\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY ROAD COMMISSION

DRUG-FREE WORKPLACE POLICY

 County Road Commission is committed to a drug-free workplace that encourages a safe, healthy and productive work environment. The goal of this policy is to create and maintain a workplace free from the use or abuse of drugs and ensure efficient and safe public services. As a condition of employment, all Road Commission employees shall comply with this policy and all applicable laws, including, the Drug-Free Workplace Act. In addition, DOT-regulated employees are required to comply with the Federal Omnibus Transportation Employee Testing Act of 1991 and applicable United States Department of Transportation regulations. The Road Commission will not hire anyone who is known to currently abuse a controlled substance.

1. DEFINITIONS

For purposes of this policy, the following terms shall have the meanings prescribed below:

Abuse – means the following:

* 1. The use of any controlled substance as included in Schedule I of 21 CFR Part 1308.
	2. The use of any other controlled substance as included in Schedules II-V of 21 CFR Part 1308 in a manner inconsistent with its prescription or under circumstances where its use is not permitted.
	3. The use of alcohol such that an employee has an alcohol concentration of 0.02 or above during working time. Additionally, the ingestion of alcohol up to four (4) hours before the performance of safety-sensitive functions regardless of the resulting alcohol concentration level.

Controlled Substance – A drug, compound, mixture, preparation, or substance included in Schedules I-V of 21 CFR Part 1308. Marijuana, although legal under State law, remains a Schedule I drug under federal regulations.

Conviction – A finding of guilty, no contest (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court.

DOT-Regulated Employees – A person who operates a commercial motor vehicle (CMV) with a gross vehicle weight rating of 26,001 or more pounds; or is designed to transport sixteen (16) or more occupants (including the driver); or is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded or whose position requires the possession of a commercial driver’s license.

Fitness for Duty – For purposes of this policy, to be fit for duty means the employee is able to perform the essential functions of his/her job and does not currently abuse alcohol or a controlled substance.

Prescription Medication – A written order for a controlled substance for the use of a particular person given by a licensed practitioner in the course of professional practice and in accordance with regulations promulgated by the director of the United States Drug Enforcement Administration. For purposes of this policy, marijuana, even if used for medicinal purposes, is not a prescription medication.

Reasonable Suspicion – Observations concerning the appearance, behavior, speech or body odors, or indications of the chronic and withdrawal effects of controlled substances, which lead the Road Commission to suspect that the employee has violated the prohibitions of this policy concerning alcohol and/or controlled substances. A written record will be made of the observations as soon after the observed behavior as possible, but in no case later than twenty-four (24) hours after the observed behavior.

Reports of drug use or aberrant behavior which are not confirmed by supervisory observations shall not constitute reasonable suspicion.

Safety Sensitive – For DOT-regulated employees, safety-sensitive functions are as defined in the Road Commission’s DOT Substance Abuse Policy. For non-DOT employees, safety-sensitive shall include any job, position, work-related function, or job task designated as such by the Road Commission, which through the nature of the activity could be dangerous to the physical well-being of or jeopardize the security of the employee, co-workers, or the general public through a lapse in attention or judgment.

Workplace – All property and facilities owned, leased or rented by the Road Commission including grounds, buildings, vehicles and other equipment and any site where an employee is performing work for the Road Commission.

1. PROHIBITIONS
2. An employee shall not unlawfully possess, use, manufacture, distribute, dispense or be impaired by the use of a controlled substance or alcohol in the workplace, including marijuana, cannabis, cannabis extract or synthetic cannabis. An employee may not possess in the workplace any paraphernalia related in any way to alcohol or a controlled substance, including marijuana.
3. The use of prescription and/or non-prescription medications shall not impair an employee’s ability to safely perform the duties of their position or compromise the health and safety of others in the workplace.
4. Employees Subject to Federal DOT Testing. This policy does not affect in any way the requirements of the Federal Omnibus Transportation Employee Testing Act of 1991 and applicable United States Department of Transportation regulations (collectively “DOT drug testing laws”). Any employee (or applicant) in a position that is DOT-regulated is prohibited from using drugs and/or alcohol (as defined in federal law) in a manner that violates DOT drug testing laws. Marijuana is one of the classes of drugs included in a Federal DOT test. As such, any DOT-regulated employee (or applicant) is prohibited from using marijuana at any time, even if a medical marijuana recommendation or other medical documentation is provided.
5. FITNESS FOR DUTY

All Road Commission employees are required to be fit for duty at the time they report to work and any time they are in the workplace. For purposes of this policy, fitness for duty means the employee is able to perform the essential functions of his/her job and he/she does not currently abuse a controlled substance or alcohol.

1. TESTING FOR DOT-REGULATED EMPLOYEES

 DOT-regulated employees are subject to drug and alcohol testing in accordance with the Federal Omnibus Transportation Employee Testing Act of 1991 and applicable United States Department of Transportation regulations. Such employees should refer to the Road Commission’s DOT Substance Abuse Policy for their procedures and requirements.

1. TESTING FOR NON-DOT EMPLOYEES
2. Pre-Employment Testing. Final candidates for all positions must undergo drug testing prior to commencing work. The test shall be administered only after a conditional offer of employment has been made. The candidate must complete and successfully pass the drug test as a condition of employment. Additionally, employees are required to undergo drug testing prior to transfer into a DOT-regulated and/or safety-sensitive position and obtain a verified negative result.
3. Random Drug Testing. Employees are subject to random drug and alcohol testing according to the requirements of any applicable collective bargaining agreement. Additionally, employees in safety-sensitive positions that are exempt from collective bargaining are subject to random drug and alcohol testing as determined by the Managing Director. Employees may also volunteer to be in the random testing pool.
4. Reasonable Suspicion Testing. Employees may be required to undergo alcohol and/or drug testing based on a reasonable suspicion determination by management.
5. Post-Incident Testing. Any employee involved in a significant incident in which the health or safety of himself/herself or other individuals is involved, or in which extensive property damage has occurred, will be subject to post-incident testing in accordance with the requirements of any applicable collective bargaining agreement(s) or as determined by the Managing Director.
6. Return to Duty Testing. An employee shall be tested preceding the return to work following a positive test result or voluntary notification of a substance abuse problem. Testing may be for drugs and/or alcohol, as determined by a Substance Abuse Professional (SAP), even if the original infraction only involved drugs and/or alcohol. Return to duty testing will be at the employee’s expense.
7. Follow-up Testing. Any employee referred to a counseling or rehabilitation program as a result of that employee’s positive test will be subject to follow- up testing according to specifications and provisions of any applicable collective bargaining agreement(s) or, for employees exempt from collective bargaining, as determined by the SAP. Follow-up testing will be at the employee’s expense.
8. Testing Procedures. All drug and alcohol tests conducted under this Policy shall be done following the drug and alcohol testing procedures outlined in 49 CFR Part 40. All employees subject to testing shall be tested for the following drugs or classes of drugs: cocaine, opioids (including codeine, morphine, heroin, hydrocodone, hydromorphone, oxycodone, and oxymorphone), amphetamines, and phencyclidine. In the case of reasonable suspicion and post-incident testing, non-DOT employees shall also be tested for marijuana. As stated elsewhere in this policy, DOT-regulated employees are always subject to testing for marijuana in accordance with DOT drug testing laws.
9. Confidentiality of Test Results. Confidentiality of alcohol and/or other drug test results will be maintained to the extent provided by law.
10. Opportunity to Provide Medical Documentation. Employees or applicants shall be given the opportunity as required by applicable collective bargaining agreements or, in the absence of such agreements, as stipulated by the Managing Director, to offer an explanation or submit medical documentation of legally prescribed medication or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the Medical Review Officer (MRO) in his/her determination of the validity of a positive result and shall be released to the employer only to explain a test result. The employee is solely responsible for providing medical documentation as instructed by the MRO. This responsibility includes, but may not be limited to, coordinating any necessary records exchange between the employee’s physician and the MRO and

ensuring that the MRO receives the requested documentation within the timeframe provided by the MRO.

1. Refusal to Test. An employee will be subject to discipline, up to and including termination from employment, if the employee refuses to submit to a properly-ordered test or if the employee otherwise fails to cooperate with the testing process. An applicant will not be hired if the applicant refuses to submit to a pre-employment test or if the applicant fails to cooperate with the testing process. The types of actions listed below will be considered a refusal to test. This list is not intended to be all inclusive:
	* Refusal to sign test forms;
	* Refusal to provide a specimen to be tested or an adequate amount of the specimen;
	* Alteration or substitution of the test specimen; or
	* Any other failure to cooperate during the testing process that prevents proper completion of the test.
2. DISCIPLINARY ACTION

An employee who violates any of the standards contained in this policy will be subject to the disciplinary provisions of any applicable collective bargaining agreement or, for employees exempt from collective bargaining, to action as determined by the Managing Director, which may include any of the following:

* Transfer or temporary reassignment;
* Granting of leave with or without pay;
* Discipline up to and including termination; and/or,
* Requiring satisfactory participation by the employee in an approved drug abuse assistance or rehabilitation program.

An employee whose blood alcohol level tests at or above .02% and below .04% shall be immediately removed from duty until the start of the employee’s next scheduled shift or for twenty-four (24) hours, whichever is greater. Employees removed from duty may use any accrued leave available or be placed in a leave without pay status if accrued leave is not available.

1. SELF-REFERRAL FOR TREATMENT

Employees are encouraged to seek treatment for drug or alcohol abuse and are offered cooperation and assistance under the Road Commission’s Employee Assistance Program. Additionally, an employee who initiates his own treatment shall be exempt from the penalties of the Drug-Free Workplace Policy and/or any applicable collective bargaining agreement, subject to the terms and conditions set forth herein.

In order to be exempt, the employee’s self-referral must occur prior to any employer-initiated random or reasonable cause testing and/or any other contract violations. The Self-Referral declaration by an employee at the time of random or reasonable cause testing or other contract violation occurrences shall not be allowed as an exemption from the implementation of discipline under the Drug- Free Workplace Policy and/or any applicable collective bargaining agreement.

An employee who has referred himself/herself for treatment shall be required to successfully complete a substance abuse rehabilitation program that includes a negative return to work drug and alcohol test prior to his/her return to work. In the event an employee tests negative, he/she will be allowed to return to work. The employee will be responsible for all costs associated with the program, including all return to work and follow-up testing required.

1. PRESCRIPTION AND NON-PRESCRIPTION MEDICATIONS.

Some prescription and non-prescription medications may affect the employee’s judgment, coordination, and physical ability. Any employee using a medication which their physician has advised the employee the use of such medication may affect the employee’s ability to perform the duties of their position must promptly notify the Road Commission that they are currently using such medication. Employees who need an accommodation should submit a request to the Road Commission.

1. CRIMINAL DRUG CONVICTIONS.

As a condition of employment, each employee is required to notify the Road Commission within five (5) days after he/she receives a conviction for violating any federal or State criminal drug statute where such violation occurred at the workplace or any location where Road Commission business is conducted. Any employee who fails to report such a conviction will be subject to immediate termination. If required, any criminal drug conviction occurring in the workplace will be reported to federal granting or contracting authorities within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of the conviction. Within thirty (30) days of such notification, the Road Commission will take appropriate disciplinary action against such employee, up to and including termination. The Road Commission may also refer the employee to the Road Commission’s Employee Assistance Program for referral and treatment.

1. TRAINING.

All Road Commission employees will be provided with periodic Drug-Free Workplace training. The training will include information regarding the:

* Dangers of alcohol and other drug abuse in the workplace;
* The Road Commission’s Drug-Free Workplace Policy;
* The Road Commission’s Employee Assistance Program and other available treatment programs; and,
* Penalties that may be imposed upon employees for alcohol and/or other drug abuse violations occurring at the workplace or any location where Road Commission business is conducted.
1. FMCSA CLEARINGHOUSE.

The following information about DOT-regulated employees will be reported to the FMCSA Drug and Alcohol Clearinghouse:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test concentration of 0.04 or higher;
3. A refusal to submit to any required test;
4. Any actual knowledge by the Road Commission of:

1. On duty alcohol use;
2. Pre-duty alcohol use in violation of DOT regulations;
3. Alcohol use following an accident in violation of DOT regulations; or,
4. Controlled substance abuse;
5. An SAP report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and,
7. A Road Commission report of the completion of follow-up testing.