01. POLICY STATEMENT

01.01 Texas State Facilities considers the safety and health of its employees to be of utmost importance. Reflecting this concern, the university strives to provide a work environment free of substance abuse. Additionally, this policy reflects the University's compliance with the Department of Transportation's (DOT) Employee Alcohol and Controlled Substances Testing requirements under the rules of the Omnibus Transportation Employee Testing Act of 1991. These requirements are found in 49 C.F.R. part 382.

01.02 General Policy - The University is required to conduct post-accident, random, and reasonable suspicion, testing for alcohol and pre-employment, pre-duty, post-accident, random, reasonable suspicion, return to duty, and follow up testing for controlled substances of each applicant for employment or employee requiring Commercial Driver's License. A Commercial Driver's License (CDL) is required for drivers of:

a. vehicles designed to transport 16 or more passengers including the driver;
b. drivers of trucks weighing at least 26,001 pounds;
c. drivers of trucks of any size carrying hazardous materials.

CDL covered employees are prohibited from refusing to take a required test. Employees whose test results confirm prohibited alcohol concentration levels or the presence of a controlled substance, or who refuse testing are subject to disciplinary action up to and including immediate termination of employment.

02. KEY TERMS DEFINED

02.01 Alcohol Concentration - 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. A prohibited level of alcohol concentration is 0.02 or greater.

02.02 Controlled Substance - at a minimum, CDL drivers will be tested for the following drugs: Marijuana, Cocaine, Opiates, Phencyclidine, and Amphetamines.

02.03 CDL covered employees – individual whose duties require them to have a Commercial Driver License as designated in a DOT agency regulation and who is subject to drug or alcohol testing (including an applicant) as set forth in DOT regulations.
02.04 Detectable Level - of a controlled substance: the lowest level deemed by the testing laboratory to be scientifically sufficient to determine that the controlled substance is present.

02.05 Illegal Drug - means any drug in any detectable amount:
   a. which is not legally obtainable
   b. prescribed drug not being used for the prescribed purpose
   c. any over-the-counter drug being used at a dosage level different than recommended by the manufacturer.

02.06 Prohibited conduct means a CDL covered employee may not:
   • report for duty or stay on duty while using any controlled substance
   • report for duty or stay on duty, if the CDL employee has tested positive for a controlled substance
   • refuse to submit to a drug test
   • report for duty or stay on duty with an alcohol concentration of 0.02 or greater
   • report for duty or stay on duty, if in possession of alcohol, if using alcohol, or within 4 hours of using alcohol
   • use alcohol until post-accident testing is completed or for a period of 8 hours, whichever comes first, if the CDL employee is involved in an accident while on the job
   • refuse to submit to an alcohol test.

02.07 Safety-sensitive function includes all time spent:
   a. waiting to be dispatched;
   b. inspecting, servicing, or conditioning equipment or a commercial motor vehicle;
   c. driving a commercial motor vehicle;
   d. loading and unloading;
   e. remaining in readiness to operate a vehicle;
   f. giving or receiving receipts for shipments;
   g. performing accident-related duties; or
   h. repairing, obtaining assistance, or remaining in attendance at a disabled vehicle."

03. **REQUIRED ALCOHOL TESTING**

03.01 General: The Act and this policy prohibit alcohol misuse that could affect performance of a safety-related function. This prohibition extends to 1) use of alcohol on the job; 2) use of alcohol during the four hours (in most cases) before performance of a safety-sensitive function; 3) having prohibited concentrations of alcohol in the system (alcohol concentration of 0.02 or greater) while performing safety-sensitive functions; 4) exhibiting behavior or appearance characteristics of alcohol misuse or an adverse effect on the employee's ability to perform due to alcohol misuse while performing safety-sensitive function, and 5) use of alcohol prior to post-accident testing or for up to 8 hours following an accident, whichever comes first. A CDL employee who violates any aspect
of this policy is subject to disciplinary action up to and including immediate termination of employment.

03.02 Before a covered CDL employee performs a safety-sensitive function, Facilities must provide him or her with post-accident instructions. This training will be provided during monthly defensive driving classes provided by the Facilities Training manager.

03.03 Post-Accident Testing: As soon as practicable following an accident, the CDL driver must be tested for alcohol if
   1) the CDL employee was performing a safety-sensitive function with respect to the vehicle and the accident involved the loss of human life,
   2) the CDL employee receives a citation under state or local law for a moving traffic violation arising out of the accident, or is judged to be at fault on the accident report, or
   3) following any incident in which the vehicle sustains damage and must be towed.

A report stating why the test was not promptly administered must be filed with the DOT if a post-accident test is not administered within two hours of the accident. If not administered within eight hours of the accident, attempts to administer the test must cease and the circumstances resulting in the failure to administer the test must be reported to DOT. Post-accident testing conducted by a federal, state, or local official having independent authority to conduct such test satisfies the requirements of the regulations provided
   1) such tests conform to applicable requirements and
   2) the results of the test are obtained by the University.

Post-Accident Testing Information Requirement: "Before a CDL covered employee performs a safety-sensitive function, Facilities must provide him or her with post-accident instructions".

03.04 Random Testing: The University must randomly select CDL covered employees at various times for unannounced alcohol testing. CDL covered employees must have an equal chance of being tested under the random process used. No fewer than 10 percent of CDL covered employees must be tested annually. Testing must be conducted either while the CDL covered employee is performing, immediately before performing, or immediately after performing a safety-sensitive function.

03.05 Reasonable Suspicion Testing: A CDL covered employee must be tested for alcohol misuse when the University has reasonable suspicion to believe that the employee has violated the rules regarding use of alcohol. The observation and determination that a reasonable suspicion exists must be made by a supervisor trained in detecting the symptoms of alcohol misuse. All supervisors with CDL covered employees are required to attend Reasonable Suspicion Training. Symptoms of alcohol and drug use are presented annually during drug free workplace training. Additionally supervisors with CDL covered employees will receive reasonable suspicion training every other year. (November of even # of years). A determination that reasonable suspicion exists must be
based on specific observations concerning the appearance, behavior, speech, or body odors of the employee. Reasonable suspicion testing is authorized only if the required observations are made during, just preceding or just after the period of the work day that the CDL covered employee is performing a safety-sensitive function. The observation and determination that a reasonable suspicion exists must be made by a supervisor trained in detecting the symptoms of alcohol misuse; however, the supervisor making the determination is not to conduct the reasonable suspicion test on that employee.

04. REQUIRED EMPLOYEE CONTROLLED SUBSTANCE TESTING

04.01 General: A CDL covered employee may not report for duty or remain on duty requiring the performance of a safety-related function when the individual uses any controlled substance/illegal drug. An exception to this rule applies in the case of an employee whose use of a controlled substance is pursuant to the instructions of a physician who has advised the employee that the substance will not adversely affect his or her ability to safely operate a commercial motor vehicle. A CDL employee who violates any aspect of this policy is subject to disciplinary action up to and including immediate termination of employment.

04.02 Pre-employment, Pre-duty testing: No covered CDL employee may perform a safety-sensitive function unless he or she has received a controlled substances test result from a medical review officer indicating a verified negative test result. The test may be administered at any time prior to the first time the employee performs safety-sensitive functions.

Non-employee CDL drivers: If the University uses, but does not employ, a CDL driver more than once a year, the University must assure itself once every 6 months that the driver participates in an alcohol and controlled substances testing programs that satisfies the DOT regulations.

04.03 Post-Accident Testing: As soon as practicable following an accident, the CDL driver must be tested for controlled substances if

1) the CDL employee was performing a safety-sensitive function with respect to the vehicle and the accident involved the loss of human life,
2) the CDL employee receives a citation under the state or local law for a moving traffic violation arising out of the accident, or
3) following any incident in which the vehicle sustains damage and must be towed.

In the event a required controlled substance test is not administered within 32 hours following the accident, the University must cease attempts to administer the test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. The results of a urine test for the use of authority to conduct the test shall satisfy the requirements of the regulations if

a. such tests conform to applicable federal, state, or local requirements; and
b. the results of the tests are obtained by the employer.
Post-accident information requirement: All CDL covered employees must be provided with necessary post-accident information, procedures and instructions, prior to the employee performing a safety-sensitive function. Training will be provided during monthly driving classes.

04.04 Random testing: CDL covered employees must be randomly selected at various times for unannounced controlled substances testing. CDL covered employees must have an equal chance of being tested under the random process used. No fewer than 50 percent of CDL covered employees must be tested annually.

04.05 Reasonable Suspicion Testing: A CDL covered employee must be tested for controlled substances when the University has reasonable suspicion to believe that the employee has violated the controlled substances prohibition. A determination that reasonable suspicion exists must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the CDL covered employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion testing is authorized only if the required observations are made by a trained supervisor or University officials during, just preceding or just after the period of the work day that the CDL covered employee is performing a safety-sensitive function. The supervisor or official making the determination is not to conduct the reasonable suspicion test on that employee.

Written record requirement: A written record of the observations leading to a controlled substance reasonable suspicion test must be made and signed by the supervisor or University official who made the observations. This record must be made within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

05. RETURN-TO-DUTY AND FOLLOW-UP TESTING

05.01 Return-to-duty: Prior to a return-to-duty in any safety-sensitive position, every CDL covered employee who has violated this policy (except alcohol concentration of 0.02 or greater but less than 0.04) shall be required to undergo and pass a return-to-duty test for alcohol and/or controlled substances and must be evaluated by a certified substance abuse professional who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse or controlled substances use.

05.02 Follow-up: Following a determination by a substance abuse professional that a CDL covered employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, such employees are subject to a minimum of 6 unannounced follow-up tests over the first 12 months. Follow-up testing may be extended for up to 60 months following return-to-duty.

06. TEST ADMINISTRATION
06.01 The Facilities Department is responsible for coordination of random test administration and receipt of test results. Human Resources is responsible for coordination of pre-employment testing. Facilities is responsible for pre-duty testing. A CDL covered employee scheduled for pre-employment, pre-duty testing is required to report as scheduled to a testing site designated by the University. A CDL covered employee who is to be tested randomly or for reasonable suspicion must be transported to the testing site by a supervisor or his/her designate.

07. INFORMATION, TRAINING, AND REFERRAL

07.01 Information: The University must provide specific educational materials, to be prepared and revised as needed under the supervision of Facilities Management that explain the requirements of this policy and procedures. Facilities must maintain a record that such materials have been provided to each CDL covered employee.

07.02 Training: Supervisors who have CDL covered employees and are designated to determine whether reasonable suspicion exists to require an alcohol testing must receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Supervisors who are designated to determine whether reasonable suspicion exists to require a controlled substance must receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable use of controlled substances. Facilities Training Coordinator is responsible to arrange for the training of these supervisors.

07.03 Referral: The Act provides that an "opportunity for treatment must be made available to CDL covered employees." The University is not required to provide or to pay for rehabilitation or to hold a job open for an employee with or without salary. An employee who engages in prohibited conduct under this policy is subject to disciplinary actions up to and including immediate termination. However, an employee who has engaged in prohibited conduct must be advised by their supervisor or an appropriate University official of the available resources for evaluation and treatment including names, addresses and telephone numbers of substance abuse professionals, counseling centers, and treatment programs.

08. RECORD RETENTION, CONFIDENTIALITY, AND REPORTING REQUIREMENTS

08.01 Record retention: The University is required to maintain records of its alcohol misuse prevention and controlled substance programs in a secure location with controlled access and retention. The Facilities’ Training Office does retain records as per the following schedule:

- Five-Year Retention Requirement: records of any CDL employee alcohol tests results indicating an alcohol concentration of 0.02 or greater; records of any employee verified positive controlled substance test results; documentation of refusals to take
required alcohol or controlled substance tests; alcohol test equipment calibration documentation; and documentation of employee evaluations and referrals.

- Two-Year Retention Requirement: all records related to collection processes and training.
- One-Year Retention Requirement: records of negative alcohol test results; records of negative and canceled controlled substance test results.

08.02 Reporting Requirements: An annual report must be submitted to the Federal Highway Administration (FHA) summarizing the results of the alcohol misuse prevention and controlled substance programs for each calendar year. Facilities Training Coordinator is responsible for the preparation of required reporting and liaison with the FHA and Department of Transportation.

09. COMPLIANCE AND COORDINATION WITH APPLICABLE STATUTES

09.01 The Act does not preempt consistent state laws or any right, benefit, privilege or remedy extended to CDL covered employees under other federal statutes. In particular, efforts to implement and comply with the DOT alcohol and controlled substance testing rules may implicate a CDL covered employee's right under any one (or all) of the following federal statutes:

- Drug-Free Workplace Act
- Fair Labor Standards Act
- American with Disabilities Act
- Rehabilitation Act of 1973
- Family and Medical Leave Act
- Age Discrimination in Employment Act
- Employment Retirement Income Security Act


10. MAJOR RESPONSIBILITIES ASSOCIATED WITH THIS PPS

Major responsibilities for routine assignments associated with this PPS include the following:

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<tr>
<th>Positions</th>
<th>Section</th>
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<td>Director, Facilities Management</td>
<td>Review</td>
<td>Jan. (E4Y-96)</td>
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<tr>
<td>Training Coordinator, Facilities</td>
<td>07.01, 07.02 &amp; 08.02</td>
<td>Annually</td>
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11. CERTIFICATION OF STATEMENT

This FSS/PPS has been approved by the following individuals in their official capacities, and represents FSS policy and procedure from the date of this document until superseded.
Training Specialist, Facilities, Reviewer

Director, Facilities Management, Reviewer

Associate Vice President, Facilities, Reviewer

Vice President for Finance and Support Services

Approved: _______________________
          Reviewer

Approved: _______________________
          Reviewer

Approved: _______________________
          Reviewer

Approved: _______________________
          Vice President for Finance and Support Services