

Environmental Health & Safety Department
Commercial Drivers License Drug and Alcohol Procedures

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In order to promote public safety, U.S. Department of Transportation (DOT) regulations require ASU to test certain safety sensitive individuals (employees, commercial drivers, contractors, subcontractors, herein "Safety Sensitive Individuals") for the use of illegal Drugs and controlled substances (herein Drugs), and misuse of Alcohol in a variety of circumstances and subject to a complex scheme of procedural safeguards. These policies and guidelines are formulated to protect the safety and security of the public, employees, facilities, and assets of and to be in compliance with the mandates drafted by the Federal Department of Transportation and/or state law and/or regulation where applicable. All items in this policy that relate to employment or contractor terminations, leave of absence, and all financial issues are not DOT requirements.

Drug use and Alcohol misuse have a significant negative impact on an individual's health, work, and personal life. Performing a Safety Sensitive Activity significantly increases the risk to society in general when an individual has used Drugs or misused Alcohol.

There are serious consequences in this policy for individuals who use Drugs and misuse Alcohol (an Alcohol concentration of 0.04 or greater). In addition, as required by federal regulation, there are administrative actions for an individual with an Alcohol concentration as low as 0.20. This compares with alcohol concentrations resulting in charges of "driving while intoxicated" of 0.10 and 0.08 depending on the state.

CHANGING DOT REGULATIONS

DOT regulations change from time to time and it is Employer's policy to implement the new requirements as they become effective.

RECORDS

All Drug and Alcohol testing and related medical records and information will be maintained in a confidential manner and their disclosure shall be strictly limited to those with a need to know.

Each Safety Sensitive Individual will have the right to have a copy of his/her Drug and/or Alcohol test result upon written request.

IMPLEMENTATION DATE OF THIS POLICY

Unless a delayed implementation date is listed below (the delayed implementation date cannot be later than January 1, 1996), this policy is effective upon date of receipt by the Safety Sensitive Individual.

Any implementation of the drug and/or alcohol requirements in this policy before the mandatory date is based on the employer's independent authority to do so.

The mandatory implementation date for the alcohol portion of this policy is January 1, 1995 for employers with 50 or more drivers on March 17, 1994. For all other employers, the mandatory implementation date is January 1, 1996.

The mandatory implementation date for the drug testing portion of this policy precedes the implementation date of this policy in those states which have adopted the federal DOT regulations. In those states that have not adopted the federal regulations, the mandatory implementation date is January 1, 1996.

SAFETY SENSITIVE INDIVIDUALS

Safety Sensitive individual categories subject to this DOT Drug and Alcohol Policy

This DOT Policy applies to employees and contractors whose positions may require them to drive certain Commercial Motor Vehicles and to applicants for such positions (collectively, Employer's "Safety Sensitive Individuals"). These Commercial Motor Vehicles are those which have a gross vehicle weight of more than 26,000 pounds (inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds), or are used in the transport of hazardous materials in a quantity requiring "placarding," or are designed to carry more than 15 passengers including the driver.

REQUIRED HOURS OF COMPLIANCE

The required hours of compliance for prohibited behavior relating to Drug and/or Alcohol use are as listed below:

DRUGS A Safety Sensitive Individual is prohibited from the use of the defined Drugs at any time on or off the job.

ALCOHOL A Safety Sensitive Individual must not consume Alcohol while:

- Available to perform a safety sensitive function. This means that when an Individual is available to perform a safety sensitive function, such as when an individual is "on call" at home, or for example, a supervisor who may be required to perform a safety sensitive function while on the job, even though he/she may not perform that activity at the time.
- Four hours prior to being scheduled to perform safety sensitive functions
- Is performing a safety sensitive function Immediately after performing a safety sensitive function, (to allow for Alcohol testing immediately after a shift)
- Up to eight hours following an accident or until the Safety Sensitive Individual undergoes a post-accident Alcohol test, whichever occurs first.

PROHIBITED BEHAVIOR

DRUGS A safety sensitive individual shall not report for duty or remain on duty requiring the performance of safety-sensitive functions when he/she uses any drugs, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

The prohibited Drugs are the following substances or derivatives thereof (herein "Drugs"): Amphetamines, Opiates, Cocaine, Phencyclidine & Marijuana

As permitted by DOT regulation, if any Drugs are prescribed for medical reasons by a licensed medical practitioner, that practitioner must certify in writing to the then-current Drug and Alcohol Program Manager at Employer expense, the Safety Sensitive Individual's fitness for fulfilling the safety sensitive responsibilities prior to performing these activities.

ALCOHOL This policy also prohibits the misuse of alcohol from any source during the required hours of compliance defined herein. Misuse is defined as having an Alcohol Concentration of 0.04 or greater (herein "positive for Alcohol") independent of the source. Alcohol Concentration (or BAC Breath Alcohol Concentration) is defined as grams of Alcohol per 210 liters of breath. If other alcohol concentration measurement procedures are used (e.g. saliva) this measurement term will be equivalent. Herein BAC will be used to define "Alcohol concentration".

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

ADDITIONAL PROHIBITIONS This policy prohibits a Safety Sensitive Individual from providing incorrect prior employment information and prior Drug and/or Alcohol information relating to the DOT Drug and Alcohol testing program.

TESTING PROCESS INTEGRITY

Testing Process Integrity, Safeguarding the Validity of the Test Results, & Ensuring that Test Results are Attributed to the Correct Individual

DRUGS The actual Drug test analysis will be conducted only at laboratories that are certified by the Department of Health and Human Services (or other agency as required by then current DOT regulations.) Employer and vendors utilized in connection with Drug testing, will comply with all DOT regulations intended to insure the accuracy and confidentiality of test results and the fair and respectful treatment of persons being tested. There are various testing result thresholds of the presence of Drugs before they will be reported as a presumed positive to the Medical Review Officer (MRO).

A urine specimen which is identified as positive on an initial test will be confirmed using gas chromatography/mass spectrometry techniques before results are sent by the laboratory to the MRO. The drug testing vendor sends known specimens to the laboratory used in a "Blind Specimen" program to periodically test the integrity of the laboratory. These blind specimens are both known positives, and known negatives.

Individuals tested are in direct visual contact with their specimen until the collection process is complete. There are tamper proof seals on the collection containers, initialed by the donor, and the specimens are sealed in tamperproof containers with chain of custody paperwork. There is a rigorous "chain of custody" process that directly follows a specimen from initial collection through final testing. If there are unrecoverable irregularities in this process, the test is declared a "broken chain of custody" and it is cancelled.

All individuals who are tested must be identified via picture identification or by authorized employer personnel to assure that the individuals tested are the correct individuals. Social security or employee numbers are used to track the identification process.

The split specimen collection process provides significant additional security.

ALCOHOL An initial Alcohol screening test measures the BAC of the Safety Sensitive Individual at the time of the test. A second test on an evidential testing device must reconfirm the initial result before it is a Final Test Result.

Before this confirmation test is completed, a 15 to 30 minute wait is required to reduce the impact of mouth Alcohol. The confirming testing process may only be performed on evidential breath testing equipment utilizing air blanks to assure that ambient conditions are not negatively affecting the testing process. In addition, the Alcohol breath testing equipment is periodically checked and calibrated with samples containing known Alcohol concentrations.

A Safety Sensitive Individual is given a copy of the test results. All test results are affixed with tamper evident tape to the testing forms.

CIRCUMSTANCES FOR TESTING

Safety sensitive individuals will be required to submit to approved drug and alcohol tests in certain situations including the circumstances listed below. An individual may not select the source of any laboratory testing, other than the retesting of the split portion of a positive drug test (which will be discussed elsewhere in this policy); it must be performed by our contract provider.

1. PRE-EMPLOYMENT

Pursuant to DOT regulations, any offer of a safety sensitive position (employment, transfer, or use as a contractor) is contingent upon that individual's submission to Drug & Alcohol tests and achieving negative test

results. An applicant who tests positive for Drugs and/or Alcohol will be considered medically unqualified to work for Employer, and will not be eligible to reapply for at least six months. Pre-employment tests may be conducted on individuals who have not been a part of a DOT qualified Drug and Alcohol testing program, including random testing, for the previous 30 days due to any reason (layoffs, etc).

2. POST-ACCIDENT

After involvement in an accident meeting criteria defined by then current DOT regulations, a Safety Sensitive Individual will be subject to post accident Drug and Alcohol testing. If any-one of the following conditions is met, a post accident test must be conducted.

- A fatality has occurred within 32 hours of the accident.
- A citation was received within 32 hours of the accident by the driver and an injury occurred requiring medical treatment away from the scene of the accident.
- A citation was received within 32 hours of the accident by the driver and either vehicle required towing from the scene of the accident.

In any one of these events the Safety Sensitive Individual must have a post accident Drug and Alcohol test as soon as practicable.

In a post accident situation, the Safety Sensitive Individual must notify Employer and get information on how to proceed with testing. Safety Sensitive Individuals are obligated to follow instructions and see that the tests are conducted, if possible.

See the section "Refusal to Submit" regarding leaving the scene of an accident without valid reason.

Nothing herein shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a Safety Sensitive Individual 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.

Post accident collections and testing for either Drug or Alcohol by law enforcement agents are permitted by the DOT to be used by Employer as the required post accident test even though the tests are not completed per DOT requirements. If either test is not completed by enforcement agents, the DOT test is still required. The Safety Sensitive Individual must notify Employer if any tests were performed by law enforcement personnel.

See the "Required Hours of Compliance" section regarding being available after an accident.

3. REASONABLE SUSPICION

If, based on the observations of at least one supervisor or manager, Employer has reasonable suspicion to believe that a Safety Sensitive Individual is impaired while on duty by Drug use and/or Alcohol misuse, the Safety Sensitive Individual shall be required to submit to immediate Drug and/or Alcohol testing based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the safety sensitive individuals. These managers and supervisors have been trained to identify actions, appearance, conduct, etc. which indicate the possible use of a Drug or misuse of Alcohol.

As Independently Authorized, a Safety Sensitive Individual sent out for a reasonable suspicion test will be required to accept or arrange for independent transportation home.

4. RANDOM

Safety Sensitive Individuals are subject at any time to random Drug testing while on duty. In addition, Safety Sensitive Individuals are subject at any time to random Alcohol testing during the required hours of compliance and while on duty. When notified, Safety Sensitive Individuals will proceed immediately to the collection site. The probability of being randomly selected in the future is not changed by prior random selections. The DOT mandated probabilities of selection are subject to change. A Safety Sensitive Individual may be tested multiple times, or not at all, during any given year.

5. RETURN TO DUTY

A Return to Duty Drug and/or Alcohol test is required after assessment by a Substance Abuse Professional (SAP) and completion of treatment, if any is required, when a Safety Sensitive Individual tests positive for any reason in a DOT Drug and Alcohol testing program, before that individual is permitted to perform safety sensitive functions.

To pass, an Alcohol test must have a result of less than 0.02 Alcohol concentration and a Drug test must be a verified negative test result. Without a successful test result, that individual is not medically qualified to continue to perform that safety sensitive function.

As independently authorized, Employer has a time limit for the individual to obtain a successful return to duty test result (or results, if both a Drug and Alcohol test is required), otherwise he/she may be terminated. The time limit is; listed below from the time the MRO, or Employer contacted the individual reporting the positive test result.

- Alcohol 3 days
- Marijuana 40 days
- Opiates, Cocaine, Phencyclidine, Amphetamines 7 days

This test for the Safety Sensitive Individual to work on Employer's behalf will only be performed if a Safety Sensitive Individual is not otherwise terminated (See the Section: Consequences for Use of Drugs and Misuse of Alcohol). Compliance with the prescribed treatment and passing the test(s) will not guarantee a right of re-employment.

6. FOLLOW-UP

Following a resumption of safety sensitive duties, an Individual will be selected for additional tests beyond the random requirement for a follow-up period that will not exceed five years. There is no limit to the frequency of the follow-up tests. Tests may be for both drugs and Alcohol independent of the type of test with a positive result.

COLLECTION PROCEDURES

Approved collection procedures to meet DOT requirements may change from time to time. Both private and public collections, including collections from law enforcement agencies, may be utilized in post accident situations as permitted by regulation.

DRUG COLLECTION PROCEDURES

Upon notification, the Safety Sensitive Individual will be required to proceed to the assigned collection site without delay and with appropriate identification. DOT approved collection procedures will be used to collect urine specimens for Drug tests (except in some post accident situations). As required or permitted in certain specific situations, which may change from time to time by the DOT, relating to issues such as suspected adulteration, prior positive test results, specific gravity and creatine level outside of a specified range, temperature outside of an acceptable range, etc., a directly observed collection by a same sex collector will be required.

Certain situations may require that a specimen be discarded and a new collection may be initiated. During the collection process, Safety Sensitive Individuals may only consume fluids in permitted quantities.

SPLIT SPECIMEN COLLECTIONS

Following approved procedures, urine collections will be based on the current split specimen requirement which may change from time to time. This requirement provides an additional level of protection for a Safety Sensitive Individual.

OPPORTUNITY FOR RE-TEST

A request for a re-test will not delay any administrative actions.

After a positive Drug and/or Alcohol test result, there is no opportunity to have a second collection that negates the first positive test result.

ALCOHOL Applicable DOT regulations do not require an option for an Alcohol split specimen collection and therefore there will be no opportunity for an Alcohol re-test.

DRUGS If a Safety Sensitive Individual has a positive Drug test result after Medical Review Officer (MRO) review, the Safety Sensitive Individual will have the option to have the split specimen portion retested at any DHHS certified laboratory of his/her choice. This option cannot be selected after 72 hours from the time of notification by

the MRO unless there is significant reason acceptable to the MRO why the individual was delayed, such as an injury.

If this option is selected, the Safety Sensitive Individual must verbally notify National Medtest or the MRO for the request of the re-test and send written notification to National Medtest with a statement that the Safety Sensitive Individual will accept any other DHHS certified laboratory, or the specified DHHS certified laboratory name, location, address, and telephone number, selected, if any.

The Safety Sensitive Individual must provide a copy of this request to the Employer's Drug and Alcohol Program Manager. The thresholds of reconfirmation of the presence of a prohibited substance will be as mandated by the DOT. Presently, there is no threshold. Please refer to the Section on Financial Issues.

TESTING PROCEDURES

A Drug test is sent to a DHHS certified laboratory with DOT chain of custody paperwork. (See the section: Testing Process Integrity)

MEDICAL REVIEW OFFICER

The program will utilize a MRO, a licensed physician (medical doctor or doctor of osteopathy) who has appropriate knowledge and medical training to interpret and evaluate an individual's initial confirmed positive test result together with his or her medical history and any other relevant biomedical information. The MRO's responsibility will include providing a review of the laboratory's "chain of custody" documentation to ensure that it has properly tracked the handling and storage of the urine specimen.

Before determining that an initial presumed positive test result is a Final positive, a canceled test, or a negative test result, the MRO will rule out alternate medical explanations through reviewing the tested individual's medical records, and will give the individual an opportunity to discuss the test result.

It is the Safety Sensitive Individual's responsibility to contact the MRO within 24 hours upon receiving a message from the MRO to return a telephone call. Upon notification of the Safety Sensitive Individual by the Employer that the Safety Sensitive Individual must contact the MRO, the Safety Sensitive Individual must contact the MRO within 24 hours. Failure of the Safety Sensitive Individual to contact the MRO within this time frame will result in a Final determination of the result of the presumed positive Drug test result without input from the Safety Sensitive Individual.

ALCOHOL TESTING PROCEDURES

Alcohol testing will be performed in accordance with then-current DOT regulations utilizing approved testing equipment and technicians. Breath Alcohol Technicians (BATS) are those individuals who have completed mandatory training on required collection and testing procedures and on the proper operation of equipment and approved Alcohol testing procedures. Final confirmation testing will be conducted on an Evidential Breath Testing device (a breath testing device approved by the National Highway Traffic Safety Administration) which is on the "Conforming Products List of Evidential Breath Measurement Devices", or with other devices and procedures as may be authorized by the DOT in the future.

There are two types of breath tests that are to be administered, an initial screening test, and a confirmation test.

THE INITIAL SCREENING TEST

The first type of test is an initial screening test that is conducted using a DOT authorized Alcohol testing device by approved collection personnel. Any result less than 0.02 BAC is considered a negative test and no further screening is conducted. If the initial screening test is 0.02 BAC or greater, an Alcohol conformation test will be conducted.

THE CONFIRMATION TEST

If the initial screening test is 0.02 BAC or greater, a confirmation test is performed by a BAT on an EBT following a specified procedure after a specified waiting period. The EBT will have the capability of printing out the evidential test result.

REFERRAL FOR SAP EVALUATION AND TREATMENT

If a Safety Sensitive Individual has a positive test result for Drugs and/or Alcohol he/she must have an evaluation by a Substance Abuse Professional. This assessment will evaluate whether the individual needs assistance resolving problems associated with Drug use and/or Alcohol misuse. If treatment is prescribed, the Safety Sensitive Individual must complete the recommended program, before that individual is medically qualified to perform DOT Safety Sensitive activities. This requirement is independent of termination by one employer and re-hiring by another.

FINAL TEST RESULT

An Alcohol test result is a "Final Test Result" after the Alcohol Conformation test. A positive Drug test result is Final after an individual with a positive Drug test result either: (1) does not request a Split Specimen Re-test within the time frame allowed, or (2) the requested re-test reconfirms the positive result.

CONSEQUENCES

ON FIRST POSITIVE

In all events of a positive Drug test result (including a refusal to test as defined elsewhere, after MRO review, but before a re-test, if any) or an Alcohol test result with a BAC of 0.04 or greater (or a refusal to test), the Safety Sensitive Individual will have the following consequences. A request for a re-test for positive Drug test results will not delay the consequences.

1. Not be permitted to perform safety sensitive activities for the "then current" definition of safety sensitive activities.
2. Be referred to a Substance Abuse Professional.
3. Be required to complete prescribed treatment defined by the Substance Abuse Professional, if any.
4. Be required to pass a return to duty test (or tests if both a Drug and an Alcohol test is required by the Substance Abuse Professional) before safety sensitive activities are resumed.
5. Be placed in a follow-up testing program until completed.

ON SECOND POSITIVE

On a second positive Final Alcohol Test Result, or a second positive Final Drug Test Result, the individual will be medically unqualified to perform his/her job responsibilities and the employee or contractor relationship will be terminated. The individual will be advised of resources available in dealing with Drug and/or Alcohol issues.

OTHER CONSEQUENCES AS A RESULT OF THIS POLICY

As Independently Authorized, a Safety Sensitive Individual sent out for a reasonable suspicion test will be required to accept Employer arranged transportation, or arrange for independent transportation home. Refusal to accept independent transportation may result in immediate dismissal.

OTHER ADMINISTRATIVE CONSEQUENCES

If a Safety Sensitive Individual has a BAC of 0.02, but less than 0.04, he/she will not be permitted to perform safety sensitive activities for one shift, which will be no less than 24 hours. As Independently Authorized, if no appropriate non-Safety Sensitive work is available based on a determination made by employer, the Safety Sensitive Individual will be placed on a leave of absence. Employer may require the Safety Sensitive Individual to discuss the situation with the SAP.

FINANCIAL ISSUES

FINANCIAL ISSUES FOR THE SAFETY SENSITIVE INDIVIDUAL

Employer will be responsible for the expense of the first return to duty Drug and/or Alcohol test after a first positive test result. The expense of any additional return to duty tests will be the responsibility of the Safety Sensitive Individual.

Employer will be responsible for the expense, as per ASU Employee Assistance Program (EAP) and insurance, of the Substance Abuse Professional services to determine if the individual needs help in dealing with a Drug or Alcohol test result, follow-up test monitoring, and additional required services after completion of a treatment program, if any.

After a positive Drug test result, or an Alcohol test result of 0.02 or greater, the individual will be either given non-safety sensitive duties to perform or placed on an unpaid leave of absence at the option of Employer. If a split specimen re-test is performed and that re-test does not reconfirm the positive test result, back pay will be provided if the individual was on an unpaid leave of absence.

The cost of all follow up tests will be at the expense of ASU. This follow up testing program will continue for up to sixty months.

If the Safety Sensitive Individual requests a re-test of the split portion of the Drug test urine collection, it will be at the expense of the employee.

If any treatment is prescribed, any cost not covered by EAP or insurance, if any, will be at the expense of the individual.

If an individual needs to get a medical opinion in a shy bladder or shy lung situation, the expense of this required activity is at the expense of the individual.

NOTE TO SAFETY SENSITIVE INDIVIDUALS

All safety sensitive employees and contractors per DOT regulations are required to be in a Drug and Alcohol testing program, including random testing. These employees/contractors are subject to Drug and Alcohol testing in the following situations: *Pre-Employment, Post-Accident, Reasonable Suspicion, Random, Return To Duty & Follow-Up*

In addition to Alcohol which has required hours of prohibition, the following drugs are prohibited at all times: *Amphetamines, Cocaine, Marijuana, Opiates & Phencyclidine*

Employer has a comprehensive DOT Drug and Alcohol policy, and general program information that explain the requirements of the regulation and the employer's policy and procedures with respect to meeting these requirements which will be provided to the Safety Sensitive Individual.

IDENTITY OF CONTACT PERSON

The individual that may be contacted regarding this program is the then-current Employer's Drug and Alcohol Program Manager, or other individual identified here: *Mr. Starr J. Fenner*. This individual is designated as a contact to answer questions about this policy and the program in general. Call (870) 972-3803.