

**REASONABLE SUSPICION DRUG AND ALCOHOL TESTING  
ADMINISTRATIVE REGULATIONS AND PROCEDURES**

These Administrative Regulations support the Central Rivers AEA Board Policy regarding alcohol and drug testing (Policy Number 401.33). Central Rivers AEA will follow these procedures in the event that there is reasonable suspicion to believe an employee is under the influence of alcohol or any controlled substance while in the workplace.

- I. Covered Employees and Prohibited Conduct
  - A. Covered Employees – All employees are subject to reasonable suspicion alcohol and drug testing as provided in these regulations.
  - B. Prohibited Employee Conduct
    - 1. Employees shall not report to duty or remain on duty with a 0.02 or greater blood alcohol concentration or while under the influence of controlled substance. The prohibition regarding controlled substances does not apply to controlled substances contained in medication lawfully prescribed for the employee and used by the employee as prescribed by the medical provider.
    - 2. Employees shall not refuse to submit to an alcohol or drug test. A refusal to test is considered a positive test result subjecting the employee to discipline, up to and including termination.
- II. Reasonable Suspicion Alcohol and Drug Testing
  - A. Employees may be required to submit to a reasonable suspicion drug test at any time, if they exhibit observable specific, contemporaneous, articulable characteristics concerning their appearance, behavior, speech, or body odors indicating recent drug use or indicating chronic use or withdrawal effects of drugs, see 401.33R2.
  - B. Employees may be required to submit to a reasonable suspicion alcohol test if they exhibit specific, observable, contemporaneous, articulable characteristics concerning their appearance, behavior, speech, or body odors indicating recent alcohol use.
    - 1. A reasonable suspicion alcohol test will normally be performed within two hours and no later than eight hours after determining reasonable suspicion.
    - 2. If the alcohol test is not given within two hours, the reasons for the delays must be documented.
    - 3. If the alcohol test is not given within eight hours, attempts to test will be stopped and the reason for not testing must be documented.
  - C. A reasonable suspicion test request is made by an employee who has received the training to determine reasonable suspicion. The reasons for the reasonable suspicion must be documented within twenty-four hours prior to the release of the test results. If more than one employee trained to determine reasonable suspicion observes the employee, each employee must also document his/her reasons.
  - D. An employee disciplined for violation of this policy/procedure or law regarding drug and alcohol use and who returns to employment with the AEA may do so on conditions set by the AEA, including that the employee comply with the following return-to-duty testing procedures:
    - 1. The employee must submit to an alcohol and/or drug test prior to returning to duty.
    - 2. After returning to duty, the employee may be subjected to six (6) unannounced follow-up tests within the next twelve months for alcohol, drugs, or both.

3. The AEA, can terminate the follow-up testing requirement after the first six (6) tests have been successfully completed or continue to the follow-up testing for up to sixty (60) months from the date of the employee's return to duty.

### III. Testing Procedures

#### A. Alcohol Testing Procedures

1. Employees are tested at collection sites, which provide privacy to the employee and contain the necessary equipment, personnel, and materials.
2. Evidentiary breath testing devices (EBTs) or quantitative enzymes diagnosis saliva alcohol tests (QEDS) are used to conduct the initial and, if necessary, the confirmation alcohol tests.
  - a. The initial test determines whether the employee's alcohol concentration (AC) is less than 0.02.
    - i. An initial alcohol test result of less than 0.02 AC allows the employee to continue to work.
    - ii. An initial alcohol test result of 0.02 AC or greater requires a confirmation test.
  - b. The confirmation test, when required, determines whether the employee can continue to work.
    - i. A confirmation alcohol test result of less than 0.02 AC allows the employee to continue to work.
    - ii. A confirmation alcohol test result of 0.02 AC or greater shall result in discipline, up to and including termination.
3. Initial alcohol testing steps.
  - a. Once the employee is notified to submit to an alcohol test, the employee will be escorted to the collection site.
  - b. Upon arrival, the employee must provide a photo identification or have their ID verified by a supervisor.
  - c. The testing procedure is explained to the employee by collection site personnel.
  - d. The Breath Alcohol Technician (BAT) or the QED Screening Test Technician (STT) and the employee complete and sign the appropriate sections of the alcohol testing form.
    - i. Refusal to sign the form prior to the initial alcohol test is considered a refusal to test.
    - ii. The AEA Human Resource Manager is notified immediately of the employee's refusal to sign.
  - e. The employee follows the EBT and QED procedures used at the collection site.
  - f. Screening initial alcohol test results.
    - i. A negative test result of less than 0.02 AC is reported to the AEA in a confidential manner and the employee may continue to work.
    - ii. A test result of 0.02 AC or more requires a confirmation test.
    - iii. If the employee refuses to participate in the confirmation test, the AEA is notified immediately of the refusal to participate and the employee may not return to work.
4. Confirmation alcohol testing steps.
  - a. The testing procedure is explained to the employee by the collection site person.

- b. The BAT or STT and the employee complete and sign the appropriate sections of the alcohol testing form.
  - i. Refusal of the employee to sign the form prior to the confirmation alcohol tests is considered a refusal to test.
  - ii. The designated AEA administrator is notified immediately of the refusal to sign.
- c. The employee follows the EBT procedures used at the collection site.
- d. The confirmation test results, which are the final and official test result are shared with the employee.
- e. The employee and BAT must sign the alcohol testing form following completion of the test. Failure to sign the form after the test is not considered a refusal to test. However, BAT notes the employee's refusal to sign in the remarks section of the form.
- f. The BAT informs the designated AEA administrator of the results of the test in a confidential manner.
  - i. The BAT notifies the designated AEA administrator immediately, either in writing, in person, by phone, or electronic means of confirmation alcohol test results of 0.02 AC or higher and the employee may not return to work.
  - ii. If the BAT informs the designated AEA administrator by phone the designated AEA administrator verifies that the BAT is the person on the phone.
  - iii. The BAT provides the designated AEA administrator with a copy of the alcohol testing form if written communication was not used to report the test results.
- g. Potentially incomplete tests or invalid alcohol tests are repeated with corrected procedures.
- j. The breath alcohol test is stopped when the employee fails twice to provide an adequate amount of breath. In that case:
  - i. A physician may analyze the employee's inability to provide adequate breath.
  - ii. Failure to provide adequate breath is considered a refusal to test, unless the physician determines a medical condition caused the failure to provide adequate breath.
  - iii. A refusal of the employee to try a second time to provide adequate breath is considered a refusal to test.

#### B. Drug Test Procedures

- 1. Employee's urine is tested for marijuana, cocaine, opiates, amphetamines, and phencyclidine.
- 2. A split sample urine test is used to conduct the drug test.
  - a. A negative drug test result allows the employee to work.
  - b. A positive drug test result on the primary sample requires the employee to be removed from working.
  - c. A positive drug test result on the primary sample allows the employee an opportunity to request the split sample be tested by another laboratory for the specific drug found in the primary sample. A negative drug test result on the split sample results in a negative drug test result.
  - d. A positive drug test result may result in disciplinary action, up to and including termination.

- e. An employee's refusal to test carries the same consequences as a positive drug test result and may result in disciplinary action, up to and including termination.
- 3. Drug testing is conducted to provide privacy to the employee and where the necessary equipment, personnel, and materials are located.
  - a. Drug testing is conducted at a designated non-AEA facility unless a mobile unit or an AEA facility better serves the situation. Public restrooms can be used as collection sites in exceptional circumstances.
  - b. In the event privacy cannot be assured, privacy is provided to the greatest extent possible, however direct observation is allowed if:
    - i. Reasons exist to believe the employee may alter or substitute the specimen.
    - ii. The employee presents a specimen with a temperature outside the allowed range.
    - iii. The last specimen provided by the employee was determined by the laboratory to not meet gravity and creatinine concentration criteria.
    - iv. The collection site person observes conduct to substitute or adulterate the specimen.
- 4. Drug testing steps
  - a. Once the employee is notified that they are required to submit to a drug test, the employee must proceed immediately to the collection site, see 401.33R3, with their AEA supervisor or the designated AEA administrator.
  - b. Upon arrival, the employee must provide a photo identification. The employee may require the collection site person to provide proof of identification.
  - c. The employee may keep his/her wallet but must remove any unnecessary outer garments, purses, briefcases, and similar items at the request of the collection site person.
  - d. Immediately prior to providing a urine sample, the employee must wash hands.
  - e. The employee must then provide forty-five (45) milliliters of urine and deliver it immediately to the collection site person.
    - i. Employees who cannot provide an adequate amount of urine receive instructions for drinking water and repeating the collection.
    - ii. The collection process is stopped when the employee fails to provide an adequate amount of urine by the end of a three hour time period.
    - iii. A physician may analyze the employee's inability to provide adequate urine.
    - iv. Failure to provide adequate urine is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate urine.
  - f. The specimen must be kept in view of the employee and the collection site person.
  - g. Upon receipt of the specimen, the collection site person must immediately, and in no event later than four minutes from the time of urination, measure the temperature of the specimen.

- h. The collection site person also inspects the specimen for color and other signs of contaminant and notes any unusual findings.
  - i. Another specimen is required as soon as possible under direct observation, if adulteration or substitution is suspected by the collection site person.
  - j. The specimen is divided into the primary and split specimen, sealed and labeled. The label is initialed by the employee.
  - k. The employee is required to read and sign the statement on the chain of custody form certifying the specimen's are the employee's.
  - l. The collection site person is required to note on the chain of custody form any unusual behavior or appearance of the employee and any failure to cooperate.
  - m. The collection site person completes the chain of custody form.
  - n. The specimens are packaged for shipping to the laboratory and shipped immediately or placed in secure storage until they can be shipped.
5. Laboratory
- a. The laboratory used by the AEA's alcohol and drug testing program is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA), a division of the U.S. Department of Health and Human Services (DHHS). Laboratories certified by SAMHSA meet the testing procedures, personnel, and record keeping requirements of the law.
  - b. Upon arrival of the specimen at the laboratory, the split specimen is stored and primary specimen is tested.
    - i. A positive test result on the initial test of the primary specimen requires a confirmation test, which is a different and more accurate type of test.
    - ii. If the primary specimen has a negative test result the split specimen is discarded,
  - c. Medical Review Officer (MRO) reviews drug test results.
    - i. The MRO may release drug testing records of an employee to unauthorized individuals only with the written consent of the employee.
    - ii. The MRO keeps a record of the negative test result and reports the negative result to the AEA.
    - iii. The primary role of the MRO is to review and interpret positive test results to determine whether a legitimate explanation exists for the positive test result.
      - i. After reviewing the chain of custody form and the laboratory test results, the MRO contacts the employee to discuss the positive test result with the employee prior to notifying the AEA and to ask whether the employee requests a test of the split sample at the employee's expense.
      - ii. The MRO contacts the designated AEA administrator for assistance if the employee cannot be reached through reasonable efforts.
      - iii. The designated AEA administrator must confidentially inform the employee to contact the MRO.

- iv. Upon contacting the employee, the designated AEA administrator must inform the MRO that the employee was contacted.
          - v. Employees who cannot be contacted are placed on temporary leave.
        - iv. The MRO may verify a positive test without talking to the employee if:
          - i. The employee declines the opportunity to discuss the drug test.
          - ii. The employee fails to contact the MRO within 72 hours after the designated AEA administrator has contacted the employee.
          - iii. MRO verification of positive test results under these circumstances can be challenged by the employee if the employee presents the MRO with information documenting the serious illness, injury, or other circumstances unavoidably preventing the employee from timely contact with the MRO. The MRO, based on the additional information, may find a legitimate explanation for the positive test result and declare the test negative.
        - v. The employee is notified of the drugs found in a positive test result by the MRO, the designated AEA administrator and by certified mail to the employee's last known address.
- IV. Consequences of violating this policy, its supporting procedures, or the law
  - A. Employees who violate this policy are subject to discipline, up to and including termination.
  - B. Employees who violate this policy and who are not terminated will be advised of resources available to them in evaluating and resolving problems associated with the misuse of alcohol or use of drugs and treatment will be a condition of their continued employment with the AEA.
  - C. Terminated employees will be advised of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol or use of drugs.
  - D. Employees refusing to submit to drug and/or alcohol testing will be considered insubordinate which will carry the same consequences as having tested positive, resulting in automatic termination.
- V. AEA Responsibilities
  - A. Information on the alcohol and drug testing requirements of this policy, its supporting procedures, and the law, including the employee's obligations, must be provided to employees. A summary of the requirements must be included in the employee handbook.
  - B. Supervisors of employees or other personnel designated to determine reasonable suspicion shall receive sixty minutes of training on alcohol misuse and sixty minutes of training on drug use. The training must address the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use. A one hour refresher training is also required each year after the initial two hour training has been completed.
  - C. If the AEA has actual knowledge of an employee with an alcohol concentration of 0.02 AC or greater, the employee will not be allowed to report to work regardless of whether or not an alcohol test was conducted.

- D. The AEA is responsible for ensuring the collection site person using the testing device is a certified breath alcohol technician or quantitative enzyme diagnosis saliva test technician.
- VI. Employee Assistance Program
- A. The AEA offers an Employee Assistance Program (EAP) for employees and their dependents as part of its employee services. The EAP provides confidential evaluation, referral and short-term counseling at no cost to employees whose personal or health problems are interfering with their job performance.
  - B. Through the EAP, the AEA will provide appropriate evaluation and referral to treatment, if appropriate. Employees undergoing such treatment will be granted leave with a conditional return to work depending on successful completion of the appropriate treatment regimen.
  - C. Except as otherwise required by law, the cost of the substance abuse treatment itself is the responsibility of the employee.
- VII. Alcohol and Drug Testing Records
- A. Alcohol and drug testing records are stored in limited access locations separate and apart from the employee's general personnel records.
  - B. The records may only be released with the written consent of the employee. Only those records specifically authorized for release may be released; however,
    - 1. Records may be released to appropriate government agencies without a written consent.
    - 2. Records may be released to appropriate AEA personnel without written consent.
    - 3. The AEA may, without written consent, make and employee's drug and alcohol test records available to a decision maker in a lawsuit, grievance, or other proceedings initiated by or on behalf of the individual, and arising from the results of an alcohol or drug test under this policy, its supporting procedures, or the law or from the AEA's determination that the employee violated this policy, its supporting regulation, or the law.
  - C. Employees are entitled with a written request to prompt access to and copies of their alcohol and drug test records without requiring payment of amounts owed for the copying of records other than alcohol and drug testing records. The AEA may charge for copying these records in accordance with board policy.
  - D. The AEA must maintain the following records of its drug and alcohol misuse testing programs for the time period:
    - 1. One year:
      - a. Records of negative or canceled drug test results and alcohol test results of less than 0.02 AC.
      - b. Records related to the collection process.
      - c. Records related to an employee's test results.
      - d. Records related to other violations of the law.
      - e. Records related to evaluations.
      - f. Records related to education and training.
      - g. Records related to drug testing.
    - 2. Two Years: Records related to the alcohol and drug collection process, except calibration of evidential breath testing devices and training.
    - 3. Five Years:
      - a. Alcohol test results of 0.02 AC and greater.
      - b. Verified positive drug test results;
      - c. Documentation of refusal to take required alcohol and/or drug tests

- d. EBT calibration documentation.
- e. Employee evaluation and referrals
- f. Annual calendar year summary.

VIII. Definitions

Air blank - a reading by an evidentiary breath testing device (EBT) of ambient air containing non-alcohol.

Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) (AC) - the alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred ten liters of breath as indicated by an evidential breath test under the law.

Alcohol use - the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) - an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Canceled or invalid test - in drug testing it is a drug test that has been declared invalid by a Medical Review Officer or a specimen that has been rejected for testing by a laboratory. A canceled test is neither a positive nor a negative test. In alcohol testing it is a test that is deemed to be invalid under the law. It is neither a positive nor a negative test.

Chain of Custody - procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures require that an appropriate drug testing custody form be used from time of collection to receipt by the laboratory and that form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory chain of custody for(s) account(s) for the sample or sample aliquots within the laboratory.

Collection site - a place where employees present themselves for the purpose of providing body fluid or a tissue sample to be analyzed for specific drugs or breath alcohol concentration.

Confirmation test - for alcohol testing it is a second test following an initial test with a result of 0.02 AC or greater, that provides quantitative data of alcohol concentration. For drug testing it is a second analytical procedure (GC/MS) to identify the presence of a specific drug of metabolite which is independent of the initial test and which uses a different technique and chemical principal from that of the initial test in order to ensure reliability and accuracy.

Controlled substances/Drugs - any drug, substance or immediate precursor as defined in state and federal law and regulations.

Employee - all individuals who perform services for the AEA for compensation.

Initial test (or screening test) - in drug testing it is an immunoassay screen to eliminate "negative" urine specimens from further consideration. In alcohol testing it is an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen. Medical review officer (MRO) - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with the individual's medical history and any other relevant bio-medical information.

Reasonable suspicion - when the AEA believes the appearance, behavior, speech or body odors of the employee are indicative of the use of drugs or alcohol.

Refuse to submit (to an alcohol or drug test) - when an employee (1) fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath explanation after he or she has received notice of the



requirement for breath testing in accordance with the provisions of this part, (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part, or (3) engages in conduct that clearly obstructs the testing process.

Safety-sensitive function (SSF) - all time from the time when an employee begins to work or is required to be in readiness to work until the time the employee is relieved from work and all responsibility for performing work.

Screening Test Technician (STT) - Person who screens for alcohol concentration by quantitative enzyme diagnosis through saliva analysis.

Split specimen - the division of the urine specimen into thirty milliliters in a specimen bottle (the primary sample) and into at least fifteen milliliters in a second specimen bottle (the split sample).

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