

## EDUCATING THE WORKFORCE IN SUBSTANCE ABUSE PROGRAM MANAGEMENT

### “Ban The Box”

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Have you wondered why we recently updated our background check forms? At DATCS, our forms are Fair Credit Reporting Act (FCRA) compliant, which means that disclosures and authorizations must be separate. Since we are a national company, we must comply with other state, county, and city laws which have enacted the “Ban the Box” campaign.

“Ban the Box” is the name of an international campaign by civil rights groups and advocates for ex-offenders, aimed at persuading employers to remove from their hiring applications the check box that asks if applicants have a criminal record. That, in turn, gives the applicants a fair chance and allows employers the opportunity to judge

individual job candidates on their merits. Nationwide, over 100 cities and counties have adopted what is widely known as “ban the box” so that employers consider a job candidate’s qualification first, without the stigma of a conviction record. These initiatives provide applicants a fair chance by removing the conviction history question on the job application and delaying the background check inquiry until later in the hiring or conditional offer has been made.

There are a total of 20 states representing nearly every region of the country that have adopted the policies:

California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maryland, Massachusetts,

Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Oregon, Rhode Island, Vermont, Virginia, and Wisconsin.

Seven states, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Oregon, and Rhode Island, have removed the conviction history question on job applications for private employers, which advocates embrace as the next step in the evolution of these policies. For additional information, visit [www.nelp.org](http://www.nelp.org).

Texas is not a “Ban the Box” state yet, however the state capital (Austin) and Travis county is. With that being said, it is possible that the rest of the state could soon follow suit.

### Authorization Forms

Nothing is more frustrating than sending an employee for a drug and alcohol test, then finding out later that the alcohol test was not completed! Sending an authorization form with your employee for every

collection will greatly lower the chances for mistakes at the collection site. The authorization form will tell the collector exactly what test you, the DER, wants to have performed.





**Advantages of eCCFs:**

- ◆ *Manage the drug testing process online*
- ◆ *Reduced fatal flaws*
- ◆ *Less data entry errors*
- ◆ *No paper forms = less waste*

## Electronic CCFs – Saving Time and Money

A number of recent advancements in drug testing technology and practices are making life a little easier for those who administer programs. Perhaps the breakthrough that holds the greatest promise of efficiency and cost control is the development of the electronic Custody and Control Form (CCF).

Imagine this scenario: It's time for a drug test. Instead of filling out a CCF by hand and hoping that you haven't forgotten any critical information, that the collection site personnel can read your writing, or that you're using the correct form, you simply go online and initiate the drug test. The donor then shows up at the designated collection site with a unique barcoded identifier and the collection process continues. You can even designate a deadline for the collection; if the donor fails to show up in time

you are alerted electronically.

Using electronic CCFs also allows you the ability to monitor the status of each test ordered. You can check online to learn if the donor has checked in, if the collection is in process, if the individual refused to be tested, or that the process is complete.

While non-regulated employers have reaped the benefits of electronic forms for several years, regulated companies are now able to take advantage of this. The office of Drug and Alcohol Policy and Compliance issued a final rule on April 13, 2015 that allows employers, collectors, laboratories, and Medical Review Officers to use the electronic version of the Federal Drug Testing Custody and Control Form (eCCF) in the DOT-related drug testing program.

Electronic CCFs can only

be used when the employer's laboratory has been approved through the Department of Health and Human Services (HHS) National Laboratory Certification Program to use a specific eCCF and the employer has decided to use the eCCF.

Currently, the only laboratory with an approved Electronic Custody and Control Form (ECCF) system is Alere Toxicology Services.

There have been no changes to the records retention requirement. The types of records and length of time to keep them have not changed. The only thing that has changed is the format (e.g., electronic vs. paper).

The final rule can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2015-04-13/pdf/2015-08256.pdf>.



## FMCSA Minimum Random Rates Reduced For 2016

Effective January 1, 2016, the minimum annual percentage rate for random controlled substances testing is 25 percent of the average number of driver positions. The minimum annual percentage rate for random alcohol testing will remain at 10 percent.

The FMCSA announces, pursuant to 49 CFR 382.305, that it is reducing the minimum annual percentage rate for random controlled substances testing for drivers of commercial motor vehicles (CMVs) requiring a commercial driver's license (CDL)

from the current rate of 50 percent of the average number of driver positions to 25 percent of the average number of driver positions, effective in calendar year 2016. As always, the motor carrier has the discretion of setting their random rates at a higher percentage.

## What Is A Negative Dilute?

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*I received a negative dilute result... can I test the donor again?*

*Certainly! Just be consistent with testing.*

A negative dilute is considered a negative test under DOT regulations (§40.197) unless the MRO directs the DER to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL (see §40.155(c)).

There is generally an increase in negative dilute samples during the

summer as employees increase their water intake.

As the DER, you are allowed to retest these negative dilutes if you would like to. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see §40.67 (b) and (c)).

You must treat all employees the same for

this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (conduct retests in pre-employment situations, but not in random test situations). You must inform your employees in advance of your decisions on these matters.

## ExxonMobil – New Testing Requirements



As of January 1, 2016, ExxonMobil has established new requirements in regards to their drug and alcohol testing program. This means that any contractor that is establishing a new agreement or renewing their agreement will fall under these new requirements. However, contractors that are already established, will remain following their current agreement until their contract is up for renewal, which could be several years.

Changes include the

lowering of screening and conformation levels of Benzodiazepines, Marijuana metabolites, and opiates. Synthetic cannabinoids and Oxycodone have been added to the required test panel, while Phencyclidine (PCP) and Propoxyphene have been removed.

According to the new requirements, there is no longer an annual drug/alcohol testing requirement, however the employees (classified as safety sensitive) must be part of a random drug and alcohol testing program.

This testing program must meet, at least, a 50% annual drug and 50% annual alcohol rate. If an employee is not tested (to the new testing protocol) for any reason within a 2 year period, they must be selected for an unannounced test before the end of the 2<sup>nd</sup> year. This, in essence, means that they want to ensure that all employees in this random pool have a test every 2 years but they don't want them to be scheduled where the employees will know when they will be tested.

## Secure Those Results!

Have you wondered if you could combine all of an employee's records in their Driver Qualification File?

All DOT drug and alcohol test records must be kept in a separate, confidential secure location with controlled access.

Records should be in locked file cabinets. If records are kept electronically, they should be password protected.

## Designer Drugs – The Approaching Storm



*Synthetic drugs are so unpredictable that the best move is to avoid them entirely.*

Synthetic/Designer drugs are drugs with properties and effects similar to a known hallucinogen or narcotic, but have a slightly altered chemical structure. These drugs are created specifically to evade restrictions against illegal substances.

The use of designer drugs being abused in the United States has grown tremendously in the last several years.

The list of synthetic drugs is constantly changing. To avoid arrest, chemists need only change an ingredient to alter the formula slightly. This new drug would not be recorded under the banned drug list. All it takes is the manipulation

of one molecule in order for a drug to evade the restrictions set by the controlled substances act, thus making it legal.

The signs and symptoms of designer drug abuse covers a wide gambit, which is enough to cause extreme alarm for parents, medical professionals, and law enforcement officials.

Due to the wide variety of ingredients and chemical configurations found in synthetic drugs, there are no specific signs and symptoms for each type. Indicators to watch for may include:

- ◆ Seizures
- ◆ Hallucinations

- ◆ Suicidal attempts
- ◆ Homicidal tendencies
- ◆ Delusions
- ◆ Aggression
- ◆ Agitation
- ◆ Chest pain
- ◆ Heart attack
- ◆ Self-destructive behavior
- ◆ Sweating
- ◆ Anxiety
- ◆ Inability to speak

Symptoms can last for hours or even days. Since these drugs are so highly addictive, another major sign to watch for is compulsive use of the drug despite the harm that is being experienced by the individual.



## ***We are facing a whole new era in the war on drugs.***

“Users can experience sever psychiatric manifestations, psychosis with hallucinations, and also have evidence of illusions with acute psychosis with delirium.” -- Dr. Richard Sanders, M.D.

Not only can the abuse of synthetic drugs be dangerous to the user, it can also be harmful or even fatal for people in

their general vicinity.

There have been many tragedies and near disasters where designer drugs have been involved.

A Hawaiian man used Spice, which is a synthetic cannabis, and then tried to throw his girlfriend off an eleventh-floor balcony.

Due to the abuse of bath salts, a four-year-old boy

and his parents were killed in Washington State.

In Kentucky, a mother used bath salts and then tried to kill her two-year-old son because she was convinced he was a demon.

This is a problem that is not going to go away on its own – we ALL must be aware and prepared.

## Updating Your Workplace Drug and Alcohol Policy

Employers that conduct drug and alcohol testing should consider updating their drug and alcohol policies, especially if they have not done so in many years.

There are several reasons to do so:

◆ Is your non-regulated drug test panel effective?

If you are still using the basic 5-panel, consisting of marijuana, cocaine, amphetamines, PCP, and opiates, then you may want to consider a more effective expanded panel. Due to the prescription painkiller epidemic, DATCS highly recommends utilizing the

10 panel expanded opiate test.

◆ Is medical marijuana addressed?

While marijuana is still illegal under federal law, more and more states are enacting medical marijuana laws. Some of these state laws prohibit employers from discriminating against medical marijuana users. Employers should review these laws carefully and consider the potential legal and safety risks.

◆ Do you have a set definition for a “refusal to test”?

Many non-regulated drug and alcohol testing policies

are deficient because employers do not clearly define what constitutes a refusal to test. For example, employees selected for drug testing may attempt to delay the test.

◆ Customer requests for drug testing are on the rise.

Many customers are demanding that companies test their employees before they are allowed to access the customers’ premises to perform work. Consider how you will handle testing situations that may arise, for example, employees refusing to test or that may test positive.



## DER Best Practices

The Designated Employee Representative (DER) is your key employee for many drug and alcohol program functions. Two of their most important roles is in handling the process of instructing potential employees on carrying out their pre-employment drug testing and ensuring that random tests are completed in a timely manner.

Key points to consider are:

◆ Has the potential employee been informed about the company drug policy and signed acknowledging this?

◆ Has an authorization form been properly filled out, including time/date notified, and have you had the employee sign the form?

◆ Have you notified the employee to report to the collection site immediately?

◆ If possible, has the form been faxed to the collector so they can prepare for the employee’s arrival, and more importantly, let you know if they arrived unreasonably late?

If the DER can answer yes to all these questions, then they have an exceptional process which has a high probability of successfully screening out drug abusers before they become employees working at your company.



## Why Is Compliance Important?

Why should a motor carrier prevent a driver impaired by drugs or alcohol from driving a truck? The answer should be obvious, but a carrier caught between a deadline and the lack of a safe driver might be tempted to cut corners. More commonly, a carrier might fail to adequately screen or test drivers in accordance with the regulations.

The smartest practice is to follow the rules!

- ◆ Have a functioning drug and alcohol testing program in place.
- ◆ Carefully check the background of candidates and only hire those with

excellent records.

### Reduced Costs

Getting caught with a drug or alcohol impaired driver behind the wheel is expensive, even if crashes are averted. Insurance premiums go up, fines are levied, the driver is off the road, and must either be rehabilitated or replaced. In the case of a crash, court costs and legal fees can be astronomical.

The cost of setting up and running a proper drug and alcohol testing program is much less than the cost of failing to do so. Many states offer reduced workman's compensation premiums for drug-free workplaces. In many

states, being in compliance with the federal regulation qualifies a carrier for this reduced premium.

### Customer Satisfaction

A carrier's reputation is built on trust. It will suffer if the carrier is known to employ or use drivers impaired by drugs or alcohol.

### Crashes Avoided

No one wants to be near an 80,000-pound truck driven by an impaired driver. No carrier wants to spend the time or money dealing with years-long legal consequences of a fatal crash due to driving under the influence.



## Effective Random Testing

What makes random testing so effective is the element of surprise. While employees know they will be tested, they are never quite sure of when, so random selections and testing should be performed at least quarterly. There has been an increase of employers requesting the selection period to be monthly.

### When do I test?

As the company DER, you should spread testing dates reasonably throughout the year in a non-predictable pattern. The random drug tests

should be conducted anytime that employees are on duty or while performing safety-sensitive duties.

For random alcohol tests, it is necessary to conduct these tests just before, during, or just after the employee performs a safety-sensitive job, as described in your industry specific regulations.

Each workday, you can enhance the non-predictability of your program by performing these tests at the start, middle, or end of each shift. The worse thing that

could happen is for employees to say, "The second safety meeting of each quarter, we get tested."

Another matter to consider is that everyone in the pool must have an equal chance of being selected and tested for each selection period. A scientifically valid method to select employees for testing may include: use of a random-number table or a computer-based random number generator that is traceable to a specific employee.




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*"It's our last safety meeting of the quarter... I bet we have our drug tests today!"*

# How Long Does Marijuana Stay in Your System?

## Saliva Tests

THC will test positive on a saliva test within one hour of use but not test positive about 12 hours after last use.



## Urine Tests

THC will test positive on a urine test within 2-5 hours of use. The length of time it remains depends on your level of use.



**WEIGHT**  
**BODY FAT**  
**AMOUNT USED**  
**FREQUENCY OF USE**

Factors that influence how long THC stays in your body

Some heavy smokers reported being positive 45 - 90 days after quitting!

## Hair Tests

THC shows up about 7 days after use in a hair drug test. Most hair drug tests show a 90 day drug history.



*NOTE: THC does not always bind to the hair follicle and is not always considered an accurate test for marijuana use.*

All time frames are estimates and intended as a guide. The best way to know is to test yourself.