

**ACKNOWLEDGMENT OF RECEIPT, REVIEW, AND UNDERSTANDING OF
ROERS Drug and Alcohol-free Workplace Policy**

I certify that I have received and reviewed a copy of ROERS, **Drug and Alcohol-free Workplace Policy** and understand that ROERS requires its drivers and all other employees to work under and to abide by this policy. I understand that ROERS and its agents may, in the course of implementation and enforcement of this policy: (1) investigate and interview me; (2) search my person, my work locations and vehicles, and any property, documents, or other articles in my possession or control; (3) administer to me urine and/or breath analysis tests for drug or alcohol; and (4) use the results of such interviews, investigation, searches, and tests, as well as other relevant evidence, in determining whether to hire me as an employee, to refer me for evaluation or rehabilitation, or to discipline or discharge me as an employee.

I understand that this Drug and Alcohol-free Workplace policy and related documents are not intended to constitute a contract between this employer and myself.

Employee: _____ Date: _____
(Signature)

Employee Name: _____

Employer copy of the acknowledgment



Drug and Alcohol-Free Workplace Policy

December 1, 2021

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ROERS Drug and Alcohol-free Workplace Policy

I. Introduction and Policy Statement.

The use of controlled substances and alcohol abuse have harmful effects on individuals' health and personal lives. Employees must take steps on their own to address these problems at home and among family members. ROERS (the employer), however, must and will take the necessary steps to address illegal drug use and alcohol misuse which affect employment. The use of illegal drugs and the misuse of alcohol have also been demonstrated to impair essential job functions like coordination, judgment, concentration, and vision, to reduce operational efficiency and productivity, and to be a critical factor in workplace accidents. Because of these employment related issues, federal and state laws and regulations, along with company policies, prohibit drivers and other employees from using or being under the influence of alcohol and controlled substances during working hours while operating commercial motor vehicles, or other safety-sensitive equipment, personal vehicles for company purpose, or carrying out essential functions of their position and require testing of employees for use of alcohol and illegal drugs. State law also authorizes ROERS to issue a written policy, not limited to drivers, but covering all employees, which: (1) prohibits use of either alcohol or controlled substances in connection with employment, and (2) requires testing under specified circumstances.

In light of these safety and welfare concerns, and in order to comply with federal and state laws and regulations, ROERS has adopted this policy to prohibit the use, possession, or distribution of controlled substances and alcohol in connection with employment, and to require its drivers and other employees, as a condition of employment, to undergo controlled substances and alcohol testing when provided in this policy. Note that the provisions of this Policy represent a combination of federal and state requirements, as well as employer policies. For example, although many of the Federal Motor Carriers Safety Administration ("FMCSA") testing and prohibited conduct requirements apply only to circumstances in which drivers are engaged in safety sensitive functions or are operating a commercial motor vehicle, the policy applies these requirements also to circumstances in which drivers are engaged in any work tasks, are present on employer or customer premises, or are operating or riding in any vehicle in the Employer's service. Similarly, although FMCSA and U.S. Department of Transportation ("DOT") regulations

apply primarily to drivers and driver applicants, this policy applies ~~most~~ testing and conduct requirements to all employees and applicants. Other provisions throughout the policy contain similar combinations of federal and state laws and independent Employer policies.

Each employee is required to read, to acknowledge receipt of, and to abide by this policy as a condition of employment. (This requirement does not constitute a guarantee of continued employment, and ROERS continues to be an “at-will” employer.) ROERS specific prohibitions and testing procedures are set forth in the pages that follow.

II. Prohibited Conduct.

This Policy prohibits the following conduct:

- Employees, including but not limited to drivers, who are under any influence of alcohol or controlled substance cannot report for or remain on duty, perform any work tasks, enter or remain on the premises of the Employer or a customer, or operate or be transported in a company motor vehicle or any other vehicle in the service of the Employer (except to be transported home or to a testing or rehabilitation facility).
- Employees, including but not limited to drivers, cannot possess, transfer or receive alcohol or controlled substances while on duty, while performing any work tasks, while on the Employer’s or a customer’s premises, or while operating or being transported in a commercial motor vehicle, or any other vehicle used in the service of the Employer.

III. Tests Required.

Employees or applicants, including but not limited to drivers, must submit the following types of tests:

- Pre-employment testing.

All applicants, including but not limited to drivers, must undergo pre-employment testing for controlled substances, after a conditional offer

of employment has been made. The employer must receive a verified negative test result from the testing service provider before the first time new employees perform any work tasks. An applicant who is not being placed in a safety sensitive position may be allowed to begin their duties before negative test results are verified with the approval of the department leader and HR Manager. This would be done with the understanding by all parties that if the test results return positive, the employment of the new employee would end.

With the legalization of medical and/or recreational marijuana in many states and the fact that THC can stay in a person's system for weeks and months during and after use, Roers will not withdraw an employment offer on the basis of a positive result for THC in a pre-employment drug test unless there is a basis to do so due to reasonable suspicion of being under the influence at the time of testing.

This statement and course of action does not include applicants that are applying for and will be placed in DOT driver positions. Employment offers to applicants for DOT driver positions that test positive for THC will be rescinded.

- Post-accident testing.

As soon as possible after any work-related vehicular or other accident involving serious personal injury or significant property damage, a serious moving violation or a serious safety rule violation, the Employer has the right to choose to administer alcohol and controlled substances tests to each employee involved in the accident/violation, irrespective of fault in connection with the accident. In states where there are laws or regulations preventing automatic testing post-accident, Roers does have the right to require testing if there is reasonable suspicion any employees directly or indirectly involved in the accident might be under the influence of alcohol or a controlled substance.

Drivers and other employees subject to post-accident testing must remain readily available after the accident for testing or they will be deemed to have refused to submit to testing. In addition, drivers and other employees must refrain from using alcohol or controlled

substances for a period of up to eight hours after the accident or until the post-accident test has been performed.

Being in possession of a valid North Dakota medical marijuana card does not negate the positive results of a positive post-accident test result.

- Random testing.

All employees perform safety sensitive functions as part of their duties and thus, are subject to random testing for use of alcohol or controlled substances. Random tests will be un-announced and may occur at any time throughout the calendar year. Drivers and employees subject to such tests who are selected for random tests will be sent to the test site immediately upon notification.

Because THC can stay in a person's system for weeks and months during and after use, Roers will not take disciplinary action on the basis of a positive result for THC in a random drug test unless there is a basis to do so due to reasonable suspicion of being under the influence at the time of testing. This statement and course of action does not include applicants that are in DOT driver positions. Employees that are in DOT driver positions that test positive for THC will be subject to Section VIII of this policy.

- Reasonable suspicion testing.

Roers will conduct reasonable suspicion drug and/or alcohol tests if one or more supervisors, trained to detect suspected drug or alcohol use, witnesses suspicious behavior on the part of the driver or other employee being tested. The decision to engage in reasonable suspicion testing will be based upon specific, articulable observations about the employee's appearance, behavior, speech, body odors, or other objective symptoms of the use or withdrawal effects of use of alcohol or controlled substances. If reasonable suspicion testing returns a positive result for controlled substance and/or alcohol, the employee will not be allowed to drive or perform any work duties until obtaining a negative result on a return to duty test.

Being in possession of a valid North Dakota medical marijuana card does not negate the positive results of a positive post-accident test result.

- Return-to-Duty testing.

Once drivers or other employees have engaged in conduct prohibited by FMCSA or DOT drug and alcohol regulations or this Policy, including receiving a positive drug or alcohol test, refusing to test, adulterating or substituting a urine specimen, or otherwise failing to cooperate with testing procedures, they are subject to alcohol or controlled substances testing before returning to work.

Return-to-duty tests will be administered a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment.

In addition to completion of prescribed treatment, in order to return to work, 24 hours must have elapsed since the positive test or other violation, alcohol tests must indicate an alcohol concentration of less than 0.02 and controlled substances test must indicate a verified negative result for any use of controlled substances.

Employees that are not in safety sensitive positions who test positive for being under the influence of alcohol (first offense only), may return to work without an evaluation by a Substance Abuse Professional as long as at least 24 hours have elapsed and a return-to-duty test is completed resulting in a negative test result.

- Follow-up testing.

Employees who have sought assistance to resolve problems associated with alcohol misuse and/or use of controlled substances, are subject to unannounced follow-up alcohol and/or controlled substances tests as directed by the Substance Abuse Professional involved.

- Periodic Medical Examination Testing.

Drivers and other employees may be required to undergo drug and alcohol testing as part of routine physical examinations required under federal regulations or by the Employer's policies.

IV. Procedures for Testing.

All testing procedures will be conducted in compliance with applicable federal and state laws and regulations, including specimen collection, laboratory testing, and communication of results. Laboratories utilized by the Employer shall be federally and/or state certified and otherwise comply with applicable federal and state regulations and standards. Relevant portions of these regulatory testing requirements are summarized below:

- Controlled substances testing.

When conducting controlled substances tests, the Employer, or its designated testing service provider will test for controlled substances for which testing may be required or authorized under law. The Employer has designated one or more collection sites to collect, store and transport urine specimens. As required under federal regulations, the Employer will use a "split urine specimen" testing procedure. Under this procedure, the specimen from a single test is divided into two portions. If the test on the first portion is positive, the employee can request that the second portion be tested for the presence of the substances(s) found in the first specimen. Employees must make their requests for testing on the second portion of their samples within 72 hours of notification of a positive test, with the exception of drivers and employees in **Minnesota**, who have five working days from notification of a positive result to make their retest requests. The Employer may implement any actions required by federal regulations or this Policy while the second (confirmatory) testing is being processed.

When the laboratory completes testing, it will report the test results to the Employer's Medical Review Officer ("MRO") within an average of five working days of the laboratory's receipt of the specimen. The MRO will analyze the testing procedures and results and certify that the

positive tests are due to use of prohibited drugs. Before making a final decision to verify a positive test result, the MRO will give the employee the opportunity to discuss the test results. If the MRO is unable to contact the employee to do so, a management official will attempt to contact the employee. If attempts to contact the employee are unsuccessful, the Employer may place the employee on temporary medical unqualified status or medical leave, or the MRO may verify the results without discussion with the employee. After verifying a positive result, the MRO will communicate this result to the Employer.

If laboratory tests results indicate that the specimen has been adulterated or substituted, these results will also be reported to the MRO. Before verifying a report of the adulterated or substituted specimen, the MRO will give the employee the opportunity to discuss the test results and to offer a legitimate medical explanation for the report. The MRO may then reject the explanation and verify the result as a refusal to test because of adulteration or substitution, or direct the employee to obtain, within five days, a medical evaluation by a licensed physician with expertise in the medical issues raised by the employee. Any such result is treated the same as a refusal to test (i.e., a Policy violation) under Section VIII of this Policy, for purposes of follow-up actions and discipline.

If laboratory test results indicate that a collected sample was diluted or perhaps altered, the Employer/testing service provider will direct the employee to take another test immediately.

- Alcohol testing.

Alcohol tests will be performed by Screening Test Technicians (“STT’s”) and/or Breath Alcohol Technicians (“BAT’s”), as required by federal regulations, with an Evidential Breath Testing Device (“EBT”), or Alcohol Screening Device (“ASD”).

Alcohol tests will be conducted in an area that affords privacy to employees, except in unusual circumstances which require tests to be

performed in a less private location, such as the scene of an outside accident.

The BAT will conduct a confirmatory test, if required by federal or state requirements. If the results from the initial and confirmatory tests differ, the confirmatory test results will control.

V. Limited Access to Results and Testing Records.

The testing laboratories and personnel that the Employer uses to perform drug and alcohol tests will limit access to testing records and results, as required by federal and state laws, except that the MRO and Employer and insurance company personnel and agents, with a need to know such information in the performance of their duties, will have access to such records and results. Disclosure may also be made as otherwise permitted or required by law.

VI. Notification of Test Results.

The Employer will notify applicants of negative and positive test results if the applicants request their test results within 60 days of being notified of the disposition of their applications. The Employer will also automatically notify drivers, without request, of verified positive results of random, reasonable suspicion, post-accident, return-to-duty and follow up tests. This notification will inform the employee of the type of controlled substances that were verified positive in the test.

In **Minnesota**, the Employer will automatically notify applicants, drivers and employees of positive and negative test results and their right to explain the positive test. **Minnesota** employees or applicants with positive results can then submit any information they believe will serve to explain that result or the reliability of that result (within three working days of notification); request a confirmatory retest of the original sample (within five working days of notification); or request a copy of the test result report.

VII. Notice of No Expectation of Privacy in Connection with Employment Searches and Investigations.

The Employer reserves the right to investigate and to interview employees in the course of implementing and enforcing this Policy, and other policies of the Employer, to require truthful answers to inquiries in connection with such investigations and interviews, to conduct searches of employees' persons, vehicles, work stations and locations, clothing, purses, briefcases, luggage, personal items, other possessions, documents, and any and all other articles within their possession or control while employees are on duty, on Employer or customer property or while operating or being transported in a commercial motor vehicle or any other vehicle used, at that or any other time, in the service of the Employer, and to conduct the test provided for in this Policy. The Employer may, in its sole discretion, seize any items which it deems to represent possible evidence of a violation of this Policy or other Employer policies or state or federal law. An employee's refusal to submit to such investigations, interviews, searches and seizures, or to required tests, may lead to disciplinary action up to and including discharge.

VIII. Testing Positive For Alcohol or Controlled Substances; Receiving Low Level Alcohol Test Results; Being Under Reasonable Suspicion of Alcohol Use; and Refusing to Submit to Alcohol or Drug Tests.

- Prohibited conduct/positive test results.

Drivers and other employees committing violations under Section II of this Policy (including testing positive for controlled substances or receiving alcohol test results showing alcohol concentration of at least 0.04), will be removed from all driving and any other work duties.

After removal from driving and other safety sensitive work duties employees will be notified of Substance Abuse Professional (SAP) resources to evaluate and resolve problems associated with controlled substances use and misuse of alcohol.

If an employee voluntarily seeks assistance, the SAP will evaluate whether the employee needs assistance with alcohol or controlled

substances problems and will prescribe and oversee any necessary rehabilitation programs. While working with the SAP, drivers and other employees will not be allowed to return to duty until: (1) at least 24 hours have passed; (2) the driver or other employee has passed a return-to-duty alcohol and/or controlled substances test; (3) the driver or other employee has reported to the SAP, and has cooperated with and commenced any SAP referrals or treatment or rehabilitation recommendations to the Employer's satisfaction; and (4) appropriate discipline has been imposed. In addition, once back on duty, drivers and other employees will be required to pass unannounced follow-up alcohol and/or controlled substances tests, consistent with the SAP's evaluation.

Employees will bear the costs of referral, treatment or rehabilitation under this provision, unless such services are routinely (and without additional cost to the Employer) covered by existing insurance programs. Applicants who refuse to submit to or fail a pre-employment controlled substances test are not eligible for such referral, treatment or rehabilitation assistance.

If an employee chooses to not seek evaluation and treatment from an SAP within 5 business days from date of positive test results, the employee will be dismissed from employment.

In addition to the preceding consequences, any driver or other employee who violates this Policy, tests positive for controlled substances, or shows alcohol concentrations of 0.04% or more, will be subject to disciplinary action up to and including discharge (subject to the following limitation), and will not be paid for any period he or she is removed from duty, as a consequence of such violation or positive test.

In **Minnesota**, if the positive drug or alcohol test is the first such result for the driver or other employee, however, the Employer will not discharge that employee unless (1) the driver or employee has been given a chance to participate, at the employee's expense, in an appropriate rehabilitation program; and (2) has either refused to participate in or has failed to successfully complete the program. For purposes of this provision, the Employer will determine the appropriate

counseling or rehabilitation program after consultation with an appropriate chemical use counselor or specifically trained physician.

- Low Level Alcohol Test Results.

If an employee's alcohol test shows an alcohol concentration between 0.02 and 0.039 percent, the employee shall be removed immediately from driving, or any other safety sensitive duty, and placed on unpaid status for 24 hours. The employee will also be subject to additional disciplinary action if he or she has previously had low (or high) level positive alcohol tests results or other drug or alcohol related policy violations, or if this result represents failure to adhere to a rehabilitation program.

- Refusal to Submit to Alcohol or Controlled Substance Testing

If a driver or other employee refuses to submit to testing, a first refusal will be treated in the same manner as a violation of this Drug and Alcohol-free Workplace policy (Section VIII) for the purposes of follow-up actions and discipline. A second refusal will be treated as a resignation of employment.

A refusal or alleged inability to produce a full urine, breath or saliva sample for an alcohol or controlled substances test, in the absence of a legitimate and satisfactory medical explanation confirmed by a licensed physician (after applicable DOT procedures regarding insufficient urine, saliva, and breath production for testing have been followed), is considered a refusal to submit to testing under this Policy, for purposes of follow-up actions and discipline.

A verified result of specimen adulteration or substitution is considered a refusal to submit to testing under this Policy, for purposes of follow-up actions and discipline.

IX. Employer Contact for Questions about Policy

Roers Human Resources Manager has been designated to answer employee questions about this policy and the Employer's drug and alcohol testing procedures.

X. Release of Test Records

The Employer will not release information regarding driver or other employee drug and alcohol tests, except as prescribed in Section V.

XI. CBD products

While the use of CBD products is not prohibited by this policy, employees should recognize the following:

- Many CBD products claim to not contain THC. **CBD products are not regulated in the U.S.**, which means there is no way to ensure THC levels remain absent or low in products.
 - Employees using CBD products accept the risk and consequences of testing positive for THC.
 - Many products claim to be less than .3% THC, but there are no regulations to ensure those statements.
- If an employee has a positive result to a reasonable suspicion or post-accident test while employed with Roers, the company will view and take action as the employee is under the influence at time of testing even though the employee may claim to be using CBD products.

THIS POLICY SUPERSEDES ALL PREVIOUS POLICIES ADDRESSING ALCOHOL AND CONTROLLED SUBSTANCES TESTING, AND ALL OTHER INCONSISTENT COMPANY PRACTICES AND PROCEDURES, ALL OF WHICH ARE HEREBY REVOKED AND RESCINDED.

Approved and implemented: December 1, 2021