

Controlled Substances and Alcohol Testing Policy

Phone

Fax

This policy follows Department of Transportation and Federal Motor Carrier Safety Administration regulations found in 49 CFR Parts 40 and 382 (attached).

_____ is the designated company official assigned to answer all questions about this controlled substances and alcohol testing policy.

All drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) are subject to controlled substances and alcohol testing.

The definition of driver Safety Sensitive Function is found in 49 CFR Section 382.107 (attached). Safety Sensitive Function means all time from the time a driver 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.

Safety Sensitive Function shall include:

- (1) All time at an employer 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 employer;
- (2) All time inspecting equipment as required by 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 393.76 of this subchapter);
- (5) 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; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Driver conduct that is prohibited is found in 49 CFR Part 382 Subpart B (attached)

- No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or greater. 382.201
- No driver shall use alcohol while performing a safety sensitive function. 382.205
- No driver shall perform a safety sensitive function within 4 hours after using alcohol. 382.207
- No driver required to take a post accident alcohol test under 49 CFR 382.209 shall use alcohol for 8 hours following the accident. 382.207
- No driver shall refuse to submit to any required alcohol or controlled substances test. 382.211
- No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR 382.107 . This must not interfere with the driver's ability to perform a safety sensitive function. 382.213
- No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function, if the driver tests positive for controlled substances. 382.215

The circumstances in which the driver will be tested are incorporated and found in 49 CFR Part 382 Subpart C (attached).

- Pre-employment testing 382.301
- Post accident testing 382.303
- Random testing, per the prevailing rate as required by the U.S. DOT 382.305
- Reasonable suspicion testing 382.307
- Return to duty testing 382.309
- Follow up testing 382.311

All definition, regulations, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to correct driver are found in 49 CFR Parts 40 and 382. They are incorporated into this policy and are attached.

All CDL drivers who drive CMV's are required to submit to alcohol and controlled substances testing.

Refusal to submit to an alcohol or controlled substances test is defined in 49 CFR 382.107

Refusal to submit (to an alcohol or controlled substances test) means that a driver:

- 1) Fails to appear for any test (except a Pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner operator) to appear for a test when called by a C/TPA;
- 2) Fails to remain at the testing site until the testing proceeds is complete. Provided, that an employee who leaves the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test;
- 3) Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he/she has left the testing commences on a pre-employment test is not deemed to have refused the test;

- 4) In case of a directly observed or monitored collection in a drug test fail to permit the observation or monitoring of the drivers provision of a specimen;
- 5) Fails to provide a sufficient amount of urine specimen when directed, and it has been determined that there was no adequate medical explanation for the failure;
- 6) Fails or declines to take a second test the employer or the collector has directed the driver to take;
- 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR 40.193 (d). In the case of a pre-employment test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- 8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
- 9) Is reported by the MRO as having a verified adulterated or substituted test result.

Note: In reference to item 1 for the FMCSA immediate means that the employer shall ensure that the driver ceases to perform the safety sensitive function and proceeds to the testing site as soon as possible.

The consequences for violators of Subpart B are incorporated and found in 49 CFR Part 382 Subpart E (attached).

- 1) All CDL drivers will be removed from any safety sensitive position.
- 2) The driver must see a Substance Abuse Professional to ever drive again, anywhere.
- 3) The driver must take a Return to Duty Test with a negative result and/or an Alcohol Test with results below 0.02.

The consequences for CDL drivers tested for alcohol with results at 0.02 but below 0.04 are the driver will be removed from any safety sensitive position for 24 hours. 49 CFR Section 382.505(a) (attached).

Information concerning the effects of drug use and alcohol abuse:

Why is Prevention of Drug Abuse in the Workplace Important?



- Drugs can throw off your sense of time, space, and distance. This is especially dangerous when operating machinery or driving.
- Drug use can cause lateness and absenteeism. Increasing workload on other employees.
- Drug use can cause crime on the job. Including theft of your personal belongings to finance someone else's drug habit.
- Drugs can make you feel able to handle tasks that are much to difficult for you, or make you careless and likely to forget important safety steps.





Typical Signs of Addiction



- **Emotional** – Aggression, anxiety, burnout, denial, depression, and paranoia.
- **Behavioral** – Excessive talking, impaired coordination, inability to sit still, irritability, lack of energy, limited attention span, poor motivation, slow reaction time, and slowed or slurred speech.
- **Physical** – Chills, the of smell of alcohol, sweating, and weight loss.



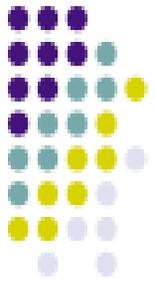
Types of Drugs Tested For:

- Cocaine
- Cannabis (Marijuana)
- Amphetamines
- Opiates
- Phencyclidine (PCP)



Cocaine

(Coke, Snow, Freebase, Crack, Rock, Etc.)

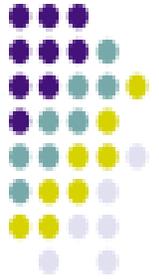


Workplace Dangers include:

- Causes a temporary feeling of superhuman power, impaired judgment and decision making ability.
 - Emotional problems, mood swing, and lack of dependability.
 - Workplace crime. Cocaine is very expensive and typically addicts steal to cover the cost.
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- **Form:** Odorless white crystalline powder usually inhaled through the nose, i.e., sniffed or snorted. "Crack" variant smoked.
 - **Where Used:** Because the effect of "coke" is short-lived (less than an hour), on the job use is not uncommon. Drugs may be hidden in innocent looking nasal inhalers or in the hollow of pens.
 - **Clues:** There may be excessive licking of lips. User behavior ranges from "high over-confidence" to deep depression as drug effect wears off.

Marijuana

(Pot, Grass, Weed)

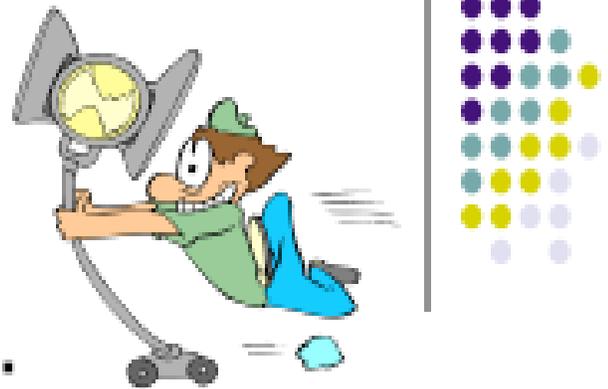


Workplace Dangers Include:

- Slows physical reflexes
- Cut your mental powers
- Makes you forgetful
- Throws off space and distance judgment, especially dangerous if operating machinery or driving. (The effect can go on for 4-6 hours.)
 - **Form:** Chopped up leaves of cannabis plant. Used like tobacco, either in cigarette form or in a pipe.
 - **Where used:** Because of its strong smell it is usually smoked outdoors, in parking lots, on loading platforms, etc.
 - **Clues:** Increased appetite and dry mouth are common symptoms. As drug wears a quiet depression will set in.

Amphetamines

(Speed, Uppers)



Workplace dangers include:

- Can make you rush around wildly and carelessly, pushing yourself beyond your physical capacity.
 - **Form:** Pills or tablets, sometimes legally prescribed but more likely to be obtained on the “Black Market.”
 - **Where used:** Usually in night work situation, by drivers and others trying to stay awake.
 - **Clues:** Users can't sit still. They are excitable and talkative. Pupils of eyes will be dilated. As the drug wears off the user will become dizzy and confused.

Opiates

(Heroin, Codeine, and synthetic pain relievers like Oxycodone and Hydrocodone.)



Workplace Dangers Include:

- Causes total disinterest in workplace safety.
- The high cost of addiction leads to workplace crime.
 - **Form:** Solutions, syrup, capsules, or tablets.
 - **Where used:** Because of the drugs wide variety of form this drug could be used in a work setting.
 - **Clues:** Inability to concentrate, lessened physical activity and pinpoint pupils.



Phencyclidine

(Hallucinogens - PCP, LSD, Ecstasy, and Designer Drugs)



Workplace Dangers Include:

- Vastly distorting what is seen or heard causing dangerous situation to be overlooked or caused.
- Sudden bizarre changes in behavior that can include attacks on others.
- Loss of concentration and memory or behavior problems even when the drug has worn off.
 - **Form:** White crystal-like powder, or a tablet, or capsule.
 - **Where used:** Drug can be easily concealed and used on the worksite.
 - **Clues:** Trance-like state, distortion of space, time, and body image.





Alcohol

- Can cause loss of concentration and judgment leading to dangerous behavior.
- Can cause loss of work time or lateness.
- Inability to deal realistically with workplace problems.



Company Policy

Any driver that violates 49 CFR Part 382 Subpart B shall be terminated for cause.

LIST OF SUBSTANCE ABUSE PROFESSIONALS

Tammy Puckett

Highland Village

Suite 293

Jackson MS

601-613-6088

CELL PHONE POLICY

On December 2, 2011, the Federal Motor Carrier Safety Administration passed a final rule restricting the use of cell phones by drivers of commercial motor vehicles (CMV). This rule becomes effective January 3, 2012. This rule restricts a CMV driver from holding a mobile telephone (cell phone or push to talk type phones) to conduct a voice communication or from dialing a telephone by pressing more than a single button.

This law also restricts the use of push to talk (Nextel Type) phones.

Limiting the use of cell phones, including texting and hands free devices, to times when we are not operating a motor vehicle, will reduce exposure to accidents and injuries.

has adopted the following policy effective immediately.

Under this policy, CMV drivers will not be able to hold, dial, or reach for a hand-held cell phone, including those with push-to-talk capability. Hands-free phone use is allowed, as is the use of CB radios and two-way radios.

Specifically, the rule prohibits drivers from:

- Using at least one hand to hold a mobile phone to conduct a voice communication;
- Dialing or answering a mobile phone by pressing more than a single button, and
- Reaching for a mobile phone in a manner that requires the driver to maneuver so that he or she is no longer in a seated, belted, driving position.

Drivers will not be able to use hand-held phones while temporarily stopped due to traffic, a traffic control device, or other momentary delays, but they will be able to use them after moving the vehicle to the side of, or off, the highway and stopping in a safe location.

Drivers who violate the new ban will face federal civil penalties of up to \$2,750 for each offense and disqualification for multiple offenses. Companies that allow their drivers to use hand-held cell phones while driving will face a maximum penalty of \$11,000.

Even though cell phone use is allowed with a hands free device it is our company policy that drivers not talk on a cell phone until they are parked at a safe and legal location. A driver receiving an incoming call on a hands free device, may briefly acknowledge the incoming call and inform the caller they will call back once they have parked in a safe, legal location.

Texting is never allowed while operating a CMV and is strictly prohibited by the Federal Motor Carrier Safety Regulations 49 CFR Part 392.80.

Texting includes phone texting, PDA use, satellite communications or any other existing texting communication devices.

This policy is in effect for anyone driving company owned or leased equipment.

Violations of this policy may result in disciplinary actions, up to and including termination.

FAQ

What does it prohibit?

The new rule says CMV drivers cannot "use a hand-held mobile telephone" while driving a CMV (§392.82). The rule contains the following new definitions:

"Use a hand-held mobile telephone means:

"(1) Using at least one hand to hold a mobile telephone to conduct a voice communication;

"(2) Dialing or answering a mobile telephone by pressing more than a single button, or

"(3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions."

"Mobile telephone means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It does not include two-way or Citizens Band Radio services."

"Driving [for purposes of the ban] means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary."

Who does it affect?

For now, the rule applies to:

- All interstate commercial motor vehicle drivers (as "commercial motor vehicle" is defined in section 390.5; this includes both CDL and non-CDL drivers); and
- All intrastate CMV drivers hauling a placarded amount of hazardous materials.

In the future, it is expected that the states will adopt a similar provision for all other in-state CMV drivers (with variances based on how each state defines "CMV"). Under Appendix A to Part 355, states are given three years to adopt rules that are similar or identical to the federal standards.

What about "push to talk"?

Most push-to-talk devices are "mobile telephones," so they are subject to the ban.

Can I use my phone at a stop light?

No, CMV drivers cannot use hand-held phones while temporarily stopped due to traffic, a traffic control device, or other momentary delays.

When can I use a hand-held phone?

Hand-held cell-phone use is allowed if you move the vehicle to the side of, or off, the highway and stop in a safe location.

Hand-held cell-phone use is also allowed “when necessary to communicate with law enforcement officials or other emergency services.”

Can I mount my phone within reach?

Yes, the rule does not prohibit that. Be aware that the DOT says that “reaching for any mobile phone on the passenger seat, under the driver’s seat, or into the sleeper berth are not acceptable actions.”

Can officers review my call history?

According to the DOT, “Nothing in the rule authorizes enforcement officers to require a driver to make a mobile telephone available so that the officer can review call history for purposes of enforcing this rule.” Enforcement will be handled at the state/local level, so the methods used to enforce the new rule will vary.

What are the penalties?

Fines and/or disqualification. Drivers who violate the new ban will face federal civil penalties of up to \$2,750 for each offense and disqualification for multiple offenses. This includes CDL and non-CDL drivers. Violating a state law on hand-held cell-phone use is considered a “serious traffic violation” under the new rule, and a second conviction of any serious traffic violation in 3 years will result in disqualification for 60 days, or 120 days after three convictions. See §§383.51 and 391.15.

Companies that allow their drivers to violate the ban face penalties of up to \$11,000 for each violation.

CSA scoring. The rule is expected to be added to the list of violations tracked under the CSA enforcement program, so violations could affect your CSA scores.

What about texting?

Texting while driving is already prohibited under federal (49 CFR Part 392.80) and most state rules. The DOT says it has already cited over 300 CMV drivers for texting.