



Mandatory Drug and Alcohol Testing for CDL Holders

Responsible Department: Risk Management

Responsible Administrator: Director of Risk Management

Effective Date: 1-23-2012

Reviewed/Updated Date:

Date of Scheduled Review:

I. PURPOSE

To provide students and employees with safe transportation and to comply with the rules and regulations as mandated by the Federal Motor Carrier Safety Administration found in 49 CFR Parts 40 and 382.

II. SCOPE

This policy of the Risk Management Office applies to any individuals or employees that operate University Commercial Motor Vehicles (CMV) used in the course and scope of conducting University business that requires the operators to possess a Commercial Driver's License (CDL). All drivers who drive CMV's which require a CDL are subject to controlled substances and alcohol testing.

1) Employees who operate any of the following class University owned or leased vehicles are required to possess a CDL.

- a. Class A: Any combination of vehicles with a gross vehicle weight rating (GVWR) of 26,001 or more pounds, provided the vehicle being towed is in excess of 10,000 pounds GVWR;
- b. Class B: Any single motor vehicle with a GVWR of 26,001 or more pounds or any such vehicle towing a vehicle less than 10,000 pounds GVWR; and
- c. Class C: Any vehicle with a GVWR of less than 26,001 pounds that is either;
 - i. transporting hazardous materials for which placarding is required, or
 - ii. Designed to transport 16 or more passengers, including the driver.

2) All drivers who drive CMV's which require a CDL are subject to controlled substance and alcohol testing under these circumstances.

- a. Pre-Employment: This test is required for controlled substances and permitted for alcohol. This test must be conducted and negative results must be confirmed, prior to ACU allowing a driver to perform safety sensitive functions.
- b. Post-Accident: The Driver was engaged in crashes involving a fatality or crashes in which the driver is cited for a moving violation and in which a vehicle must be towed or in which there is an injury requiring medical attention must be tested for alcohol within 8 hours and controlled substances within 32 hours.

- c. Random: ACU must randomly test drivers for controlled substances and alcohol. Controlled substance testing can be conducted at any time after notification of the driver. Alcohol testing can only be conducted immediately preceding a driver performing safety-sensitive functions, or immediately after the performance of safety-sensitive functions.

Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety sensitive functions include:

1. All time at or on an employer property, building or facility or on any public property, waiting to be dispatched, unless driver has been relieved from duty by the employer.
 2. All time inspecting equipment as required by FMCSA or otherwise inspecting, servicing or conditioning any CMV at any time.
 3. All time spent at the driving controls of a CMV in operation
 4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting.
 5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
 6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- d. Reasonable Suspicion: Required when a trained supervisor or employer has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances.
 - e. Re-Entry and Follow-Up: When an employee tests positive, refuses a test, or otherwise violates testing regulations, the employee is prohibited from performing safety-sensitive functions until the employee has successfully completed the return-to-duty requirements of part 40. Before re-entry, a driver must pass a return-to-duty test.
 - f. As a part of required follow-up testing identified by a substance abuse professional (SAP), wherein an employee has returned to duty in a safety-sensitive function following violation of the rules of alcohol misuse or controlled substance use. A minimum of six unannounced follow-up tests will be conducted at an approved

medical testing facility during the first 12 months following an employee's return to duty. The employee shall pay for the testing.

III. DEFINITIONS

- a. "Alcohol" is the intoxicating agent in beverage alcohol, ethyl or other low molecular weight alcohol including methyl or isopropyl alcohol.
- b. "Contract Testing Facility" refers to a place designated by the University where employees/applicants present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.
- c. "Contractor" refers to a person who instructs and assists at a collection site and who receives and makes a screening examination of the urine specimen provided by those employees/applicants.
- d. "Covered employee" refers to a University employee who performs a safety-sensitive function(s), requiring a CDL. This function(s) may be a part or all of the job duties in the operation of a University owned, leased or borrowed commercial motor vehicle. This term includes an applicant for employment.
- e. "EBTD" is an evidential breath testing device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath placed on NHTSA's "Conforming Products List (CPL) of Evidential Breath Measurement Devices."
- f. "Medical Review Officer" (MRO) refers to a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the University's alcohol and controlled substance testing program, who has knowledge of substance abuse disorders and who has appropriate medical training to interpret and evaluate an employee's/applicant's confirmed positive test result together with the employee's/applicant's medical history and any other relevant biomedical information.
- g. "Screening test or initial test" is an immunoassay screen to eliminate "negative" urine specimens from further analysis. In alcohol testing the test is an analytical procedure to determine whether a University employee/applicant may have a prohibited concentration of alcohol in a breath specimen.

IV. PROCEDURE

1. Contract Testing Facility

A contract medical facility will conduct the tests, analyze the results, and counsel covered employees regarding the outcome of the test(s). Only personnel trained in the use of equipment and taking specimens will be involved in the testing process. Further, ACU will rely on the Contractor and its Medical Review Officer (MRO) to provide appropriate documented data and testimony in the event the test results in an adverse employment action or a grievance.

2. Testing Process

- Random Selection. The contractor will conduct a random selection each month. Some employees may be selected more than once. After selection, RM or the departmental designee will notify the employee that he/she needs to go to the contract medical facility as soon as feasible. If an employee is not readily available, he/she will be notified and tested upon return to the work site.
- Selective Testing. Selective testing occurs: (1) pre-employment, (2) for reasonable suspicion, or (3) post-accident. In cases where covered employees are designated for selective testing, the supervisor will request RM or the departmental designee to make the appointment. The supervisor or designee will then transport the individual to the Contractor as soon as feasible. Applicants completing pre-employment testing will transport themselves. Employees who are being tested for these reasons will not be restored to duty or the applicant pool until after the MRO determines that the test results are negative.
- Alcohol Test. The Contractor will test the breath for the presence of alcohol. In the event alcohol level does not exceed .02, the results will be recorded as negative and the employee will return to his/her normal duties. If the test results indicate the alcohol level to be between .02 and .04, covered personnel will be removed from any safety sensitive position for 24 hours.
- Drug Test. A split urine sample will be taken from covered employees and analyzed for the presence of marijuana, cocaine, opiates, phencyclidine, and amphetamines. Any trace of an illegal substance will be considered a positive result. The MRO will determine whether or not the results indicate further testing or counseling. When a covered employee has been referred to the Contractor for reasonable suspicion, the MRO will also consider the supervisor's observations. The Contractor is responsible for safeguarding the split sample for a possible second analysis.

3. MRO Procedures for Positive Test Results.

The MRO will have a confidential discussion (in person or by telephone) with covered personnel as soon as feasible whenever there are positive results to the tests. In the case of alcohol, a positive result is anything above the .02 level. The MRO will determine if there is a legitimate explanation for any deviation from the normal. Covered employees will have 72 hours to decide if s/he would like the split urine specimen sent to another laboratory (It also must be certified for alcohol and drug testing by the U.S. Department of Health and Human Services), to have the split examined in the same laboratory, or take no action in the matter. The employing department will pay for the second analysis only if it results in a negative presence of alcohol or illegal substance. At the conclusion of the counseling, the MRO will telephone RM or the departmental designee and send a confidential report to Designated Employee Representative or the RM Director or the RM Director's designee.

V. COMPLIANCE

- No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or higher.
- No driver shall use alcohol while performing a safety sensitive function.
- No driver shall perform a safety sensitive function within 4 hours after using alcohol.
- No driver required to take a post-accident alcohol test under 49 CFR 382.209 shall use alcohol for 8 hours following the accident
- No driver shall refuse to submit to an alcohol or controlled substance test.
- No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR 382.107. This must not interfere with the driver's ability to perform a safety sensitive function.
- No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function, if the driver tests positive for a controlled substance.
- All CDL drivers who drive CMV's are required to submit to alcohol and controlled substance testing.

Refusal to submit to an alcohol or controlled substances test is defined in 49 CFR 382.107
Refuse to submit to an alcohol or controlled substance test means that a driver:

1. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called.
2. Fail to remain at the testing site until the testing proceeds is complete. Provided, that an employee who leaves the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test.
3. Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen, because he or she has left the testing site before the testing process commences on a pre-employment test is not deemed to have refused the test.
4. In the case of directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the drivers provision of a specimen
5. Fail to provide a sufficient amount of urine specimen when directed, and it has been determined that there was no adequate medical explanation for the failure.
6. Fail or declines to take a second test the employer or the collector has directed the driver to take.

7. Fail to undergo a medical examination reevaluation, as directed by the MRO as part of the verification process, or as directed by DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on the basis only if the pre-employment test is conducted following a contingent offer of employment.

8. Fail to cooperate with any part of the testing process(e.g. refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process) or is reported to the MRO as having verified adulterated or substituted test result.

Corrective Action

- Covered employees testing positive for drugs or above the .04 alcohol level will be immediately removed from driving duties.
- Return-to-Duty Re-Evaluation
Prior to being reassigned to a CDL position, covered employees must undergo substance abuse testing and counseling by the same SAP. If returned to duty, the employee will be subject to a minimum of six unannounced follow-up tests over the next twelve months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP).
- Recordkeeping
All records and correspondence for covered employees must be maintained and available during the length of employment plus five years. The material will consist of the notification memorandum, training periods, and tests conducted for any reason. In addition, RM or the departmental designee will maintain a confidential file concerning any positive alcohol and drug tests, moving vehicle accidents as they pertain to this policy, communications with the MRO, related corrective actions, and reports of drug/alcohol tests for reasonable suspicion. (All recordkeeping that is required by law and listed in U.S. DOT Rule 49 Part 40 may be kept by the Contractor as long as it can provide the information within two business days of an official request by DOT officials. The information will be released on a need-to-know basis only.)

5. Exclusions

This policy does not apply to university employees who are not required to possess a commercial driver's license (CDL).

If you have any questions about this controlled substances and alcohol testing contact Scot Colley, the Designated Employee Representative to answer questions.

Contract Testing Facility

Dr. J's Express Care

4009 Ridgemont Drive
Abilene
(325) 690-1500

1634 Hwy. 351
Abilene
(325) 676-1100

3802 Catclaw Drive
Abilene
(325) 690-1500

This is to certify that I have received a copy of the company Alcohol and Controlled Substances policy.

CDL Driver

Date