



EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

Program for Testing for Alcohol Misuse and Use of Controlled Substance by Drivers of Commercial Motor Vehicles

Adopted Date: May 15, 1995

- I. **Policy-** The County of El Paso is dedicated to promoting the safe use of those County vehicles which are regulated by the Federal Highway Administration.
 - A. The County of El Paso employees are our most valuable resource and it is our goal to provide:
 1. A healthy, satisfying working environment which promotes personal opportunities for growth.
 2. In meeting these goals, it is our policy to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner.
 3. Create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse.
 4. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance any time alcohol or drug abuse or misuse adversely affects their ability to perform their assigned duties.
- II. **Purpose**
 - A. The purpose of this policy is to establish a program designed to:
 1. Help prevent accidents
 2. Injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles in compliance with 49 C.F.R. Part 382.
- III. **Applicability**
 - A. This policy applies to :
 1. Every driver who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of 49 C.F.R. Part 383.
 2. For the purposes of this policy, "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
or
 - b. Has a gross vehicle weight rating of 26,001 or more pounds; or

- c. Is designed to transport 16 or more passengers, including the driver; or
 - d. 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 and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 C.F.R. Part 172, subpart F).
- B. For the purposes of this policy, "driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to:
- 1. Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operated contractors who are either directly employed by or under lease to an employer or who operates a commercial motor vehicle at the direction of or with the consent of an employer.
 - 2. For the purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying to an employer to drive a commercial motor vehicle.

IV. Prohibited Conduct

A. Alcohol Concentration

- 1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
- 2. A driver who has an alcohol concentration of 0.02 or greater shall not be permitted to perform or continue to perform safety-sensitive functions.

B. Alcohol Possession

- 1. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
- 2. A driver who possesses unmanifested alcohol may not be permitted to drive or continue to drive a commercial motor vehicle.

C. On-Duty Use

- 1. No driver shall use alcohol while performing safety-sensitive functions.
- 2. A driver who is using alcohol while performing safety sensitive functions shall not be permitted to perform or continue to perform safety-sensitive functions.

D. Pre-Duty Use

- 1. No driver shall perform safety-sensitive functions within four hours after using alcohol.
- 2. A driver who has used alcohol within four hours shall not be permitted to perform or continue to perform safety-sensitive functions.

E. Use Following An Accident

- 1. No driver required to take a post-accident alcohol test under this policy shall use

alcohol for eight hours following the accident; or

2. Until he/she undergoes a post-accident alcohol test, whichever occurs first.

F. Refusal to Submit to a Required Alcohol or Controlled Substances Test.

1. No driver shall refuse to submit to any alcohol or controlled substance test required under this policy, including a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, and a follow-up alcohol or controlled substances test.
2. A driver who refuses to submit to such tests shall not be permitted to perform or continue to perform safety-sensitive functions.

G. Controlled Substances Use

1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, 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.
2. A driver who uses a controlled substance shall not be permitted to perform or continue to perform safety-sensitive functions.

H. Controlled Substances Testing

1. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
2. A driver who has tested positive for controlled substances shall not be permitted to perform or continue to perform safety-sensitive functions.
3. For the purposes of this policy, "safety-sensitive functions" means the following on-duty functions:
 - a. All time at a carrier or shipper plant, terminal, facility, or other property, on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
 - b. All time inspecting equipment as required in 49 C.F.R. 392.7 through 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
 - c. All driving time;
 - d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
 - e. 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;
 - f. All time spent performing driver requirements relating to accidents;

- g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- 4. For the purposes of this policy, "controlled substance" includes any substance listed in schedules I through V of section 812 of Title 21 (21 U.S.C. 812) and specifically includes marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine.
- 5. For the purposes of this policy, "refusal to submit" to an alcohol or controlled substances test means that a driver :
 - a. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, or ;
 - b. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, or ;
 - c. Engages in conduct that clearly obstructs the testing process.

V. Proper Application of the Policy

- A. El Paso County is dedicated to assuring fair and equitable application of this substance abuse policy.
 - 1. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner.
 - 2. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with regard to subordinates, shall be subject to disciplinary action, up to and including termination.

VI. Testing for Prohibited Substances

- A. Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations.
 - 1. All drivers shall be subject to testing prior to employment, for reasonable individualized suspicion, and following an accident. In addition, all drivers who test positive on an alcohol or drug test, and are allowed to return to work, will be tested prior to their return and be subject to follow-up testing on a random, unannounced basis.
 - 2. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in 49 C.F.R. Part 40.
 - 3. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.
 - 4. Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol

concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A driver who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 shall not be permitted to perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, nor shall the driver be permitted to perform or continue to perform safety sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

5. Any driver who has a confirmed positive drug test or alcohol test of 0.04 or greater will be removed from his/her position, informed of educational and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP).
6. A positive drug or alcohol test will result in disciplinary action up to and including termination.

VII. Pre-employment Testing

All applicants for a position as a driver shall undergo urine drug testing and breath alcohol testing prior to performing safety sensitive functions. Receipt by the County of negative test results is required prior to employment and failure of a drug or alcohol test will disqualify an applicant for employment as driver.

VIII. Post-Accident Testing

- A. A driver will be required to undergo urine and breath testing if he/she are involved in an accident with an El Paso County vehicle that results in a fatality.
 1. This includes all drivers who are on-duty in the vehicle and any other driver whose performance could have contributed to the accident. In addition, a post-accident drug and alcohol test will be conducted if the driver receives a citation under state or local law for a moving traffic violation arising from the accident.
 2. Following an accident, the driver will be tested as soon as possible, but not exceed eight hours for alcohol testing and 32 hours for drug testing. Any driver involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any driver who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test and be subject to disciplinary action, including termination.

IX. Random Testing

All drivers shall be subjected to random, unannounced testing for alcohol and controlled substances.

X. Reasonable Suspicion Testing

- A. All drivers may be subject to reasonable suspicion testing, to include appropriate urine and/or breath testing when :
 1. The employer has a reasonable suspicion to believe that the driver has violated the prohibited conduct rules set forth herein.
 2. A reasonable individualized suspicion referral for testing will be made on the basis of articulable objective facts and circumstances which are consistent with the long or short-term effects of substance abuse.

XI. Return-to-Duty Testing

- A. All drivers who have a confirmed positive drug test, or alcohol test of 0.04 or greater must:
1. Undergo a return to duty alcohol test.
 2. Controlled substance abuse test before being allowed to perform safety sensitive functions.

XII. Follow-up Testing

Following a determination by a substance abuse professional that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver shall be subject to unannounced follow-up testing.

XIII. Employee Requested Testing

- A. Any driver who questions the results of a required drug test under this policy may request that an additional test be conducted.
1. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample.
 2. All costs for such testing are paid by the driver unless the second test invalidates the original test.
 3. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40.
 4. The driver's request for a re-test must be made to the Medical Review Officer within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable acts that were beyond the control of the driver.

XIV. Employee Assessment

- A. Any driver who tests positive for the presence of illegal drugs above the minimum thresholds set forth in 49 CFR Part 40, or alcohol concentration of 0.04 or greater, will be evaluated by a Substance Abuse Professional (SAP).
1. A SAP is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.
 2. The SAP will evaluate each driver to determine what assistance, if any, the driver needs in resolving problems associated with prohibited substance abuse or misuse.
 3. Before a driver is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the SAP, the employee must pass return-to-duty drug and alcohol tests, and be subject to unannounced follow-up tests for a period of one to five years. The cost of any treatment or rehabilitation services will be paid directly by the driver or their insurance provider. Drivers will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

SYSTEM CONTACT

Any questions regarding this policy or any other aspect of the Federal Highway Administration requirements should contact the following El Paso County representative:

El Paso County Chief Human Resources Officer
800 Overland, Suite 223
El Paso, Texas 79901
(915) 546-2218