Section 8 Health, Safety and Security Policies Subject 8.1 Health and Safety **Policy 8.1.16 Drug and Alcohol Testing for DOT Regulated Employees**	07/14/06 -Originated 09/02/10 -Reviewed w/ changes -Reviewed w/o changes Human Resources -Author

Drug and Alcohol Testing for Department of Transportation (DOT) Regulated Employees

Definitions

Alcohol Screening Test: An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Commercial vehicles (49 CFR part 382):

1. Has gross combination weight rating of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross weight rating of more than 10,000 pounds (4,536 kilograms); or
2. Has a gross vehicle weight rating of 26,001 or more pounds (11,794 or more kilograms); or
3. Is designed to transport 16 or more passengers, including driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C.5103 (b)) and which requires the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR part 172, Subpart F.

DOT Agency: an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and /or drug testing (in accordance with 49 CFR part 40.

Drug Testing: Testing for presence of controlled substances. The drugs for which tests will be performed are marijuana, cocaine, amphetamines, phencyclidine (PCP), opiates and methylenedioxymethamphetamine (MDMA - a.k.a. Ecstasy). All drug testing will be performed using urine samples collected according to the guidelines set forth by 49 CFR.

Federal Motor Carrier Safety Administration FMCSA: A separate administration within the U.S. DOT dedicated to improving the safety of commercial motor vehicles.

Medical Review Officer (MRO): a Medical Review Officer is a licensed physician who is responsible for receiving and reviewing laboratory

Definitions, continued

results generated by UTMB's drug testing program and evaluating the medical explanations for certain drug test results.

Safety-sensitive function: means all time from the time an employee 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.

Refusal to submit (to a controlled substances test) (49 CFR part 40.191(a)(b) and (c) means employee:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time;
2. Fails to remain at the testing site until the testing process is complete; for pre-employment it is not deemed a refusal;
3. Fails to provide a urine specimen for any drug test; for pre-employment it is not deemed a refusal
4. If directly observed or monitored, fails to permit the observation;
5. Fails to provide a sufficient amount of urine without adequate medical explanation;
6. Fails or declines to take a second test the supervisor or collector has directed the employee to take;
7. Fails to undergo a medical examination or evaluation;
8. Fails to cooperate with any part of the testing process; or
9. For an observed collection, fails to follow the observer's instructions;
10. Possesses or wears a prosthetic or other device that could interfere with the collection process;
11. Admits to the collector or MRO that he/she has adulterated or substituted the specimen.

Substance Abuse Professional (SAP):
A SAP is a licensed health care professional (as outlined in 49 CFR) who evaluates employees who have violated a DOT drug and alcohol program regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Section	8	Health, Safety and Security Policies	07/14/06 -Originated
Subject	8.1	Health and Safety	09/02/10 -Reviewed w/ changes -Reviewed w/o changes
Policy	**8.1.16**	**Drug and Alcohol Testing for DOT Regulated Employees**	Human Resources -Author

Policy

UTMB performs drug and alcohol testing for commercial drivers pre-employment,postaccident, random, reasonable suspicion, return-to-duty and follow-up to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances and is in compliance with guidelines for commercial drivers under 49 CFR Parts 382, 390, 391 (FMCSA).

Employees covered under this policy who are determined to have any of the above prohibited conduct will be immediately removed from safety-sensitive functions and may be referred to a SAP. Prohibited conduct may result in disciplinary action including termination. Employees who are removed from duty for suspicion of impairment will be provided safe transportation home. If employee refuses transportation, University Police or local law enforcement will be notified.

UTMB shall ensure that all alcohol and controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40.

Drug and Alcohol Testing Requirements

Pre-Employment (49 CFR 382.301): Prior to first time an employee performs safety-sensitive functions, the employee shall undergo testing for controlled substances. For new employees, testing will be post-offer but prior to beginning work. For current employees who move into covered job roles, testing will be completed prior to beginning new job duties. Each employee will read and sign an employee notification document certifying receipt of this policy and an explanation of testing procedures.

Limited exceptions to the pre-employment testing requirement for some DOT-regulated employees who have recently undergone testing, passed such tests, and have not violated any DOT regulations regarding alcohol or controlled substances may be made.

Post-Accident Testing (49 CFR 382.303): Testing for alcohol and controlled substances is required when the accident involves a fatality, the driver receives a citation within 8 hours of the occurrence for a moving violation, if the accident involved emergency transportation to a medical treatment facility, or one or more of the vehicles required towing from the accident site. DOT-regulated employees are given instructions to follow if they are involved in an accident.

Drug and Alcohol Testing Requirements, continued

Random Testing (49 CFR 382.305): Covered employees will be selected for random alcohol and controlled substances testing using a scientifically valid method. Each employee shall have an equal chance of being tested each time selections are made. Random tests are unannounced and will be spread reasonably throughout the calendar year. Employees must reach the testing site within the specified timeframe.

Reasonable Suspicion Testing (49 CFR 382.307:

(a) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe the driver has violated the prohibitions of subpart B concerning alcohol.

(b) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe the driver has violated the prohibition of subpart B concerning controlled substances.

(c) Two supervisors must observe employee behavior and complete a behavior checklist prior to requiring an alcohol or controlled substance test. Employee must be accompanied to the test site by a supervisor. During the day on weekdays, the test site is the Employee Health Clinic. After hours and on weekends the test site shall be the Emergency Room.

Return-to-Duty (49 CFR 382.309): Return-to-duty tests require “direct observation” as prescribed in 49 CFR 40.191 (a)(9). These are only required after an employee has completed the “return-to-duty” process and wants to return to work in a safety-sensitive function driving commercial vehicles.

Follow-up Testing (49 CFR 382.311): Follow-up drug and alcohol tests are required as prescribed by the SAP who signs the return-to-duty report. The SAP can prescribe follow-up testing for a maximum of five years for drivers who have tested "positive" or "refused to test." Follow-up testing is in addition to any selections for random testing.

Prohibited Employee Conduct

The following is prohibited conduct by employees covered under this policy and may result in disciplinary action up to and including termination:

1. Reporting for duty or remaining on duty with an alcohol concentration of .04 or greater. While not considered prohibited conduct by law, employees with alcohol concentration of greater than .02 but less than .04 must be removed from safety sensitive duties and may also receive disciplinary action.
2. On-duty use or possession of alcohol or illegal drugs.
3. Use of alcohol within four hours before reporting for work
4. Consumption of alcohol within 8 hours following an accident or until he/she undergoes post-accident testing alcohol testing
5. Refusal to submit to an alcohol or controlled substances test
6. Reporting for duty or remaining on duty under the influence of a controlled substance except when the use is pursuant to the instructions of a licensed medical practitioner. Employees must inform supervisors of any therapeutic drug use.

Records Management:

UTMB shall maintain records of its alcohol misuse and controlled substances use prevention programs as required under 49 CFR 382.401. The records shall be maintained in a secure location with controlled access in the Office of Human Resources.

UTMB shall request alcohol and controlled substances information from previous employers in accordance with the requirements of 49 CFR part 40.25. UTMB drug and alcohol testing records shall be made available to a subsequent employer upon receipt of a written request from a driver or other employee covered by this policy.

References

- 49 CFR part 40 Procedures for Transportation Workplace Drug Testing Programs
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- Hazardous Materials Regulations, 49 CFR part 172, subpart F
- Texas Administrative Code, Title 37, Part 1, Chapter 16, Subchapter A, Rule 16.2
- IHOP policy 8.1.9 Manufacture, Sale, Possession, Distribution, Use of Alcohol, Controlled Substances, or Illegal Drugs
- IHOP policy 8.1.15 General Requirements for Use of Vehicles