

SECTION 18A
ALCOHOL AND DRUG USE SCREENING, TESTING, AND TREATMENT
FOR COMMERCIAL DRIVER LICENSE HOLDERS

THIS POLICY APPLIES ONLY TO COMMERCIAL DRIVER LICENSE (CDL) HOLDERS AND OTHER DRIVERS AS INDICATED. THESE PROVISIONS ONLY APPLY IF THE CDL IS REQUIRED FOR WORK PURPOSES. THIS POLICY IS IMPLEMENTED TO BE CONSISTENT WITH THE STATUTES, ORDINANCES, AND REGULATIONS OF THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) AND THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA).

A. GENERAL:

1. A complete copy of the anti-drug/alcohol misuse prevention procedures is available to all employees (see Sections 18 and 18A of the Personnel Policies and Procedures Manual). This section only discusses the FMCSA provisions of the mandated drug and alcohol testing regulations and how they relate to employees.
2. The provisions contained in Section 18 are applicable to all county employees, including those who perform safety-sensitive trucking functions covered under Title 49 CFR (Code of Federal Regulations) Part 382.
3. County employees who only perform trucking functions must be aware of the general testing provisions discussed in Section 18 and must be aware of the specific highway regulations as set forth in this policy.
4. The county recognizes that the misuse of drugs and alcohol in today's society is a major problem, which has also found its way into the trucking industry. The purpose of this policy is to reduce highway accidents that result from driver misuse of drugs and alcoholic substances, thereby reducing fatalities, injuries, and property damage. The Department of Transportation, Federal Motor Carrier Safety Administration, has established extensive regulations requiring testing under certain circumstances. In light of the above, the county has adopted this policy to specify the circumstances under which testing may be required, the procedures for conducting such testing, and the methods and procedures for complying with the requirements of the Federal Motor Carrier Safety Administration regulations.
5. The county will implement necessary and reasonable measures to maintain a work environment free of drugs and alcohol. Employees with drug and alcohol misuse problems are strongly encouraged to seek assistance.
6. The county's Designated Employee Representative (DER) is the Human Resources Director.
7. All supervisors who may be involved in determining if reasonable suspicion exists to require an employee to be tested must undergo 60 minutes of training on drug use and 60 minutes of

training on alcohol misuse. This training must include physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug abuse (49 CFR §382.603).

B. APPLICABILITY:

1. This information is applicable to every county employee who operates a commercial motor vehicle in interstate or intrastate commerce and is subject to the commercial driver license requirements of 49 CFR Part 382.
2. For purposes of these regulations, the county is considered an employer with regard to the Federal Motor Carrier Safety Administration alcohol regulations. As an employer who employ's drivers, the county must comply with the requirements outlined herein as they apply to the employer and to drivers. All county employees who perform safety-sensitive trucking functions shall be subject to the drug and alcohol misuse testing provisions.
3. The following exceptions apply with regard to the county and their drivers:
 - a. when required to comply with the alcohol and/or controlled substances testing requirements of 49 CFR Part 655 of the Federal Transit Administration regulations; or
 - b. when granted a full waiver from the requirements of the commercial driver license program; or
 - c. when granted an optional State waiver from the requirements of 49 CFR Part 383 of the Federal Motor Carrier Safety Administration regulations; or
 - d. when foreign domiciled operations, with respect to any driver whose place of reporting for duty (home terminal) for commercial motor vehicle transportation services is located outside the territory of the United States.

C. POLICY:

1. Alcohol:
 - a. Prohibited Alcohol - The presence in the body, possession, use, distribution, dispensing, and/or unlawful manufacture of alcohol or alcoholic products is not condoned while conducting county business or while in work areas or county vehicles on or off county premises. No employee will work under the influence of alcohol. It is against county policy for any supervisor/manager that has actual knowledge of a driver using a controlled substance or alcohol to permit the driver to perform or continue to perform safety-sensitive functions.
 - b. Drivers Subject to Alcohol Testing Covered Under This Policy - County drivers and contract drivers under contract for 90 days or more in any period of 365 days, who perform safety-sensitive trucking functions covered under 49 CFR Parts 382 and 383 and who meet

the definition of “Driver” in D.6 of this section are subject to alcohol testing covered under this section.

c. Alcohol Prohibitions

- (1) No driver shall be on-duty, as defined in 49 CFR §395.2, if the driver uses alcohol.
- (2) No driver shall be on-duty, as defined in 49 CFR §395.2, if the driver tests positive for use of alcohol.
- (3) A person who tests positive for the use of alcohol is medically unqualified to operate a commercial motor vehicle and will be not be permitted to perform covered functions and may be subject to disciplinary action up to and including termination.
- (4) A person who refuses to be tested under the policy provisions shall not be permitted to operate a commercial motor vehicle. Such refusal shall be treated as a positive alcohol test and subject the driver to the restrictions contained in paragraph (3) above.
- (5) No employee will consume alcohol four hours prior to performing safety-sensitive functions.
- (6) It is against policy for a driver to consume alcohol within eight hours after an accident that requires a drug and alcohol test.
- (7) It is against policy to allow any driver that has a Breath-Alcohol Content (BrAC) of .02 to .039 grams per 210 liters of breath to operate any vehicle. An employee with a BrAC of .02 to .039 must be removed from duty for one shift or 24 hours. Upon return to work, the employee must have a BrAC below .02.
- (8) An employee with a BrAC of .04 grams per 210 liters of breath or higher will be considered to be in violation of this policy and the Department of Transportation rules and will be subject to disciplinary action. An employee with a BrAC of .04 or higher will be considered to be disqualified from driving.

2. Drugs:

- a. Prohibited Drugs - The presence in the body (including the presence as a metabolite), possession, use, distribution, dispensing, and/or unlawful manufacture of prohibited drugs is not condoned while conducting county business or while in work areas or county vehicles on or off county premises. No employee will work under the influence of prohibited drugs. The following drugs are prohibited:

- (1) marijuana;
- (2) cocaine;

- (3) opiates;
 - (4) amphetamines; and
 - (5) phencyclidine.
- b. Drivers Subject to Testing Covered Under This Policy - County drivers and contract drivers under contract for 90 days or more in any period of 365 days who perform safety-sensitive trucking functions covered under 49 CFR Parts 382 and 383 and who meet the definition of “Driver” in D.6. of this section are subject to testing covered under this section.
- c. Drug Use Prohibitions
- (1) No driver shall be on-duty, as defined in 49 CFR §395.2, if the driver uses any controlled substance.
 - (2) No driver shall be on-duty, as defined in 49 CFR §395.2, if the driver tests positive for use of controlled substances.
 - (3) A person who tests positive for the use of a controlled substance, as defined in 49 CFR Part 40, is medically unqualified to operate a commercial motor vehicle and will be suspended without pay.
 - (4) A person who refuses to be tested under the policy provisions shall not be permitted to operate a commercial motor vehicle. Such refusal shall be treated as a positive test and subject the driver to the restrictions contained in paragraph (3) above.
 - (5) Use of a prescription drug, where the prescribing physician advises that it could impair the ability of an employee to operate in a safety-sensitive manner, must be reported to the employee’s supervisor.

D. DEFINITIONS:

- 1. **“Alcohol”** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- 2. **“Alcohol Concentration”** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.
- 3. **“Alcohol Testing”** means testing conducted by a Department of Transportation (DOT), certified breath-alcohol technician using a DOT approved breath-testing device.
- 4. **“Commercial Motor Vehicle”** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - b. has a gross vehicle weight rating of 26,001 or more pounds; or
 - c. is designed to transport 16 or more passengers, including the driver; or
 - d. is of any size and is used in the transportation of material found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials regulations (49 CFR Part 172, Subpart F).
5. **“Controlled Substance”** means any substance including those assigned by Title 21 United States Code (USC) Section 802 and includes all substances listed on Schedule I. through Schedule V., as they may be revised from time to time (21 CFR Part 1308). Specifically for this policy, a Controlled Substance is one listed in 49 CFR §40.85.
6. **“Driver”** means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent, or occasional drivers; 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 an employer. For the purposes of pre-employment/pre-duty testing only, the term *driver* includes a person applying to an employer to drive a commercial motor vehicle.
7. **“Drug Testing”** or **“Drug Test”** means scientific analysis for the presence of drugs or their metabolites in the human body.
8. **“DER” (Designated Employee Representative)** is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation process. The individual must be an employee of the county and not be a service agent.
9. **“Employee”** means an individual or officer in the service of the employer for compensation.
10. **“Employer”** means any person (including the United States, a State, District of Columbia, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. The term employer includes an employer’s agents, officers, and representatives.
11. **“Interstate Commerce”** means (1) any trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and (2) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation as described above in this definition.

12. **“Medical Review Officer (MRO)”** means a licensed physician responsible for receiving laboratory results generated by an employer drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual confirmed positive test result together with his/her medical history and any other relevant biomedical information.
13. **“Motor Carrier”** means a for-hire motor carrier or a private motor carrier of property. The term “motor carrier” includes a motor carrier’s agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories.
14. **“On-Duty Time”** 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. On-duty time shall include:
 - 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 by 49 CFR §392.7 and §392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
 - c. all driving time as defined in the term “driving time” in this section;
 - d. all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
 - e. all time loading or unloading a vehicle, supervising, 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 from shipments loaded or unloaded;
 - f. all time spent performing the driver requirements of this section relating to accidents; and
 - g. all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
15. **“Performing (a safety-sensitive function)”** means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
16. **“Post-Accident Testing”** means testing which is required when there is an occurrence involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in the following:
 - a. a fatality; or

- b. an accident where a driver receives a moving violation citation and one of the following occurs:
 - (1) injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) one or more motor vehicles incurs disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle, and the driver receives a moving citation violation.
- 17. **“Prospective Employee”** means any individual who has made a written or oral application to become an employee of the county.
- 18. **“Reasonable Suspicion”** or **“For Cause Testing”** means an articulated belief, based on recorded specific facts and reasonable inference drawn from those facts, that an employee is in violation of this policy.
- 19. **“Random Testing”** means unannounced drug testing of an employee who was selected by using a method uninfluenced by any personal characteristic other than job category.
- 20. **“Refusal”** means that a driver:
 - a. fails to show up for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a Consortium/Third Party Administrator;
 - b. fails to provide a urine specimen for any drug test require by the Act;
 - c. in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen as set forth in 49 CFR §40.67(k) and §40.69(g);
 - d. fails to provide a sufficient amount of urine when directed, unless it has been determined through a required medical evaluation, that there was an adequate medical explanation for the failure;
 - e. fails to undergo an additional medical evaluation as directed by the Medical Review Officer (MRO) as part of the verification process or as directed by the Designated Employee Representative (DER) concerning the evaluation of the shy bladder procedures in 49 CFR Part 40, Subpart I;
 - f. fails to cooperate with any part of the testing process; or

- g. fails or declines to take a second test the employer has directed following a negative dilute result.
21. **“Sample”** means any sample of urine, blood, breath, or saliva used for drug and/or alcohol testing.
22. **“Safety-Sensitive Position”** means all employees who possess Commercial Driver’s Licenses (CDL’s) and who operate a vehicle with the following characteristics:
- a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
 - b. has a gross vehicle weight rating of 26,001 or more pounds;
 - c. is designed to transport 16 or more passengers, including the driver; or
 - d. is of any size and is used in the transportation of material found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placard under the Hazardous Materials regulations (49 CFR Part 172, Subpart F).

E. ALCOHOL TESTING:

1. Pre-Employment (Background Check Only – Alcohol Testing is Optional).

The county must obtain and review the information listed below from any employer for whom the driver performed safety-sensitive functions in the previous two years. The information must be obtained and reviewed no later than 30 days after the driver performs safety-sensitive functions (driving). The request should include:

- a. information of the driver’s alcohol test in which a breath alcohol concentration of 0.04 or greater was indicated;
- b. information on the driver’s controlled substances test in which a positive results was indicated; and
- c. any refusal to submit to a required alcohol or controlled substance test.

The county must provide to each of the driver’s previous employers of the past two years a written authorization from the driver for the release of the required information. The county may not use a driver to perform safety-sensitive functions if the employer obtains information indicating the driver has tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test unless the employer has evidence the driver

has been evaluated by a SAP, completed any required counseling, passed a return-to-duty test, and been subject to follow-up testing.

2. Random Testing.

- a. Employees in “covered” positions are subject to random testing at any time with no advance notice. The random selection process will ensure each employee the same fair and equal chance of being selected.
- b. An employee randomly selected will be notified by his/her supervisor of the selection and instructed to immediately go to the designated alcohol-testing site.
- c. Random testing will be conducted monthly and will be administered at a 10% annualized rate. This means that the total number of tests conducted during any 12-month period will be equal to at least 10% of the total pool of covered employees.

3. Reasonable Suspicion.

- a. An employee/driver shall submit to testing, for reasonable suspicion, for the use of alcohol when requested to do so by the county.
- b. The employee conduct must be witnessed by at least one supervisor and county official. The supervisor or witnesses must have received training in the specific identification of actions, appearance, behavior, or conduct of a commercial motor vehicle driver, which are indicative of alcohol use.
- c. The supervisor shall ensure that the employee is transported to the alcohol-testing site.
- d. If an employee refuses to submit to the alcohol test or attempts to leave county premises and is impaired to the extent that he/she would present a danger to either him/herself or others, local law enforcement should be contacted immediately by the county representative.
- e. While waiting for an employee’s alcohol test results, that employee will be removed from performing safety-sensitive functions and, if the test results are positive, may be subject to further disciplinary action up to and including termination. Specific disciplinary actions are described in detail in the end of this policy.

4. Post-Accident Testing.

- a. A driver shall submit to an alcohol test within two hours (but not later than eight hours) of a determination by the county officials that a test is required and that circumstances indicate the accident is reportable under the FMSCA regulations. It must be determined that the driver received a citation for a moving traffic violation arising from the accident. A DOT reportable accident is defined in 49 CFR §382.303 (Federal Motor Carrier Safety

Regulations Pocketbook, Form 2133) as “an occurrence involving a commercial motor vehicle operating on a public road in commerce.” The following table notes when a post-accident test is required to be conducted.

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed by Employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

- b. A driver who is seriously injured and cannot be tested at the time of the accident should provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there was any alcohol in his/her system.
- c. The results of a breath or blood test for the use of alcohol conducted by Federal, State, or Local law enforcement officials having independent authority to conduct such tests, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State, or Local requirements. County officials shall obtain such test results.
- d. The county shall provide drivers with necessary information and procedures so that the driver is able to meet the requirements as set forth in this section.
- e. While waiting for an employee’s alcohol test results, that employee will be removed from performing safety-sensitive functions and, if the test results are positive, may be subject to further disciplinary action up to and including termination. Specific disciplinary actions are described in detail in the end of this policy.
- f. Employee Responsibility: As soon as practicable following an accident as defined in this policy, the employee shall make every attempt to contact his/her supervisor and the substance abuse program administrator.
 - (1) The employee will be given instructions for obtaining alcohol and substance abuse testing.
 - (2) An employee who is subject to post-accident testing must remain available for testing, or county may consider the employee to have refused to submit to testing.

(3) The employee subject to post-accident testing must refrain from consuming alcohol for eight hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

g. **County Responsibility:** Upon receiving a report of an accident, the county shall test the employee (if not a fatality) for alcohol and controlled substances as soon as practicable.

5. Return to Duty.

The requirements for return-to-duty testing must be performed in accordance with 49 CFR Part 40, Subpart O.

6. Follow-up Testing.

The requirements for follow-up testing must be performed in accordance with 49 CFR Part 40, Subpart O.

F. DRUG TESTING:

1. Dilute Specimens – If the county receives a test result, which is verified positive, but dilute, it will be treated as a positive test. If the county receives a test, which is negative and dilute, it will retest the employee (one time). The employee will be instructed to immediately report to the collector and will be given minimal notice of the need for recollection. Such collections will not be observed.

2. Invalid Tests – If the county receives a test result which is determined to be invalid (49 CFR §40.23), it will immediately have the employee retested. The employee will be given no notification of the need to retest. The test will be an observed specimen collection. No action will be taken on the first test result.

3. **Types of Drug Testing:**

a. Pre-Employment Testing.

(1) The county shall require a driver-applicant who they intend to hire or use to be tested for the use of controlled substances as a pre-qualification condition.

(2) A driver-applicant shall submit to controlled substance testing as a pre-qualification condition.

(3) Prior to collection of a urine sample, a driver-applicant shall be notified that the sample will be tested for the presence of controlled substances.

- (4) The county may use a driver who is a regularly employed driver of another motor carrier without complying with paragraph a.(1) above, if the driver meets the requirements of 49 CFR §391.65, “Drivers Furnished by Other Motor Carriers.”
- (5) The county may use a driver who is not tested by the county provided:
 - (a) that the driver has participated in a drug testing program that meets the requirements under this section within the previous 30 days; and
 - (b) while participating in that program was either:
 - (i) tested for controlled substances within the past six months (from the date of application with the county); or
 - (ii) participated in the drug-testing program for the previous 12 months (from the date of application with the county).
- (6) When the county exercises either paragraph (4) or (5) above, the county will contact the controlled substances testing program in which the driver participates or participated and will obtain the following information:
 - (a) name and address of the program;
 - (b) verification that the driver participates or participated in the program;
 - (c) verification that the program conforms to 49 CFR Part 40;
 - (d) verification that the driver is qualified under the rules of this section, including that the driver has not refused to be tested for controlled substances;
 - (e) the date the driver was last tested for controlled substances; and
 - (f) the results, positive or negative, of any test taken.

b. Random Testing.

- (1) Employees in “covered” positions are subject to random testing at any time with no advance notice. The random selection process will ensure each employee the same fair and equal chance of being selected.
- (2) An employee randomly selected will be notified by his/her supervisor of the selection and instructed to immediately go to the designated collection site.

- (3) Random testing will be conducted monthly and will be administered at a 50% annualized rate. This means that the total number of tests conducted during any 12-month period will be equal to at least 50% of the total pool of covered employees.

c. Reasonable Cause.

- (1) An employee/driver shall submit to testing, for reasonable cause, for the use of controlled substances when requested to do so by the county.
- (2) The conduct should be witnessed by at least two supervisors or county officials, if feasible. If not feasible, only one supervisor or county official need witness the conduct. The witness or witnesses must have received training in the identification of actions, appearance, or conduct of a commercial motor vehicle driver, which are indicative of the use of a controlled substance.
- (3) The supervisor shall transport the employee to the collection site.
- (4) If an employee refuses to submit to drug testing or attempts to leave the county premises and is impaired, in the opinion of a trained supervisor, to the extent that he/she would present a danger to either him/herself or others, local law enforcement should be contacted immediately by the supervisor.
- (5) While waiting for an employee's drug test results, that employee will be removed from their "covered" position until the Medical Review Officer (MRO) confirms that the employee tested negative for drugs.

d. Post-Accident Testing.

- (1) A driver shall provide a urine sample to be tested for the use of controlled substances as soon as possible, but no later than 32 hours, after a reportable accident if the driver of the commercial vehicle received a citation for a moving traffic violation arising from the accident. A DOT reportable accident is defined in 49 CFR §382.303 (Federal Motor Carrier Safety Regulations Pocketbook, Form 2133) as "an occurrence involving a commercial motor vehicle operating on a public road in commerce." The following table notes when a post-accident test is required to be conducted.

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed by Employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

- (2) A driver who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his/her system.
- (3) The county shall provide drivers with necessary information and procedures so that the driver is able to meet the requirements as set forth in this section.
- (4) While waiting for an employee’s drug test results, that employee will be removed from their “covered” position until the Medical Review Officer (MRO) confirms that the employee tested negative for drugs.

e. Return to Duty.

The requirements for return-to-duty testing must be performed in accordance with 49 CFR Part 40, Subpart O.

f. Follow-up Testing.

The requirements for follow-up testing must be performed in accordance with 49 CFR Part 40, Subpart O.

G. DISCIPLINARY ACTION:

1. Violation of Policy.

- a. Any driver with a verified positive pre-employment drug test will not be hired.
- b. Any driver with a verified positive drug test will be suspended from a safety-sensitive duty and, if not terminated, will be required to complete a treatment and counseling program that meets the requirements of the DOT for returning to duty (**at the employee’s own**

expense). The employee will have to take and pass a return-to-duty test and will be subject to a minimum of six unannounced tests in the first 12 months of returning to duty.

- c. Any driver with a positive alcohol test of 0.02-0.039, if not terminated, will be suspended without pay for one work shift or 24 hours and will be required to have a negative alcohol test before returning to a covered position.
- d. Any employee who consumes alcohol or drugs while “on-duty” will be terminated.
- e. Any employee with an alcohol level of 0.04 or greater, if not terminated, will be required to meet the return-to-duty requirements listed in subsection (b).
- f. Any attempt to adulterate, substitute, tamper, or refuse to test will be treated as a positive test.
- g. If a confirmed positive drug or alcohol test result indicates a violation of this policy, or if an individual refuses to provide a sample in accordance with this policy, or otherwise violates this policy, that test result, refusal, or violation may be used as a basis for imposing disciplinary action, including termination.

2. Refusal, Adulterate, or Substitute a Test.

- a. No employee shall adulterate, substitute, or refuse a test or to submit to a random, reasonable-suspicion, post-accident, or follow-up alcohol test.
- b. An employee who refuses a return-to-duty test is not in violation of the policy; however, such refusal will result in not allowing the individual to perform safety-sensitive functions and may result in disciplinary action up to and including termination of employment.
- c. Employees who: 1) without a legitimate reason fail to report to the alcohol testing site; or 2) without a valid medical reason fail to provide an adequate breath sample under this policy will be suspended without pay and be subject to disciplinary action up to and including termination of employment.

3. Return to Duty.

- a. An employee testing positive for alcohol may be returned to a “safety-sensitive” position after a return-to-duty test with an alcohol concentration of less than 0.02.
- b. After returning to work, the employee will be subject to: 1) unannounced follow-up testing, as determined by the SAP and the county officials; and 2) the other required types of testing, including random testing.

4. Contesting a Test Result.

An employee will have 72 hours from the time it is reported to the county to contest a positive drug test result.

H. ALCOHOL TESTING OVERVIEW:

Alcohol Testing Procedures. All collection, transportation, testing procedures, test evaluation measures, quality control measures, substance abuse professionals, record keeping, and reporting of alcohol test results will conform to the Department of Transportation regulations as set forth in 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

I. RECORD RETENTION:

1. Record Keeping.

- a. The county will retain the following records for a period of at least five years:
 - (1) records of driver alcohol test results with results indicating a level of greater than 0.02;
 - (2) documentation of driver refusal to take required alcohol tests; and
 - (3) driver referral and evaluation records.
- b. The county will retain records regarding the alcohol collection process for two years.
- c. The county will retain test records of drivers with alcohol concentrations of less than 0.02 for a minimum of one year.
- d. The county will retain records confirming supervisory and employee training for at least three years.

2. Driver Qualification Files.

These records are subject to the county divided record keeping authority and are to be maintained at authorized record keeping locations. The following is a list of information to be maintained in these files regarding employee alcohol abuse:

- a. the name of the employee submitted to a alcohol test;
- b. date the alcohol test was conducted;
- c. location of the alcohol test;

- d. test category; and
- e. results of the alcohol test.

3. Record Confidentiality.

- a. Except for the breath alcohol technician, substance abuse professional, and designated county personnel with a need to know, the county will not release information regarding an employee's alcohol use or rehabilitation/treatment records without the express written consent of the tested employee. The only exception is when information must be released, regardless of consent, to the Federal Motor Carrier Safety Administrator to examine all records related to the administration and results of controlled substance testing performed under this program.
- b. To maintain confidentiality, written records regarding an employee's alcohol misuse and rehabilitation will be stored in a secured location. The employee's alcohol testing and/or rehabilitation/treatment records will not be made a part of the employee's personnel file.

J. RESPONSIBILITY:

- 1. Reservation of Rights - The county reserves the right to interpret, modify, and/or revise this policy in whole or in part without notice. Nothing in this policy is to be construed as an employment contract nor does this alter an employee's employment at-will status. The employee remains free to resign his/her employment at any time for any or no reason, without notice. Similarly, the county reserves the right to terminate any employee's employment, for any or no reason, without notice.
- 2. Compliance with All Laws - This policy will be amended from time to time to comply with changes in Federal and State Laws.

This policy is a general summary of the county's Anti-Drug/Alcohol Misuse Prevention Policy for Commercial Drivers. IF THERE IS ANY QUESTION OR CONFLICT BETWEEN WHAT IS SAID IN THIS POLICY AND THE LANGUAGE IN THE DOT REGULATIONS AS CODIFIED AT 49 CFR PARTS 40 AND 382, THE DOT REGULATIONS WILL PREVAIL.