

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

The University places a high priority on the safety and well being of all employees, students, and visitors. It is the responsibility of all employees to provide for safety in the environment and operations under their control and to consult campus offices responsible for security, health, and safety about safety issues in the campus environment. The University will comply with applicable laws and will implement programs to insure that employees are fit for duty and do not jeopardize the health and safety of themselves and others through misuse of drugs and alcohol.

**Regulations**

1.071 **Unsafe Conditions**

Employees who become aware of unsafe conditions within their work environment have the responsibility to report such conditions to their immediate supervisor or other officials responsible for the safety of the University community.

1.072 **Alcohol and Drug Testing of Employees**

**Employees Required to Hold Commercial Drivers Licenses**

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, and mass transit industries. The Federal Highway Administration rules, effective January 1, 1995, require random alcohol and drug testing of employees required to possess a commercial drivers license (CDL) by their employer. This Regulation shall refer to such employees as CDL employees. Applicants or employees testing positive under any of these mandated alcohol/drug tests will come under the provisions of the University Alcohol and Substance Abuse Policy.

**Employees Required to Operate a Gas Transmission System**

Chapter 49 of the Code of Federal Regulations (CFR) requires operators of pipeline facilities that are subject to part 192, 193, or 196 of 49 CFR to test employees that perform Operator Qualification Plan (OQ) covered tasks for the presence of prohibited drugs and alcohol.

1. **Alcohol Prohibitions for CDL Employees**

A CDL employee is prohibited from performing CDL activities for alcohol related conduct including: (1) while using alcohol, or possessing alcohol which is not manifested and transported as part of a shipment; (2) while having an alcohol concentration of 0.02 or greater; (3) within four hours of using alcohol; (4)

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

refusing to submit to an alcohol test; and (5) using alcohol within eight hours after an accident or until after a required post-accident test.

Alcohol Prohibitions for OQ Employees

An OQ employee is prohibited from performing OQ activities for alcohol related conduct including: (1) while having an alcohol concentration of .04 or greater; (2) within four hours of using alcohol; (3) using alcohol within eight hours after an accident or until after a required post-accident test; (4) within eight hours of an alcohol test that produces an alcohol concentration of .02 or greater, but less than .04 unless he/she is retested and has a test result of less than .02; and (5) refusing to submit to an alcohol test.

Drug Prohibition for CDL and OQ Employees

CDL and OQ employees are prohibited from any unauthorized use of a controlled substance on or off duty.

2. Required Tests

Testing for alcohol/drug use is required under seven different situations including:

- A. Pre-Employment/Pre-Duty: Conducted before applicants are hired into positions that require a CDL and performance of safety-sensitive functions or positions that require the performance of OQ covered tasks, or before an employee is transferred from a position not requiring a CDL to a position that requires the possession of a CDL and the performance of safety-sensitive functions or from a position that did not require the performance of OQ covered tasks to a position that requires the performance of OQ covered tasks. A pre-duty test will be conducted on any CDL or OQ employee who is returning to duty after a 30 day or greater period of layoff or disability and who has not been subject to the requirement for a random drug test during the period of layoff or disability. OQ employees are only subject to pre-employment/pre-duty drug testing, not alcohol testing.
- B. Post-Accident: Conducted after accidents on CDL or OQ employees whose performance could have contributed to the accident. Testing on CDL employees is determined by issuance of a citation for a moving traffic violation and for all fatal accidents even if the CDL employee is not cited

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

for a moving traffic violation. The University may rely on the results of breath, blood, or urine tests administered by on-site police or public safety officials to determine the presence of alcohol or controlled substances. Testing on OQ employees will be conducted after any reportable incident as defined by Parts 191 and 195 under 49 CFR.

- C. Reasonable Suspicion: Conducted when a supervisor observes CDL or OQ employee behavior or appearance that is characteristic of alcohol/drug misuse.
  
- D. Random Testing for CDL Employees: Testing for the misuse of alcohol shall be conducted throughout the year on a random unannounced basis just before, during, or after the employee's performance of CDL activities. Random testing for controlled substances shall be conducted at any time. Employees will be selected for random testing by a process that provides that each covered employee shall have an equal chance of being tested each time selections are made.
  
- E. Random Testing for OQ Employees (drug only): Random testing for controlled substances shall be conducted at any time for OQ employees. OQ employees will be selected for random testing by a process that provides that each OQ employee shall have an equal chance of being tested each time selections are made.
  
- F. Retesting for OQ Employees (alcohol only): After an OQ employee is administered an alcohol test that produces an alcohol concentration of .02 or greater, but less than .04, he/she will not be permitted to perform a covered function within eight hours of that test result unless he/she is retested and has a test result of less than .02.
  
- G. Return to Work and Follow-up: Conducted when an employee who has violated any prohibited alcohol/drug conduct standard returns to work in a capacity requiring a CDL or the performance of OQ covered tasks. Also, the employee is subject to at least six unannounced follow-up tests during the first 12 months after he/she returns to duty in a CDL or OQ position. This follow-up testing may be extended for up to 60 months following an employee's return to a CDL or OQ position.

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

3. Conduct of Random Testing for CDL Employees - Alcohol

Random alcohol testing shall be conducted on unannounced dates and times and with unpredictable frequency throughout the year. Initially, the number of random tests conducted by the employer must equal a number that is at least 25% of all of the CDL employees.

- A. The rules require breath testing to be done on Evidential Breath Testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA) and administered by Breath Alcohol Technicians. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered negative. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted.
- B. A CDL employee who has a confirmed alcohol concentration when tested of 0.02 or greater must be removed from University CDL activities for 24 hours. An employee who is found to have engaged in prohibited alcohol conduct, as referenced in item 1 (Alcohol and Drug Prohibitions for CDL Employees), will be removed immediately from CDL activities. Such an individual, besides abiding by applicable State and local requirements, cannot resume the operation of a commercial motor vehicle for any employer until he/she (1) is evaluated by a substance abuse professional, (2) complies with any treatment recommendations, and (3) tests negative in a follow-up test.

4. Conduct of Random Testing for CDL and OQ Employee- Drugs

Random drug testing shall be conducted by the employer on an unannounced basis and must initially equal a number that is at least 50% of the CDL or OQ employees. The number of tests in a subsequent year is based on the number of positive drug test results in the preceding year.

- A. Drug testing is conducted by analyzing a CDL or OQ employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS) for the following

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

drugs: (1) Marijuana (THC metabolite), (2) Cocaine, (3) Amphetamines, (4) Opiates (including heroin), and (5) Phencyclidine (PCP). The testing is a two-stage process. First, a screening test is conducted. If it is positive for one or more of the above drugs, then a confirmation test is conducted for each identified drug. The confirmation test is a gas chromatography/mass spectrometry (GC/MS) analysis.

- B. Test results shall be communicated to and interpreted by a physician who is designated by the University as its Medical Review Officer (MRO). Both positive and negative test results will be reported to the University. Prior to reporting positive test results, the MRO is required to contact the employee involved to determine whether there is any alternative explanation for the presence of the controlled substance. If the MRO determines that the presence of the prohibited drug is due to legitimate medical use, the test result will be reported as negative.
- C. Any CDL or OQ employee who has a positive result on the confirmation drug test will not be permitted to resume CDL or OQ duties until he/she (1) is evaluated by a substance abuse professional, (2) complies with any recommended rehabilitation, and (3) tests negative in a follow-up drug test.

5. **Confidentiality of Records**

All alcohol/drug testing results and records are maintained under strict confidentiality by the employer, drug testing laboratory, medical review officer, and, where applicable, the substance abuse professional. Such materials will not be released to others without the written consent of the employee. Exceptions prescribed by law to the confidential access provisions are: (1) DOT agencies, when license or certification actions may be required and (2) a decision maker in a grievance, arbitration, litigation, or administrative proceeding arising from a positive test result or employee initiated action.

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

6. Condition of Employment - Release of Information

It is a condition of University employment for a CDL or OQ employee to provide upon request a written release to the University to obtain the following information from previous employers or a substance abuse professional.

- A. Information on the alcohol test with a concentration result of 0.04 or greater within the preceding two years.
- B. Positive controlled substances test results within the preceding two years.
- C. Refusals to be tested under applicable regulations within the preceding two years.
- D. Proof of a substance abuse professional evaluation.
- E. Compliance with a return-to-duty testing requirement.

7. Condition of Employment - Therapeutic Drug Use

It is a condition of University employment for a CDL or OQ employee to inform the University of any therapeutic drug use otherwise prohibited by this policy and federal regulations, and to provide the University with a physician's written certification that such therapeutic drug use will not impair the CDL or OQ employee in the performance of safety-sensitive functions for the University.

8. Refusal to Test

The refusal to test, engaging in conduct that clearly obstructs the testing process, or failure to provide a release will result in the employee being removed from performing CDL or OQ duties, not being allowed to perform CDL or OQ duties for the University, and may be cause for discipline, including discharge.

9. Removal from CDL/Safety-Sensitive or OQ Duties

**POLICY 1**  
**ORGANIZATION OF DUTIES AND RESPONSIBILITIES**

**Rule 1.07 - Responsibility for Safety of Employees**

**Regulations (Continued)**

Employees who must be removed from CDL/safety sensitive or OQ duties for prohibited conduct involving drugs or alcohol are subject to discipline and/or a mandatory rehabilitation program. Referral for substance abuse problems is available through employee assistance and group insurance programs. Employees who are removed from duties due to suspicion of alcohol/drug abuse may be placed on approved leave of absence with pay, pending outcome of testing and determination of appropriate action, in accordance with Regulation 16.063, Disciplinary Action.