

**OTERO COUNTY  
DEPARTMENT OF TRANSPORTATION  
DRUG & ALCOHOL POLICY**

**DEFINITIONS:**

1. ***Accident*** means an unintended occurrence involving a commercial motor vehicle which results in:

- (a) A fatality (a fatality means any injury which results in the death of a person at the time of the accident) or
- (b) Injury to a person requiring immediate treatment away from the scene of the accident, or
- (c) Disabling damage to a vehicle requiring it to be towed from the scene.

2. ***Adulterated Specimen*** means a specimen that contains a substance that is not expected to be in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

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

4. ***Alcohol concentration (or content)*** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

5. ***Alcohol use*** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

6. ***Applicant*** means any individual tentatively selected: (1) for employment with the Employer within the consortium for a "Safety Sensitive Position", and who has not, immediately prior to the selection, been subject to testing.

7. ***Collection Site*** means a place where individuals present themselves for the purpose of providing body fluid to be analyzed for specified controlled substances. The site must possess all necessary personnel, materials, equipment facilities and supervision to provide for the collection, security, temporary storage and transportation or shipment of the samples to a qualified laboratory.

8. ***Commercial motor vehicle*** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) Has a gross combination weight of 26001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 10,000 pounds; or (2) Has a gross vehicle weight rating of 26001 or more pounds; or (3) Is designed to transport 16 or more passengers, including the driver or (4) Is any size and is used to transport hazardous material(s) requiring the motor vehicle to be placarded.

9. ***Confirmation test*** means (1) For alcohol a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration; (2) For controlled substances testing a second analytical procedure to identify the presence of specific drug or metabolite which is independent of the screen test and which uses a different

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technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. For Department of Transportation purposes this is a gas chromatography/mass spectrometry

10. ***Consortium*** means an entity, including a group or association of employers or contractors, that provides alcohol or controlled substances testing as required by 49 Code of Federal Regulations Part 382 or other Department of Transportation alcohol or controlled substances testing rules, and that acts on behalf of the employers.

11. ***Designated Employer Representative (DER)*** means an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR part 40.

12. ***Disabling damage*** means damage which precludes departure of a motor vehicle from the Scene of the accident in its usual manner in daylight after simple repairs. This includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven. It does not mean damage which can be remedied temporarily at the scene of the accident without special tools or parts; Tire disablement without other damage even if no spare tire is available; Headlight or tail light damage; or Damage to turn signals, horn, or windshield wipers which make them inoperative.

13. ***D.O.T.*** means an agency (or operating administration) of the United States Department of Transportation administering regulations requiring alcohol/drug testing.

14. ***Driver*** means any person who operates a commercial motor vehicle. This includes but is not limited to: (1) Full time regularly employed drivers; (2) Casual, intermittent or occasional drivers; (3) Leased drivers and independent owner-operator contractors who are either directly employed by or under lease to an Employer or who operate a commercial motor vehicle at the direction of or with the consent of the Employer.

15. ***Employer*** means OTERO COUNTY, which owns or leases a commercial motor vehicle cc assns persons to operate such a vehicle. The term *Employer* includes an employer's agents, officers, and representatives.

16. ***Illegal Drugs*** means a controlled substance included in Schedule I or II, as defined by section 802 (6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of the Title. The term "illegal drugs" does not mean the use of controlled substance pursuant to a valid prescription or other uses authorized by law.

17. ***Medical Review Officer (MRO)*** means the individual responsible for receiving laboratory results generated from the consortium's substance abuse program who is a licensed physician with knowledge of substance abuse disorders and the appropriate

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medical training to interpret and evaluate all positive test results together with an individual's biomedical information.

18. *Performing a safety-sensitive function* means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

19. *Premises* means all areas where the employer is either located or operates.

20. *Random Selection Process* means a system of drug and or alcohol testing imposed without individualized suspicion that a particular individual is using illegal drugs or alcohol, and may either be: (1) Uniform-unannounced testing of testing designated employees occupying a specified area, element or position; or (2) A statistically random sampling of such employees based on a number neutral criterion, such as social security numbers.

21. *Reasonable Cause* means the actions or appearance or conduct of an employee on duty that are indicative of the use of controlled substance or alcohol.

22. *Safety-sensitive function* means:

(a) All time at a carrier or shipper plant terminal, facility, or other property, or 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 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

(c) All driving time which means all time spent at the driving controls of a commercial motor vehicle in operation.

(d) Pit time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a steeper 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 repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

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**23. Screening test (or initial test)**

(a) In alcohol testing means any analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.

(b) In controlled substance testing, it means an immunoassay screen to eliminate negative urine specimens from further consideration.

24. ***Substance Abuse Professional (S.A.P.)*** means a licensed physician (Medical Doctor or Doctor of Osteopathy), 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 or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

25. ***Verified Positive Test Result*** means a test result that was positive on an initial FDA-approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by the Department of Human Services), and reviewed and verified by the MRO in accordance with this policy.

26. ***Workplace*** means any location where the employee must be to carry on the duties of employment.

**REFERENCES:**

1. Title 49 Code of Federal Regulations Part 40
2. Title 49 Code of Federal Regulations Part 382

**PURPOSE:**

Department of Transportation guidelines effective January 1 1996 state that all employers shall have alcohol and controlled substances programs in place. The following guidelines apply to all drivers of Otero County who are classified as sensitive” and shall be subject to Title 49 Code of Federal Regulations (CFR) Parts 382 and 40.



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**Title 49 Code of Federal Regulations, Part 382:**

**382.601 (b) (1): Please contact Dawn Lester, OTERO COUNTY Human Resources Director 575-439- 2603, 1101 New York Ave., Alamogordo, NM 88310 or BEH Drug Screening, LLC at (575) 434-6626 or 1-888-434-4626 to answer questions relating to the consortium's drug & alcohol program.**

**382.601 (b) (2): The operation of the following categories of Commercial Motor Vehicles (CMV) by a Commercial Driver's Licensed driver subjects the Commercial Driver's Licensed driver to the provisions of Title 49 Code of Federal Regulations Part 382:**

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (1) Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 10000 pounds; or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (3) Is designed to transport 16 or more passengers, including the driver or
- (4) Is any size and is used to transport hazardous material(s) requiring the motor vehicle to be placarded.

**382.601 (b) (3): The following are the *Safety-sensitive functions* that place drivers into the provisions of the Department of Transportation's Drug & Alcohol testing requirements of Title 49 Code of Federal Regulations {CFR} Part 382:**

All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved (on duty by the motor carrier).

All time inspecting equipment as required or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

All driving time which means all time spent at the driving controls of a commercial motor vehicle in operation.

All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.

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.

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All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**382.601 (b) (4): The following is specific Information concerning driver conduct that is prohibited by Part 382:**

Consuming alcohol prior to 4 hours of reporting to work in a safety sensitive function;

Reporting, or being on duty, with an alcohol concentration of, or greater than 0.02%;

Being on duty while possessing beverage alcohol;

Being on duty while using alcohol;

Reporting for duty while using any controlled substance;

Being on duty while possessing any controlled substance;

Being on duty while using any controlled substance;

Refusal to submit to any required testing under Title 49 Code of Federal Regulations Part 382 or Part 40.

*The following constitutes a verified positive controlled substance test result*

SUBSTANCE	INITIAL	CONFIRMATORY
Marijuana	50 ng/ml	15 ng/ml
Cocaine	300 ng/ml	150 ng/ml
Opiates: Morphine Codeine 6-Acetylmorphine <sup>4</sup>	2000 ng/ml 2000 ng/ml	2000 ng/ml 2000 ng/ml 10 ng/ml
Phencyclidine	25 ng/ml	<b>25</b> ng/ml
Amphetamines: Amphetamine Methamphetamine	1000 ng/ml 1000 ng/ml	500 ng/ml 500 ng/ml
Alcohol	.02 AC	.02 <b>AC</b>
Alcohol	.04 <b>AC</b>	04 <b>AC</b>

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**382.601 (b) (5):** The following are circumstances that will cause driver to be tested for drugs:

*(1) Pre-employment testing (382.301):*

**Procedures:**

The Employer shall direct the applicant to an appropriate collection facility. The drug test must be undertaken as soon after notification as possible.

No driver applicant shall be considered for a safety sensitive position without a verified negative drug test.

The Employer will decline to extend an offer of a safety sensitive position with a verified positive test result. Such applicant shall never re-apply to the Employer until the applicant has presented the results of successful program completion by an approved Substance Abuse Professional.

The Employer shall notify the consortium of any pre-employment drug test results that are required under this part that were administered by someone other than BEH DRUG SCREENING, LLC's consortium.

**382.413      Release of Alcohol and Controlled Substance Test Information by  
Previous Employers:**

The Employer shall, pursuant to a driver's written authorization, inquire about information on the driver's alcohol tests with a result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding two years of employment application, which are maintained by the driver's previous employers.

If feasible this information must be obtained and reviewed by the Employer prior to the first time a driver performs a safety sensitive function. If it is not feasible to obtain the information prior to the driver performing a safety sensitive function the Employer has 14 calendar days to obtain and review this information. The Employer may not permit a driver to perform safety sensitive functions after 14 calendar days without having made a good faith effort to obtain the information as soon as possible.

If the driver stops performing safety sensitive functions for the Employer before the 14 calendar days expires, or before the information is obtained, the Employer must still make a good faith effort to obtain the information.

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***(2) Random testing (382.305):***

All safety sensitive positions are designated for random alcohol and drug testing.

Under the selection process all drivers will have an equal chance of being selected each time a selection is made.

The rate of selection is 50% per annum for drugs and 10% per annum for alcohol. These rates may be adjusted by the Department of Transportation guidelines from time-to-time.

The selections are done by a scientifically valid process and the tests are unannounced.

The consortium will notify the Employer, or their designee, who shall set up an appointment for testing of the selected driver.

The driver will not be notified until the test is to be conducted.

The driver shall immediately present himself for testing at the designated collection location.

***Inability to urinate:***

Once a driver has been notified and presented him/her for testing the person to be tested may not leave the collection facility, or immediate vicinity, until a sample has been rendered. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collector must discontinue the collection, note the fact on the remarks line of the CCF (step 2), and immediately notify the DER. The collector must send copy 2 of the CCF to the MRO and copy 4 to the DER. The collector must send or fax these copies to the MRO and DER within 24 hours or the next business day.

The referral physician conducting this evaluation must recommend that the MRO make one of the following determinations:

- (1) A medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine.
- (2) There is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine.

The fees incurred for the medical examination may not be charged to the Employer.

***(3) Reasonable suspicion testing (382.307):***

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Reasonable suspicion testing may be based upon, among other things:

Observable phenomena, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of being under the influence of a drug/alcohol, or a pattern of abnormal conduct or erratic behavior.

Abnormal conduct or erratic behavior may include the following, which are not all inclusive:

- |                                                |                                    |
|------------------------------------------------|------------------------------------|
| * Abnormally dilated or constricted pupils     | * Forgetfulness                    |
| * Constant fatigue or hyperactivity            | * Smell of alcohol                 |
| * Slurred speech                               | * Difficulty walking               |
| * Slowed reaction rate Dulled mental processes | * Glazed stare - redness of eyes   |
| * Flushed face                                 | * Change of speech (faster/slower) |
| * Constant sniffing                            | * Redness under nose               |
| * Needle marks                                 | * Change in personality            |

Information provided either by reliable/credible sources or independently corroborated:

Newly discovered evidence that the driver has tampered with a previous drug/alcohol test.

Although reasonable suspicion testing does not require certainty, mere ‘hunches’ are not sufficient to meet this standard.

#### **Procedures:**

If a driver is suspected of using illegal drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. The appropriate supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing. This report should include the appropriate dates and times of reported drug/alcohol related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken.

The driver **shall be taken** to an approved collection site and a required reasonable suspicion drug and/or alcohol test shall be administered. Refusal by the employee to take the required test(s) shall be grounds for the full range of consequences including termination.

The Employer shall notify the consortium of any reasonable suspicion drug or alcohol test results that are required under this part that were administered by someone other than BEH DRUG SCREENING, LLC's consortium.

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**(4) Post accident drug/alcohol testing (382-303):**

Drivers involved in on-the-job accidents are subject to testing. Testing for both alcohol and drugs shall be conducted for each surviving driver:

- (1) Who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation under State or local law for a moving traffic violation arising from the accident.

NOTE: Nothing stated should be constructed as to require the delay of medical attention for injured people following an accident.



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TABLE OF EXAMPLES FOR POST ACCIDENT TESTING 382.303 (a) (3)

TYPE OF ACCIDENT INVOLVED	CITATION ISSUED To The CMV DRIVER	TEST MUST BE PERFORMED BY EMPLOYER
HUMAN FATALITY	YES NO	YES YES
BODILY INJURY WITH IMMEDIATE MEDICAL TREATMENT AWAY FROM THE SCENE	YES NO	YES NO
DISABLING DAMAGE TO ANY MOTOR VEHICLE REQUIRING TOW AWAY	YES NO	YES NO

**Post-Accident Procedures:**

Drivers involved in on-the-job accidents are subject to testing. Testing for both alcohol and drugs shall be conducted for each surviving driver:

- (1) Who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life, regardless of any traffic citations issued; or
- (2) Who was performing safety sensitive functions with respect to the vehicle, if the accident involved bodily injury with treatment away from the scene and a citation was issued to our driver, or
- (3) Who receives a citation under State or local law for a moving traffic violation arising from the accident and any motor vehicle requires towed from the scene.

A written warning is treated as a citation.

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**For alcohol:**

The driver involved in the accident who is subject to testing shall make himself available for testing for up to eight hours and no alcohol shall be consumed by the driver for 8 hours or until an approved breath alcohol test is performed. No breath alcohol test shall be performed after 8 hours from the time of the accident.

**For drugs:**

A urine collection for drug testing shall be conducted no later than 32 hours from the time of the initial accident.

The driver shall make him/her self available for testing during this time.

**Tests by Law Enforcement Agencies:**

The results of breath or blood test for the use of alcohol by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of post-accident testing, provided the tests conform to the applicable Federal, State, or local alcohol testing requirements, and that the results are obtained by the Employer.

The results of a urine test for the use of controlled substances by Federal, States or local officials having independent authority for the test shall be considered to meet the requirements of post-accident testing, provided the tests conform to the applicable Federal, State, or local controlled substances testing requirements, and that the results are obtained by the Employer.

The Employer shall notify the consortium of any post accident drug or alcohol test results that are required under this part that were administered by someone other than BEH DRUG SCREENING, LLC's consortium.

**(5) Return to duty testing (382.309):**

As the Employer, if you decide that you want to permit the employee to return to the performance of safety sensitive functions, you must ensure that the employee takes a return-to-duty test. This cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol concentration of less than 0.02 before resuming performance of safety sensitive duties.

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The Employer shall notify the consortium of any return to duty drug or alcohol test results that are required under this part that were administered by someone other than BEH DRUG SCREENING, LLC.

**(6) Follow-up testing (382.311):**

All drivers referred through administrative channels that undergo counseling or rehabilitation program for drug/alcohol use through a Substance Abuse Professional will be subject to unannounced testing following completion of such a program, at the discretion of the Substance Abuse Professional, for a period not to exceed five years. Such testing is unannounced as directed by a Substance Abuse Professional.

Follow-up testing for alcohol shall only be conducted when the driver is performing safety sensitive functions, just before the driver is to perform safety sensitive functions, or just after performing safety sensitive functions. The Employer shall notify the consortium of any follow-up drug or alcohol test results that are required under this part that were administered by someone other than BEH DRUG SCREENING, LLC's consortium.

**362.601 (b) (6): The following are procedures that will be used to test for the presence of alcohol and/or controlled substances:**

**Drug Testing:**

The consortium and Employer shall adhere to the guidelines for drug testing. Split urine specimens collected under this policy shall not be used to test for any other drugs than have been listed.

A drug testing component utilized by the consortium or Employer shall have professionally trained collection personnel, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

A collector must not work for a HHS-certified laboratory in a position that could link the employee with a urine specimen, drug testing result or laboratory report.

A collector must be knowledgeable about 49 CFR part 40 Subpart C, the current DOT Urine Specimen Collection Procedures Guidelines, and DOT agency regulations applicable to the employers for whom the collector performs collections.

A collector must receive qualification training meeting the requirements of 49 CFR Part 40.33.

**Privacy Assured:**

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Any individual subject to testing under this policy shall provide urine specimens in privacy unless there is reason to believe that a particular individual may alter or substitute the sample.

A collection site staff member of the same gender as the individual tested may observe the individual provide the urine specimen when such staff member has a reasonable suspicion to believe that the individual may attempt to alter or substitute.

***The following are grounds of reasonable suspicion:***

The employee has presented a urine specimen that falls outside the normal temperature range of 32° - 38°C or 90° - 100°F, and

The employee declines to provide an oral body temperature; or

The oral body temperature varies by more than 1°C/1.8°F from the specimen temperature;

The last urine specimen provided by the employee (on a previous occasion) was determined by the testing tab to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.

The collection site personnel observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g. substitute urine in plain view, blue dye in specimen presented, etc.); or

The employee has previously been determined to have used a controlled substance without medical authorization.

The laboratory reported to the MRO that a specimen is invalid and the MRO reported to the employer that there was not an adequate medical explanation for the invalid test result.

The collector observed materials brought to the collection site or the employees conduct clearly Indicates an attempt to tamper with a specimen as described in 49 CFR Part 40.61 (f)(5)(1) and 40.63 (e).

**Opportunity to Justify a Positive Drug Test Result:**

When a drug test result has been returned by the laboratory to the Medical Review Officer he or she shall perform their duties in accordance with 40 subpart G. For example, the Medical Review Officer may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The Medical Review Officer must review all negative and positive results.

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Evidence to justify a positive result may include, but is not limited to:

A valid prescription; or

A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence in a trial-type administrative proceeding, although the Medical Review Officer has the discretion to accept evidence in any manner that they deem most efficient or necessary. If the Medical Review Officer determines there is justification for the positive result such result will be considered a verified positive test result. The Medical Review Officer shall immediately contact the appropriate management official upon obtaining a verified positive test result.

**Breath Alcohol Test:**

The consortium and Employer will adhere to breath alcohol procedures of Title 49 Code of Federal Regulations Part 40, subpart M.

Breath alcohol shall be collected by a certified Breath Alcohol Technician utilizing a Department of Transportation approved Evidentiary Breath Testing machine.

The driver giving the sample shall complete step 2 of the certification on the Alcohol Testing Form. Refusal by the member to sign the certification shall be regarded as a refusal to take the test.

A result of the screening test of less than 0.02 concludes the test. If the screening test is 0.02 or greater the driver shall take a confirmation test.

The confirmation test shall be conducted within not less than 15 minutes and no more than 30 minutes of a positive screening test.

**Post-Accident Procedures:**

Drivers involved in on-the-job accidents are subject to testing. Testing for both alcohol and drugs shall be conducted for each surviving driver:

Who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life, regardless of any traffic citations issued; or

Who was performing safety sensitive functions with respect to the vehicle, if the accident involved bodily injury with treatment away from the scene and a citation was issued to our driver; or

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Who receives a citation under State or local law for a moving traffic violation arising from the accident **and any motor vehicle requires towed from the scene.**

A written warning is treated as a citation.

**For alcohol:**

The driver involved in the accident who is subject to testing shall make himself available for testing for up to eight hours and no alcohol shall be consumed by the driver for 8 hours or until an approved breath alcohol test is preformed. No breath alcohol test shall be performed after 8 hours from the time of the accident.

**For drugs:**

A urine collection for drug testing shall be conducted no later than 32 hours from the time of the initial accident.

The driver shall make himself available for testing during this time.

**382.601 (b) (7): The following lists the requirements of drivers to submit to testing for alcohol and controlled substances under Part 382:**

Title 49 Code of Federal Regulations Part 382 applies to every person and to all Employers of such persons who operate a commercial motor vehicle in any State, and is subject to the commercial driver's licensing requirements.

This includes an Employer who employs him/her self as an employee.

**382.601 (b) (8): The following is an explanation of what constitutes a refusal to test for alcohol or controlled substances and the consequences:**

Any employee who refuses to be tested when so required will be subject to removal from any safety-sensitive function.

**Alcohol:**

Refusal to test and uncompleted tests are:

Failure to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer. This includes the failure of an employee (including owner-operator) to appear for a test when called by C/TPA.

Failure to remain at the testing site until the collection process is complete



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Failure to attempt to provide a saliva or breath specimen as applicable, for any test required by DOT regulations

Failure to provide a sufficient breath specimen and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure

Failure to undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures outlined in 49 CFR Part 40265 (c)

Failure to sign the certification at step 2 of the Alcohol Test Form (ATE)

Failure to cooperate with any part of the testing process

**Controlled substance urine sample:**

If, as an employee, you normally void through self-catheterization, and decline to do so this is a refusal.

Failure to appear for any test within a reasonable time, as determined by the employer after being directed to do so by the employer. This includes the failure of an employee (including owner-operator) to appear for a test when called by C/WA.

Failure to remain at the testing site until the collection process is complete

Failure to provide a urine specimen as applicable, for any test required by DOT regulations

In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen  
{ See 40.67 (1) and 40.69 (g) }

Failure to provide a sufficient amount of urine, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

Failure to take a second test the employer or collector has directed you to take.

Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER as part of the "shy bladder" procedures of DOT regulations. (See 40.193 (d))

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As an employee, if the MRO reports that you have a verified adulterated or substituted test result you have refused to take a drug test.

**Consequences:**

Removing the employee from the safety sensitive position or function (all offenses).

As an employee, if you refuse to take a drug or alcohol test you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

**382.601 (b) (9): The following are consequences of a driver found to have violated 49 CFR Part 382, Sub-Part B:**

**Prohibitions:**

**382.201** No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No Employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

**382.205** No driver shall use alcohol while performing safety-sensitive functions. Nor shall an Employer allow the driver nor permit the driver to continue safety-sensitive functions when the Employer has actual knowledge of alcohol use by the driver.

**382.207** No driver shall perform safety sensitive functions within four (4) hours after using alcohol. No Employer having actual knowledge that a driver has used alcohol within four (4) hours shall permit a driver to perform or continue to perform safety-sensitive functions.

**382.209** No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

**382.211** No driver shall refuse to submit to a:  
Post-accident alcohol or controlled substance test,  
Random alcohol or controlled substance test,  
Reasonable suspicion alcohol or controlled substance test,  
Follow-up alcohol or controlled substance test.  
No Employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety sensitive functions.

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**382.213** No driver shall report for duty, or remain on duty, requiring the performance of safety-sensitive functions when the driver uses any controlled substances, except when use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

No Employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

**382.215** No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

No Employer having actual knowledge that a driver has tested positive for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

Therefore, any driver violating any & the above prohibitions shall immediately be removed from any safety-sensitive function by the Employer. The driver shall be referred to a Substance Abuse Professional by the Employer and may not return to duty until successful completion of an approved substance abuse program is completed. The cost of the Substance Abuse Professional may not be covered by the Employer. In cases where the driver has tested positive for controlled substances the Employer shall immediately notify the employee to cease any safety sensitive functions.

**382.601 (b) 10: The following are consequences for driven found to have an alcohol concentration of 0.02 or greater but less than 0.04:**

Levels of alcohol concentrations over .02% but less than .04% require an employee to be relieved of safety sensitive functions for a period of 24 hours.

**382.601 (b) 11: The following is information concerning the effects of alcohol and controlled substances.**

**1. ALCOHOL**

Although used routinely as beverage for enjoyment, alcohol can also have negative physical and mood-altering effects when abused. These physical or mental alterations in a driver may have serious personal and public safety risks.

# **OTERO COUNTY DEPARTMENT OF TRANSPORTATION DRUG & ALCOHOL POLICY**

## **HEALTH EFFECTS:**

An average of three or more servings per day of beer (12 oz.), Whiskey (1 oz), or wine (6 oz.) Over time, may result in the following health hazards:

- Dependency
- Fatal Liver disease
- Kidney disease
- Pancreatitis
- Ulcers
- Decreased sexual functions
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Spontaneous abortion and neonatal mortality
- Birth defects such as Fetal Alcohol Syndrome

## **SOCIAL ISSUES:**

- 2/3 off all homicides are committed by people who drink prior to the crime.
- 2-3% of the driving population is legally drunk at any one time. This rate doubles at night and on weekends.
- 2/3 of all Americans will be involved in an alcohol-related accident during their lifetime.
- The separation and divorce rate in families with alcohol dependency problems is 7 times the average.
- 40% of family court cases are alcohol-related.
- Alcoholics are 15 times likely to commit suicide.
- More than 60% of bums, 40% of falls, 69% of boating accidents, and 76% of private aircraft accidents are alcohol related.
- Over 17,000 fatalities occurred in 1993 in highway accidents, which were alcohol-related. This was 43% of all highway fatalities&
- 30000 people will die each year due to alcohol caused liver disease.
- 10,000 people will die each year due to alcohol-related brain disease or suicide.
- Up to 125000 people die each year due to alcohol-related conditions or accidents.

## **WORKPLACE ISSUES:**

- It takes one hour for the average person (150 pounds) to process one serving of alcohol from the body
- Impairment can be measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

# OTERO COUNTY DEPARTMENT OF TRANSPORTATION DRUG & ALCOHOL POLICY

## ALCOHOL'S TRIP THROUGH THE BODY:

**Mouth and Esophagus:** Alcohol is an irritant to the delicate linings of the throat and food pipe. It burns as it goes down.

**Stomach and Intestines:** Alcohol has an irritating effect on the stomach's protective lining, resulting in gastric or duodenal ulcers. This condition, if it becomes acute, can cause peritonitis, or perforation of the stomach wall. In the small intestine, alcohol blocks absorption of such substances as thiamine, folic acid, fat, vitamin B1, vitamin B2, and amino acids.

**Bloodstream:** 95% of the alcohol taken into the body is absorbed into the bloodstream through the lining of the stomach and duodenum. Once in the bloodstream, alcohol quickly goes to every cell and tissue in the body. Alcohol causes red blood cells to clump together in sticky wads, slowing circulation and depriving tissues of oxygen. It also causes anemia by reduction of red blood cell production. Alcohol slows the ability of white cells to engulf and destroy bacteria and degenerates the clotting ability of blood platelets.

**Pancreas:** Alcohol irritates the cells of the pancreas causing them to swell, thus blocking the flow of digestive enzymes. The chemicals, unable to enter the small intestine, begin to digest the pancreas, leading to acute hemorrhagic Pancreatitis. One out of five patients who develop this disease dies during the first attack. Pancreatitis can destroy the pancreas and cause a lack of Insulin thus resulting in diabetes.

**Liver:** Alcohol inflames the cells of the Liver causing them to swell and block the tiny canal to the small intestines. This prevents bile from being filtered properly through the liver. Jaundice develops, turning the whites of the eyes and skin yellow. Each drink of alcohol increases the number of live cells destroyed, eventually causing cirrhosis of the liver. This disease is eight times more frequent among alcoholics than among non-alcoholics.

**Heart:** Alcohol causes inflammation of the heart muscle. It has a toxic effect the heart and causes increased amounts of fat to collect, thus disrupting its normal metabolism.

**Urinary, Bladder, and Kidneys:** Alcohol inflames the lining of the urinary bladder making it unable to stretch properly. In the kidneys, alcohol causes increased loss of fluids through its irritating effect.

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**Sex Glands:** Swelling of the prostate gland caused by alcohol interferes with the ability of the male to perform sexually. It also interferes with **the** ability to climax during intercourse.

**Brain:** The most dramatic and noticed effect of alcohol is on the brain. It depresses brain centers, producing progressive incoordination: confusion, distortion, stupor, anesthesia, coma, death. Alcohol kills brain cells and brain damage is permanent. Drinking over a period of time causes loss of memory, judgment, and learning ability.

## 2. DRUGS

### Marijuana

#### Health Effects

- Emphysema-like conditions.
- One joint of marijuana contains cancer-causing substances equal to % pack of cigarettes.
- One joint causes the heart to race and be overworked. People with heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus Infections.
- Marijuana lowers the body's immune system response, making users more susceptible to infections.
- Chronic smoking causes changes in brain cells and brain waves. The brain does not work as efficiently or effectively. Long-term brain damage may occur.
- Tetrahydrocannabinol (THC) and 60 other chemicals in *marijuana* concentrate in the ovaries and testes.
- Chronic smoking of marijuana in males causes a decrease in testosterone and an increase in estrogen, the female hormone. As a result the sperm count is reduced, leading to temporary sterility.
- Chronic smoking of marijuana in females causes a decrease in fertility.
- A higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life are common in pregnant marijuana smokers.



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- THC causes birth defects including brain damage, spinal cord, forelimbs, liver, and water on the brain and spine in test animals.
- Prenatal exposure may cause underweight newborn babies.
- Fetal exposure may decrease visual functioning
- User's mental function can display the following effects:
  - delayed decision making
  - diminished concentration
  - impaired short-term memory
  - impaired signal detection
  - impaired tracking
  - erratic cognitive function
  - distortion of time estimation

## **Workplace Issues**

- THC is stored in body fat and slowly released.
- Marijuana smoking has long-term effects on performance.
- Increased THC potency in modern marijuana dramatically compounds the side effects.
- Combining alcohol or other depressant drugs with marijuana increase the impairing effects

## **Cocaine:**

Used medically as a local anesthetic. When abused, it becomes a powerful physical and mental stimulant. The entire nervous system is energized. Muscles tense, heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

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#### Health Effects:

- Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells. Parkinson's disease could also occur.
- Cocaine causes the heart to beat faster, harder, and rapidly increases blood pressure. It also causes spasms of blood vessels in the brain and heart both lead to ruptured vessels causing strokes and heart attacks.
- Strong dependency can occur with one "hit" of cocaine. Usually mental dependency occurs within days for "crack" or within several months for snorting coke. **Cocaine causes the strongest mental dependency of all the drugs.**
- Treatment success rates are lower than other chemical dependencies.
- Extremely dangerous when taken with other depressant drugs. Death due to overdose is rapid. Fatal effects are usually reversible by medical intervention.

#### Workplace Issues

- Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
- Lapses in attention and ignoring warning signals increases probability of accidents.
- High cost frequently leads to theft and/or dealing.
- Paranoia and withdrawal may create unpredictable or violent behavior.
- Performance is characterized by forgetfulness, absenteeism, tardiness, and missing assignments.

#### Opiates:

Narcotic drugs which alleviate pain and depress body functions and reactions.

#### Health Effects

- IV needle users have a high risk of contracting hepatitis or AIDS when sharing needles.
- Increase pain tolerance, as a result a person may more severely injure themselves and fail to seek medical attention as needed.

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- Narcotic effects are multiplied when combined with other depressants causing an increased risk for an overdose.
- With increased tolerance and dependency combined, there is a serious financial burden for users.

## **Workplace Issues:**

- Side effects such as nausea, vomiting, dizziness, mental clouding and drowsiness place the user at high risk for an accident.
- Causes impairment of physical and mental functions.

## **Amphetamines:**

Central nervous system stimulant that speeds up the mind and body

## **Health Effects**

- Regular use causes strong psychological dependency and increased tolerance.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to increased blood pressure.
- Chronic use may cause heart or brain damage due to severed constriction of capillary blood vessels.
- Euphoric stimulation increases impulsive and risk taking behavior, including bizarre and violent acts.
- Withdrawal may result in severe physical and mental depression.

## **Workplace Issues:**

- Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest.
- With heavy use or increasing fatigue, the short-term mental or physical enhancement reverses and becomes impairment.

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## **Phencyclidine (PCP):**

Often used as a large animal tranquilizer. Abused primarily for its mood altering effects. Low doses produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare. Sudden noises or physical shocks may cause a “freak out” in which the person has abnormal strength, violent behavior, and an inability to speak or comprehend.

## **Health Effects:**

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- PCP, when combined with other depressants, including alcohol, increases the possibility of an overdose.
- If misdiagnosed as LSD induced, and treating with Thorazine, can be fatal.
- Irreversible memory loss, personality changes, and thought disorders may result.

## **Workplace Issues:**

- Not common in the workplace primarily because of the severe disorientation that occurs.
- There are four phases to PCP abuse:
  - Acute toxicity causing combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distorted perception are common.
  - Toxic psychosis with visual and auditory delusions, paranoia and agitation.
  - Drug induced schizophrenia.
  - Induced depression which may create suicidal tendencies and mental dysfunction.

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**3. 382.605 Referral, Evaluation and Treatment:**

Each driver who has engaged in conduct prohibited by Title 49 Code of Federal Regulations Part 382, sub-part B shall be advised by the Employer of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. Referrals into a Substance Abuse Professional play an important role in preventing and resolving employee drug use or alcohol abuse by providing employees an opportunity to discontinue their use.

All Substance Abuse Professional operations shall be confidential in accordance with this policy relating to records and confidentiality.

*A non-inclusive assistance resource listing:*

NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Behavioral Health Services Div. Substance Abuse Bureau	725 St Michaels Drive	Santa Fe	NM	87504	(605) 827- 0117
Drug Abuse Information and Treatment Referral Hotline					(800) 662- HELP
National Institute for Drug Abuse					(800) 8434971
Cocaine Helpline					(800) COCAINE
J-Anon					(800) 356- 9996
American Council on Alcoholism					(800) 527- 5344

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**382.601 (b) 11(c): Employer Provisions:**

**1. Employer policy regarding voluntary referrals to a Substance Abuse Professional:**

The Employer will initiate action to discipline any employee found to use illegal drugs, or alcohol, in every circumstance. Drivers are encouraged to voluntarily refer themselves to a Substance Abuse Professional before any testing occurs. Such discipline is not required for an employee who completes counseling and thereafter refrains from drug and alcohol use.

The decision whether to discipline a voluntary referral will be made by the Employer on a case-by-case basis depending upon the facts and circumstances.

The Employer is required to remove the employee from safety sensitive functions until the employee has obtained a release from a Substance Abuse Professional.

**2. Employer policy regarding legal drug use:**

Any employee in a safety sensitive position who is taking either prescription, nonprescription, or medication containing alcohol for illness or injury must report the use of these medications to his Employer. Failure to do so may result in disciplinary actions. It is the responsibility of the Employer to determine the effects of these drugs on job performance and safety. Generally the effects would be considered substantial enough to warrant removal if the medication container states that driving should not be done after taking the medication, or drowsiness occurs after taking the medication. In the event that these medications adversely affect performance or safety to the extent that the driver must be relieved from duty no disciplinary action will be taken against the driver. He/She may be required to take sick leave, vacation, leave without pay, or be placed in a less sensitive position.

No prescription drugs shall be brought into the work place by any person other than the person for whom the drug is prescribed by a licensed medical practitioner and shall be used only in the manner, combination, and quantity prescribed.

**3. Interstate commerce (school bus transportation providers):**

To the extent application of Federal Regulations hinges on the school bus operating in interstate commerce, or requires that it be subject to regulations by the Department & Transportation, or otherwise incorporates intentional phrases which are based on interstate activity or obligations to Federal agencies, it is the intent of this policy that such testing requirements and procedures shall also apply to drivers not operating in interstate commerce or being subject to such Federal regulation. To the extent any other portion of the Federal regulations referred to above require reasonable modification to make them



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applicable to the operation of public school buses or public school districts, it's the intent of this policy to effectuate such reasonable modifications on a case-by-case basis, and it is not the intention to make such regulations inapplicable.

## **4. Reporting:**

The reporting requirements which arise under Title 49 Code of Federal Regulations Parts 40 and 382 are an element of this policy. To the extent such reporting requirements hinge on operations in interstate, or intrastate, commerce or application of United States Department of Transportation regulations or require reporting to Federal agencies, such reporting requirements will be implemented to the degree to which they apply. The Employer shall notify the consortium of any drug or alcohol test results that are completed under this part that were administered by someone other than BEH DRUG SCREENING, LLCs consortium.

## **5. Consortium requirements:**

The consortium acts as an agent for the Employer. It does not replace the Employer responsibilities for meeting the Department of Transportation requirements.

The consortium contracts with its members for drug and alcohol testing on a per annum basis.

Employers and their employees' information are computer and paper filed.

**All tests conducted under this policy are received and recorded by the consortium.** This allows the annual Employer report to be compiled. This report must be retained by the Employer for 5 year.

The random selection pool is assembled by OTERO COUNTY, name of the Employer. The consortium scientifically selects the participant by computer. The participant is notified by either the Employer, or their designee, or directly by the consortium (owner operator). The urine and/or breath collection is done by the consortium by utilizing a fixed location collection site or a mobile collection facility that comes to the place of business or job site. The results are maintained by the consortium with a confidential copy either faxed or mailed to the Employer. Negative results are available to the employee upon written request to either the Employer or consortium. Positive results are transmitted to the Employer who in turn conveys the results to the employee.

6. Post-accident drug and/or alcohol testing not meeting the requirements under 382.303 may be done pursuant to 49 CFR 391.41 (b) 12 and 13. The collection forms utilized shall not be the Federal Drug Testing Custody and Control Form, or the US. Department of Transportation (DOT) Breath Alcohol Testing Form. A non- DOT form for either test

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shall be utilized. The results of the drug screen or breath test shall not be entered on the annual DOT report.

**7. Severance:**

In the event that any portion of this policy or any portion of the regulations it incorporates are declared unenforceable, the remainder of this policy and such regulations shall remain in full effect.

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**382.601 (b) 11 (d): Certificate of receipt:**

Drug/Alcohol policies shall be distributed to covered employees. Employees *are* required to sign for *the* materials. A copy showing receipt shall be maintained by OTERO COUNTY as part of the employees drug and alcohol file.

**EMPLOYEE VIOLATION FORM**

Pursuant to Title 49 Code of Federal Regulations Part 382, sub-part B you are advised by the Employer of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and/or the use of controlled substances. You may not return to any "Safety Sensitive" position until such time as you have completed, or been released by, an approved Substance Abuse Program that contains: referral, evaluation and treatment.

**A non-inclusive assistance resource listing:**

NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Behavioral Health Services Div. Substance Abuse Bureau	725 St. Michaels Dr	Santa Fe	NM	87504	(505) 827-0117
Drug Abuse Information and Treatment Referral Hotline					(800) 662-HELP
National Institute for Drug Abuse					(800) 843-4971
Cocaine Helpline					(800) COCAINE
Al-Anon					(800) 356-9996
American Council on Alcoholism					(800) 527-5344

\_\_\_\_\_  
EMPLOYEE PRINTED NAME

\_\_\_\_\_  
EMPLOYEE SIGNATURE OF RECEIPT

\_\_\_\_\_  
Date

\_\_\_\_\_  
EMPLOYER REPRESENTATIVE PRINTED NAME AND SIGNATURE

\_\_\_\_\_  
Date

*Employer retains the original copy  
Employee retains a copy*

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**ALCOHOL & CONTROLLED SUBSTANCE EMPLOYEE RECEIPT**

\_\_\_\_\_  
EMPLOYEE PRINTED NAME

\_\_\_\_\_  
EMPLOYEE JOB NUMBER

Otero County

\_\_\_\_\_  
YOUR COMPANY'S NAME

This is to certify that I have been provided my Employer's policies and procedures with respect to meeting the requirements of 49 CFR Parts 382 and 40. The policy includes the following items:

1. The designated person to answer questions about the materials.
2. The categories of drivers subject to Part 382.
3. Sufficient information about the safety-sensitive functions and periods of the workday that compliance is required.
4. Specific information concerning prohibited driver conduct.
5. Circumstances under which a driver will be tested.
6. Test procedures, driver protection and integrity of the testing processes, and safeguarding the validity of the test.
7. The requirements that tests are administered in accordance with Part 382.
8. An explanation of what will be considered a refusal to submit to a test and the consequences.
9. The consequences for Part 382 Sub-part B violations including removal from safety-sensitive functions and 382.605 procedures.
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.
11. Information on the affects of alcohol and controlled substances use on:
  - An individual's health -signs and symptoms of a problem
  - work -available methods of intervening
  - personal life when a problem is suspected
12. I understand that my Employer may utilize a Third Party Administrator to receive my test results. I further understand that the Third Party Administrator shall keep the results confidential in accordance with my company's policy.

\_\_\_\_\_  
EMPLOYEE SIGNATURE OF RECEIPT

\_\_\_\_\_  
Date

Debbie Alton

\_\_\_\_\_  
Authorized Employer Representative Name & Signature

\_\_\_\_\_  
Date