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

DOT SUBSTANCE ABUSE POLICY

The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Road Commission (Road Commission) recognizes the critical and growing problem that alcohol and controlled substances abuse poses to the community. It is the policy of the Road Commission to provide and maintain a safe, healthy, and productive work environment for its drivers. This policy applies to all employees and applicants for employment with the Road Commission who must have a Commercial Drivers License (CDL) to operate Road Commission-owned vehicles.

All such employees have the responsibility to report for work and perform their jobs in a fit mental and physical condition. The nature of driving for the Road Commission is such that any unnecessary risk could affect its employees and the general public.

This policy complies with 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations. Copies of Parts 382 and 40 can be found at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website, <http://www.transportation.gov/odapc> .

Portions of this policy are not DOT-mandated but reflect the Road Commission’s policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the DOT. All covered employees are subject to the provisions of the Drug-Free Workplace Act of 1988. In accordance with that Act, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Road Commission no later than five (5) days after such conviction.

1. COVERED EMPLOYEES

This policy applies to every person whose position requires the possession of a commercial driver’s license, every employee performing a “safety-sensitive function” as defined below, and any person applying for such positions.

Covered employees perform any of the following safety-sensitive functions:

* Driving a commercial motor vehicle which requires the driver to have a CDL;
* Waiting to be dispatched to operate a commercial motor vehicle;
* Inspecting, servicing, or conditioning any commercial motor vehicle;
* Performing all other functions in or upon a commercial motor vehicle;
* Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of the vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded on the vehicle; or,
* Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

1. PROHIBITED BEHAVIOR

The use, possession, sale, purchase or transfer of unauthorized or illegal drugs or substances, or the abuse and misuse of legal drugs on Road Commission property, while on Road Commission business, or while operating Road Commission vehicles and equipment is prohibited.

For covered employees, the use of illegal drugs is prohibited at all times. Prohibited drugs include:

* Marijuana
* Cocaine
* Phencyclidine (PCP)
* Opioids
* Amphetamines

Marijuana, although legal under State law, remains a Schedule I drug under federal regulations.

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

1. CIRCUMSTANCES FOR TESTING
2. Pre-employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. **Any individual who refuses to submit to such test or has a positive controlled substance test result will not be considered for employment with the Road Commission.**

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days and has not been in the random testing pool during that time, the employee must take and a pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

A driver is not required to undergo a pre-employment test if:

1. The driver has participated in a DOT testing program within the previous 30 days; and,
2. While participating in that program, either:
3. Was drug tested within the past six (6) months (from the date of application with the Road Commission), or
4. Participated in the random drug testing program for the previous 12 months (from the date of application with the Road Commission); and,
5. The Road Commission can ensure that no prior employer of the driver of whom the Road Commission has knowledge has records of a violation of 49 CFR Part 382, 49 CFR Part 40, or the controlled substances use rule of another DOT agency within the previous six (6) months.
6. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates of administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the Federal Motor Carrier Safety Administration (FMCSA).

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

1. Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road which results in a fatality.

Non-fatal Accidents

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road which results in any of the following:

1. Injuries requiring immediate medical treatment away from the scene.
2. One or more vehicles incurring disabling damage and being towed away from the scene by a tow truck or other vehicle.

**Post-accident testing of the covered employee will occur regardless of whether the covered employee receives a citation under State or local law for a moving traffic violation arising from the accident.**

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical treatment or to prohibit a covered employee from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

1. Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the Road Commission has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained Road Commission official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee ceased performing such functions.

1. Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, **at the employee’s expense**, and provide a negative return-to-duty drug test result and/or an alcohol test result of 0.02. Any return-to-duty testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, including the option to use oral fluid testing in place of urine testing for controlled substances, at the Road Commission’s discretion, and the requirements of subpart O, as amended.

1. Follow-up Testing

Employees returning to safety-sensitive duty following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing, **at the employee’s expense,** for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, including the option to use oral fluid testing in place of urine testing for controlled substances, at the Road Commission’s discretion, and the requirements of subpart O, as amended.

1. TESTING PROCEDURES

All testing will be conducted in accordance with 49 CFR Part 40, as amended, including the option to use oral fluid testing in place of urine testing for controlled substances, at the Road Commission’s discretion. The Road Commission will strictly adhere to all standards of confidentiality. Testing records and results will be released only to those authorized by FMCSA regulations to receive such information.

Dilute Urine Specimen

**If there is a negative dilute test result, the Road Commission will conduct one additional retest. The result of the second test will be the test of record.**

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation.

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory **at the employee’s expense**. The split specimen test will be conducted in a timely fashion.

1. TEST REFUSALS

A covered employee has refused to test if he or she:

* Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Road Commission.
* Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
* Fails to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
* In the case of a directly observed or monitored urine drug collection, fails to permit monitoring or observation of the provision of a specimen.
* Fails to provide a sufficient quantity of urine or breath without a valid medical explanation.
* Fails to undergo a medical evaluation as required by the Medical Review Officer (MRO) or the Road Commission’s Designated Employer Representative (DER).
* Fails to cooperate with any part of the testing process.
* Fails to follow an observer’s instructions to raise and lower clothing and turn around during a directly observed test.
* Possesses or wears a prosthetic or other device used to tamper with the collection process.
* Admit to the adulteration or substitution of a specimen to the collector or MRO.
* Refuses to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
* Fails to remain readily available following an accident.

If the MRO reports that a covered employee has a verified adulterated or substituted test result, the covered employee has refused to take a drug test.

If a covered employee refuses to take a drug and/or alcohol test, he or she incurs the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and referred to a SAP.

1. CONSEQUENCES FOR VIOLATIONS

**Compliance with the Road Commission’s DOT Substance Abuse Policy is a condition of employment. An employee failing to submit to drug testing, or otherwise conform to the provisions of the Road Commission’s substance abuse policy, may be terminated as an employee of the Road Commission immediately.**

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a SAP, **at the employee’s expense**.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duty until the start of the employee’s next regularly scheduled duty period, but for not less than 24 hours following administration of the test.

Discipline

**In addition to the penalties mandated by the DOT, if an employee tests positive for drugs or alcohol (BAC at or above 0.04), the following are the disciplinary steps that shall be taken:**

***First Offense***

**Five (5) day suspension without pay.** Upon satisfactory completion of the SAP referral, as determined by the SAP, and before the employee is allowed to return to work, he/she will submit to a return-to-duty test at the employee’s expense. The employee must test negative before being allowed to return to work.

***Second Offense***

**Discharge.**

1. VOLUNTARY SELF-REFERRAL

Any covered employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer him or herself to the Road Commission, who will refer the individual to a substance abuse counselor for evaluation and treatment, **at the employee’s expense**.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance abuse or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty test, **at the employee’s expense**, with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

1. PRESCRIPTION DRUG USE

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the Road Commission. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

1. EMPLOYEE ASSISTANCE PROGRAM

The Road Commission recognizes that drug and alcohol dependency is a treatable health problem. Information will be provided by the Road Commission to employees concerning the effects of alcohol misuse and controlled substances use on an individual’s health, work, and personal life, signs and symptoms of an alcohol problem, and available methods of intervening when an alcohol and/or controlled substance problem is suspected. Employees needing assistance in dealing with such a problem or dependency are encouraged to consult with management to obtain information on the availability of treatment clinics and programs before the condition affects their work performance.

1. CONTACT PERSON

For questions about this policy or the Road Commission’s anti-drug and alcohol misuse program, contact [name, position, and telephone number of individual designated to answer questions].