy shall result in disciplinary action that may include termination.**

DOT-FMCSA Clearinghouse

The Clearinghouse is a centralized database that employers will use to report drug and alcohol program violations and to check that current or prospective employees are not prohibited from performing safety-sensitive functions, such as operating a commercial motor vehicle (CMV), due to an unresolved drug and alcohol program violation—that is, a violation for which the driver has not completed the return-to-duty (RTD) process. This query must be conducted as part of a pre-employment driver investigation, and at least

annually for current employees. The driver's commercial driver's license (CDL) number and issuing State will be used when reporting a drug and alcohol program violation in the Clearinghouse.

The Clearinghouse will contain records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

Drivers are not required to register for the Clearinghouse. However, a driver will need to be registered to provide electronic consent in the Clearinghouse if a prospective or current employer needs to conduct a full query of the driver's record. A driver must also be registered to electronically view the information in his or her own Clearinghouse record.

Any covered employee refusing to provide consent (See Appendix C) for the company to conduct a limited query of the Clearinghouse will be prohibited from performing safety-sensitive functions, including driving a commercial motor vehicle (CMV), as required by FMCSA drug and alcohol program regulations.

Voluntary Self-Referral

DOT FMCSA Procedures

Any covered employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Public Works Director, who will refer the individual to a substance abuse counselor for evaluation and treatment. **A self-referral is not a violation of this policy and will not, in itself, be grounds for termination.**

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to [decide who to report to]. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

Regardless of State Laws on recreational and medical marijuana use, marijuana (THC) is a schedule I prohibited substance as defined by the United States Drug Enforcement Agency and is a banned substance under this policy. A positive marijuana test is a violation of this policy. A violation of this policy shall result in disciplinary action that may include termination.

Contact Person

For questions about The City of Kalama’s anti-drug and alcohol misuse program, contact Adam Smee, City Administrator, 195 N. 1st Street/PO Box 1007, Kalama, WA 98625, (360) 673-3265.

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Appendix A – Reasonable Suspicion Documentation Form

Employee Name: _____

Observation Date: _____

Location: _____

Start Time: _____ am/pm

End Time: _____ am/pm

APPEARANCE

- Normal
- Flushed complexion
- Poor hygiene
- Unkempt clothing
- Bloodshot eyes
- Rapid eye movement
- Blank/glazed eyes
- Inability to focus eyes
- Eyes overly sensitive to light
- Frequent use of eye drops
- Trembling/shaking
- Drowsiness

SPEECH

- Normal
- Slurred
- Loud
- Incoherent
- Rapid/excessive talk
- Confused/hard to follow
- Exaggerated pronunciation
- Inappropriate laughter
- Whispering
- Non-responsive/silent

INTERPERSONAL

- Normal
- Arguing
- Fighting
- Defensive
- Hostile
- Overly aggressive

BEHAVIOR

- Normal
- Poor balance
- Stumbling
- Swaying
- Staggering
- Unusual gait
- Using arms for balance
- Grabbing for support
- Flailing

PERFORMANCE INDICATORS

- Normal
- Poor manual dexterity
- Work errors
- Excessive time off task
- Absent from work station
- Inability to follow directions
- Inattentive
- Customer complaints
- Co-worker complaints

BODY ODORS

- Normal
- Odor of alcohol on breath
- Body odor of alcohol
- Smell of marijuana on breath or clothes
- Excessive perspiration
- Frequent use of mouthwash breath mints or spray

PERSONAL

- Normal
- Moody/mood swings
- Depressed
- Overly excitable
- Loss of inhibitions
- Risk taking
- Unwarranted confidence

PHYSICAL

- Normal
- Complaints of dizziness
- Flu-like symptoms
- Chills
- Low energy
- Bursts of high/low energy

AWARENESS

- Disoriented
- Sleepy
- Stupor
- Suspicious
- Blaming
- Paranoia

Other observed actions or behavior: _____

To the best of my knowledge and belief, this report represents the appearance, behavior, and/or conduct of the above-named employee, observed by me and upon which I base my decision to require said employee to submit to reasonable suspicion drug and/or alcohol testing.

Supervisor Signature

Date

Appendix B – Post Accident Checklist

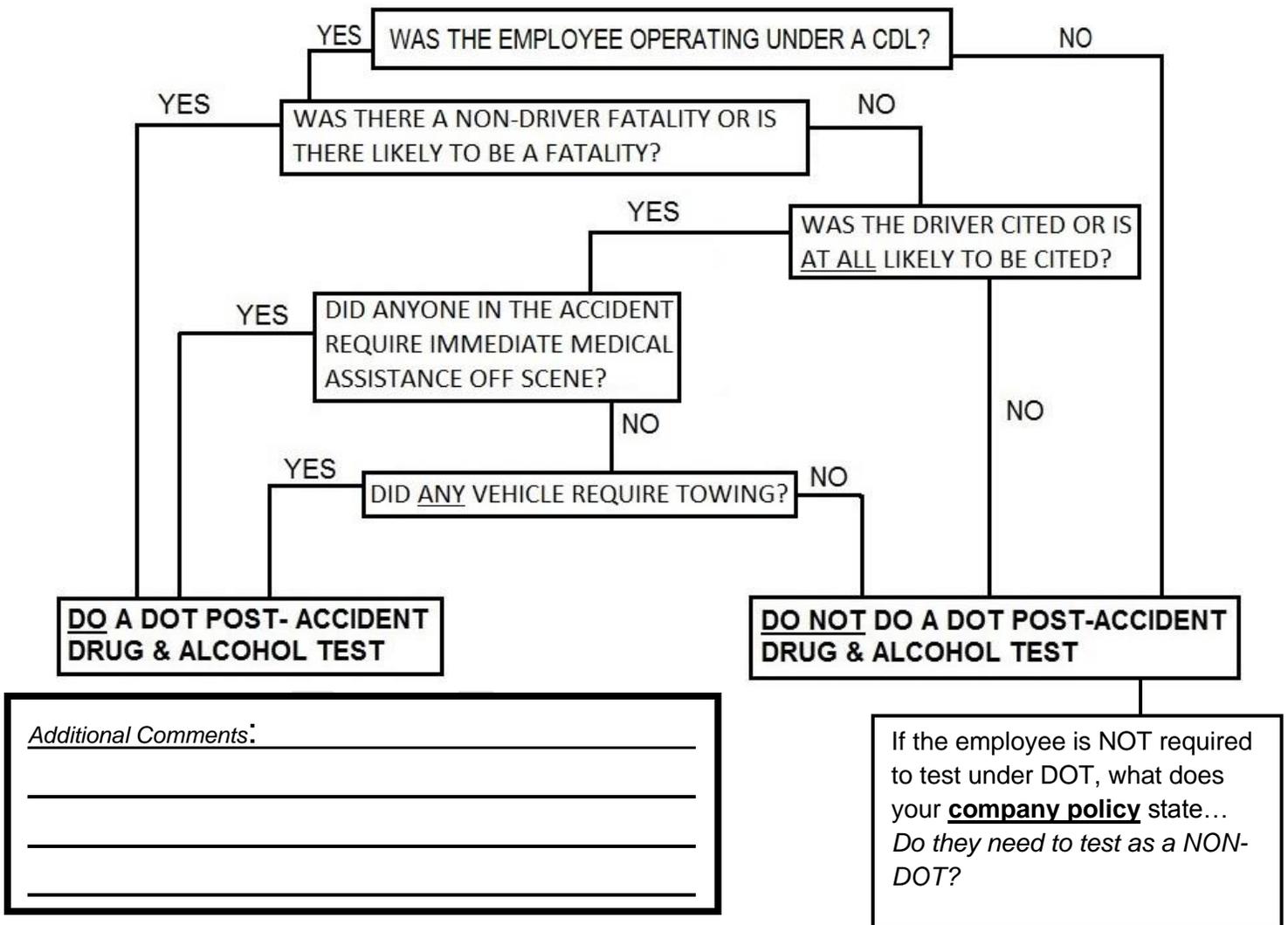
Employee Name: _____

Date/Time Accident Occurred: _____

Documenting Personnel: _____

Is the employee required to test under DOT?

➤ Circle YES or NO and follow the chart...



DOT REGULATION TIME LIMITS:

CONTROLLED SUBSTANCES: Employee must test within **32 HOURS** of the accident.

ALCOHOL: Employee must test within **8 HOURS** of the accident.

(If the alcohol test is not administered within the first 2 hours, document why.)

Appendix C – Consent for Limited Queries of the FMCSA Drug and Alcohol Clearinghouse

I, _____, hereby provide consent to _____,
Employee Name Company Name
hereinafter referred to as the Company and QCL, Inc. as the C/TPA, to conduct a limited query of the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse. I consent to multiple limited queries, to be conducted for the duration of my employment with the Company; and understand that the number of limited queries is unlimited.

I understand that if the limited query conducted by the Company indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Company without first obtaining additional specific consent from me. The company will obtain the driver’s electronic consent in the Clearinghouse prior to the release of detailed violation information when a full query is warranted.

I further understand that if I refuse to provide consent for the Company to conduct a limited query of the Clearinghouse, the Company must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA’s drug and alcohol program regulations.

Employee Signature

Date