



ADMINISTRATIVE POLICIES

SECTION:	Health, Safety & Security		POLICY #:	511	
TITLE:	Commercial Vehicle Operator Alcohol and Controlled Substance Testing		PROCEDURE #:	511-A	
			ORDER #:	11-37	
DEPT:	Business Services and Public Works		DIVISION:	Risk Management	
ADOPTED:	12/94	REVIEWED:	5/11	REVISED:	5/11

PURPOSE: To establish a policy to mandate drug and alcohol testing for employees involved with the operation or maintenance of commercial vehicles or Coast Guard licensed ferries and for employees in positions designated as safety sensitive to comply with federal law. To protect the physical and psychological well-being of all employees at the county’s facilities and job sites and protect the safety of the public as well as comply with federal regulations.

AUTHORITY: The Marion County Board of Commissioners expresses the governing body’s formal, organizational position of fundamental issues or specific repetitive situations through formally adopted, written policy statements. The policy statements serve as guides to decision making for both elected and appointed officials on the conduct of county business.

This policy is regulated by the U.S. Department of Transportation (DOT) 49 CFR Parts 40 and 382.

The Marion County Administrative Policies and Procedures manual of the Marion County Board of Commissioners outlines the forms and process through which the board takes official action on administrative policy, and is the official record of county administrative policy.

APPLICABILITY: All county departments and employees involved with the operation or maintenance of commercial vehicles or Coast Guard licensed ferries and employees in positions designated as safety sensitive.

GENERAL POLICY: Marion County believes it has an obligation and right to have alert, drug/alcohol free employees on the job and must provide a safe work environment. This means that during working hours, all employees are expected to be free from any substance, whether legal or illegal, that can negatively affect job performance or risk the health and safety of employees or the public.

POLICY GUIDELINES:

- Philosophy:

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Use of intoxicants and drugs that alter the ability to function on the job in an effective and safe manner will not be tolerated. The use of or condition of being under the influence of drugs/alcohol while at work can affect the morale of other employees as well as increase accidents, theft and absenteeism. This testing policy is a critical step in establishing and maintaining an efficient and safe workforce and will be applied in conjunction with all established county policies, procedures and programs.

The county will vigorously pursue the enforcement of this policy, and will make efforts to protect the privacy of its employees. It is the intent of this policy to encourage and support employee recovery from substance abuse through the Employee Assistance Program (EAP), or other licensed substance abuse treatment provider.

2. Definitions:

2.1. Accident

2.1.1. A fatality; or

2.1.2. A citation issued by a law enforcement official to the commercial driver AND one or more of the following situations:

2.1.2.1. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

2.1.2.2. One or more of the vehicles incurs disabling damage as a result of the accident that renders the vehicle unable to be driven in daylight hours or requires the vehicle to be transported away from the scene by a tow truck or other vehicle.

2.2. Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

2.3. Alcohol Concentration – 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.

2.4. Direct Observed Collection – You must raise his/her shirt, blouse or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show you, by turning around, that they do not have a prosthetic device. You must urinate into the collection container. Specifically, the collector must watch the urine go from the employee's body into the collection container.

2.5. Commercial Motor Vehicle – A motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

2.5.1. Has a gross combination weight rating of 26,001 or more pounds including of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

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- 2.5.2. Has a gross vehicle weight rating of 26,001 or more pounds; or
- 2.5.3. Is designed to transport 16 or more passengers, including the driver; or
- 2.5.4. Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.
- 2.6. Confirmation of Alcohol Test – A subsequent test using an evidential breath test (EBT), following a screening test with a result of 0.02 or greater that provides a quantitative data about the alcohol concentration.
- 2.7. Confirmation Drug Test – A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine).
- 2.8. Controlled Substance – The category of drugs as listed in 49 CFR Part 40, including:
 - 2.8.1. Marijuana
 - 2.8.2. Cocaine
 - 2.8.3. Opiates
 - 2.8.4. Phencyclidine (PCP)
 - 2.8.5. Amphetamines
- 2.9. Covered Employee – Any employee that is subject to alcohol and drug testing requirements of 49 CFR 382 or this policy.
- 2.10. Covered Position – Any position that is subject to alcohol and drug testing requirements of 49 CFR 382 or this policy.
- 2.11. Designated Employer Representative (DER) – The person(s) designated by the employer to receive confidential test results.
- 2.12. Dilute Specimen – A urine sample with a low Specific Gravity and a low Creatinine level.
- 2.13. DOT Prohibited Conduct – conduct prohibited in 49 CFR related to alcohol and controlled substance use.

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- 2.14. Driver – 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. For the purpose of pre-employment/pre-duty testing only, the term includes a person applying to an employer to drive a commercial motor vehicle.
- 2.15. Employee Assistance Program (EAP) – A program contracted by Marion County providing confidential counseling and other services.
- 2.16. Invalid Test – A urine sample with which the laboratory has been unable to obtain a valid test result.
- 2.17. Medical Review Officer (MRO) – A licensed physician (Medical Doctor or Doctor of Osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders, possesses a certificate of completion or certification from an approved MRO program and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- 2.18. On-Duty Time – Any time that he or she is on duty as an employee of Marion County.
- 2.19. Performing a Safety Sensitive Function – A driver is considered to be performing a safety sensitive function during any period in which he or she is actually performing, ready to perform or immediately able to perform a safety sensitive function.
- 2.20. Positive Drug Test – A drug test that is confirmed by GC/MS technology at or above the cutoff levels established by the U.S. Department of Health and Human Services (DHHS). These cutoff levels may change from time to time depending on DHHS rules. The county will always test at the currently required DHHS levels. The county will attempt to notify covered employees if these levels change. Currently, the cutoff levels are (expressed in nanograms per milliliters (ng/mL):

	<u>Screening</u>	<u>Confirmation</u>
Marijuana	50	15
Cocaine	300	150
Opiates	2000	2000
(Codeine and Morphine)		2000
6-Acetylmorphine (6-AM)		10
* When specimen confirms with morphine at 2000 ng/mL or greater		
Phencyclidine (PCP)	25	25
Amphetamines	1000	500
Methamphetamines	1000	500

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2.21. Prohibited Conduct

- 2.21.1 No employee shall report to work or engage in work while having alcohol, illegal drugs or any other disabling or controlled substance in their system.
- 2.21.2 Reporting to work or engaging in work with a breath alcohol level of 0.02 BrAC or greater. Employees with any detectable level of alcohol while on duty are subject to Marion County policy on Drug and Alcohol Use and Testing #518.
- 2.21.3 The possession, sale, storage, transporting (without manifest), manufacture or sale or use of alcohol while on duty and/or on company property other than by exception of Marion County Drug and Alcohol Use and Testing #518.
- 2.21.4 No employee shall perform safety sensitive duties within four (4) hours after using alcohol.
- 2.21.5 No employee involved in an accident and required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever comes first.
- 2.21.6 Refusing to submit to any testing required under this policy or required by 49 CFR Part 382.
- 2.21.7 No employee shall report for duty or remain on duty requiring the performance of safety sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle or perform safety sensitive functions.

2.22. Refusal to Test (refusal to provide an acceptable alcohol or controlled substance test)

- 2.22.1 Failing to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirements for breath testing in accordance with the requirements of 49 CFR 382 or this policy.
- 2.22.2 Failing to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the requirements of 49 CFR 382 or this policy.
- 2.22.3 Failure to cooperate with the process in a manner that obstructs the collection of the specimen.

2.23. Safety Sensitive Function – Any of those duties set forth in 49 CFR Part 382 (See also “on duty time”)

2.24. Screening Alcohol Test – An analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath sample.

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- 2.25. Screening Drug Test – An immunoassay screen to eliminate “negative” urine specimens from further analysis.
- 2.26. Substance Abuse Professional (SAP) – A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) who possesses a certificate of completion or certification from an approved SAP program with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.
- 2.27. Validity Testing – Laboratory testing of urine samples for the presence of substances not normally found in human urine or naturally occurring substances at levels not consistent with human urine. Validity testing shall be conducted in accordance with the most recently published Department of Transportation guidelines.
- 2.28. Waiting to be Dispatched – All other time not specified as on duty time.

3. Prohibitions:

- 3.1 Alcohol Concentration – No covered employee shall report for duty or remain on duty requiring the performance of safety sensitive functions while having an alcohol concentration of 0.02 or greater. Employees with any detectable level of alcohol while on duty will be subject to the Marion County policy on Drug and Alcohol Use and Testing #518.
- 3.2. Alcohol Possession – No covered employee shall perform a safety sensitive function while the employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment, or otherwise within the exceptions outlined in county policy #518.
- 3.3. On Duty Use – No covered employee shall use alcohol or a controlled substance while performing safety sensitive functions.
- 3.4. Pre-Duty Use – No covered employee shall perform any safety sensitive function within four (4) hours after ingesting alcohol.
- 3.5. Use Following an Accident – No covered employee involved in an accident and required to provide a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident test, whichever occurs first.
- 3.6. Refusal to Submit to Required Alcohol or Controlled Substance Test – No covered employee shall refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, return to duty alcohol or controlled substance test or the follow up alcohol or controlled substance test as required under 49 CFR 382 or Marion County’s Administrative Policies and Procedures.

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- 3.7. Controlled Substance Use – No covered employee shall report to duty or remain on duty requiring the performance of safety sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability to safely operate a commercial motor vehicle. If the safety sensitive employee is taking a controlled substance listed on the Department of Transportation prohibited medication listing, the employee is required to submit a signed statement from the prescribing physician stating that the employee may perform safety sensitive functions while taking a prohibited medication. The prescribing physician shall not name the prescribed medication in their report to the employer.
- 3.8. Controlled Substance Test – No covered employee shall report to duty, remain on duty or perform any safety sensitive functions if the employee tests positive for controlled substance.

4. Required Tests:

4.1.Pre-Employment

- 4.1.1. All applicants for employment in a covered position, or promotion into a covered position, will be informed that their employment into a covered position is contingent upon passing a test for controlled substances. Successfully passing the test requires a negative controlled substance as verified by the Medical Review Officer.
- 4.1.2. The department hiring the new employee for a position requiring a Commercial Driver’s License (CDL) is responsible for checking the drug and alcohol records per Subpart B Employer Responsibilities 40.25
- 4.1.3. Refusal to test by any finalist for a covered position will result in the individual not being hired into that position.

4.2.Post-Accident

- 4.2.1. A covered employee involved in an accident which involves a commercial motor vehicle shall be tested for alcohol and controlled substance as soon as practicable when the accident criteria meets the following Department of Transportation requirements:
 - 4.2.1.1. Covered employee was performing safety sensitive functions with respect to the vehicle if the accident involved the loss of human life; or
 - 4.2.1.2. Covered employee receives a citation under state or local law for a moving traffic violation arising from the accident AND
 - 4.2.1.3. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the

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scene by a tow truck or other motor vehicle, OR Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident

- 4.2.2. If the alcohol test is not administered within two (2) hours of the accident, the employer shall follow the requirements of 49 CFR 382.
- 4.2.3. If the controlled substance test is not administered within thirty-two (32) hours or the alcohol test within eight (8) hours of the accident, the employer shall cease attempts to administer the test and follow the requirements of 49 CFR 382.
- 4.2.4. It is the responsibility of any covered employee who is subject to a post-accident testing to remain readily available for such testing. If the covered employee is not readily available, he/she may be deemed by the employer to have refused to submit to testing. This provision shall not be construed to require the delay of necessary medical attention for injured people, to prohibit the employee from leaving the scene of an accident to obtain assistance in responding to the accident, or to obtain necessary emergency care.
- 4.2.5. The results of a post-accident breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by federal, state or local officials having independent authority for the test(s), shall be considered to meet the requirements of this policy and procedures, and that the results of such test can be obtained by the employer in a timely manner.
- 4.2.6. Employees may be subject to post accident testing following a work related accident as specified in Marion County procedure on Drug and Alcohol use and testing #518-A

4.3. Random

The county is required to conduct random alcohol and controlled substance tests. The minimum annual percentage rates for these tests are set, and can be modified, by the Federal Motor Carrier Safety Administration. The required testing rates shall be based on the average number of driver positions.

The selection of covered employees for random alcohol and/or controlled substance testing shall be made by a scientifically valid method, such as a random table of a computer-based random number generator that is matched with employees' identification numbers. The random selection and testing dates shall be unannounced and spread reasonably throughout the year with each employee having an equal chance of being tested each time the random selections are made.

Each covered employee randomly selected for testing shall immediately, upon notification, report to the testing site.

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The number of covered employees selected will be in excess of the actual number required to enable the testing pool to reach the appropriate annualized rate despite absence due to sick leave, vacations or other valid absences.

4.4.Reasonable Suspicion

A covered employee must submit to testing for alcohol and/or controlled substance if his or her supervisor or other employer representative meeting the training requirements of 49 CFR 382 has reasonable suspicion to believe that the employee has violated the driver prohibitions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substance test must be based on specific, contemporaneous, articulable observation concerning the appearance, behavior, speech or body odors of the covered employee. Additionally, findings may also include indications of chronic use and withdrawal effects of controlled substances.

If an alcohol test is required under this section, the time constraints and documentation if they are not met are the same as those for a post-accident alcohol, (within two (2) hours). The supervisor shall prepare a report indicating the reason for the delay. Alcohol testing must be accomplished within eight (8) hours of the request; after eight (8) hours all attempts shall cease to obtain an alcohol test.

If a controlled substance test is required under this section, the time constraints and documentation are the same as those for a post-accident alcohol, (within two (2) hours). The supervisor shall prepare a report indicating the reason for the delay. Controlled substance testing should be accomplished within thirty-two (32) hours of the request; after thirty-two (32) hours all attempts shall cease to obtain a controlled substance test.

A written record shall be made of the observations leading to an alcohol and/or controlled substance reasonable suspicion test, and signed by the department supervisor or other employer representative that made the observation, within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

4.5.Return-to-Duty

Before a covered employee returns to performing a safety sensitive function after engaging in prohibited conduct, the covered employee shall undergo a return to duty controlled substance and/or alcohol test.

As an employer, you **must** direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.

The return-to-duty test result for controlled substance must indicate a verified negative result for use.

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The return-to-duty test result for alcohol must indicate an alcohol concentration of less than 0.02 under the DOT CDL regulations and no detectable level of alcohol under the Marion County policy on Drug and Alcohol Use and Testing Policy #518

5. Handling Test Results and Confidentiality of Results:

5.1. Test results, record retention and reports

All reports and documentation generated under the requirements of 49 CFR Part 382 and this policy will be maintained in accordance with the requirements of 49 CFR Part 382.

5.2. Confidentiality and access to records

A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substance. Access to the employee's records shall not be contingent upon payment for records other than those specifically requested.

Except as required or allowed by law or expressly authorized or required in this section, the employer shall not release to a third party information contained in records required to be maintained under 49 CFR 382.

Prospective employers are required to obtain, pursuant to an employee's signed consent, information regarding the drug and alcohol testing of the applicant including any refusals to be tested, during the preceding three (3) years of the date of application for employment. Employer will not release this information to the prospective employer until it receives the employee's specific, written authorization to release the information. The background check also applies to employees transferring from a non-safety sensitive position into a covered position.

Except as required or allowed by law or expressly authorized, records may be released to another identified party only with the specific, written consent of the covered employee authorizing release of the information to the party. The release request must specifically identify the individual to whom the information may be released and must specify the terms of the employee's consent for use of this information.

6. Requirement to Submit to Alcohol and Controlled Substance Testing:

Any covered employee subject to testing under the requirements of 49 CFR 382 or this policy and associated procedures must submit to being tested for alcohol and/or controlled substances immediately, or as soon as possible, upon notification to do so by his or her supervisor or other designated employer representative. Failure to immediately report for a test will, in most cases, result in the driver being deemed as refusing to submit which carries the same consequences as a positive controlled substances test or an alcohol test with a concentration of 0.04 or greater.

7. Consequences of Engaging in Controlled Substances Use and/or Prohibited Alcohol Use Resulting in Testing of 0.04 BrAC or Greater and Consequences of Treatment/Follow-up Violations:

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7.1. Initial Service Employees

Initial service employees who violate any provision of this policy shall be subject to immediate discipline up to and including discharge.

7.2. Regular Status Employees

Any regular status, covered employee who violates any provision of this policy shall be subject to discipline up to and including termination. This may include a requirement to fully comply with the Employer Return-To-Work/Last Chance Agreement. Such an agreement shall include the conditions under which the employee shall be allowed to continue his or her employment with the employer. It may also include a requirement for continued compliance and satisfactory completion of any treatment prescribed by the substance abuse professional including after-care programs and special requirements by the employer, or any other requirements deemed appropriate by the parties involved, including discharge if the conditions of the agreement are not met. The employer shall decide on a case-by-case basis if the covered employee is eligible to participate in a last chance agreement. No employee shall be automatically entitled to a last chance agreement.

7.3. Referral, Evaluation and Treatment

Employees who have engaged in DOT prohibited conduct shall be subject to the following terms regarding evaluation and treatment:

a. The employee shall be evaluated by a qualified substance abuse professional. The employee is financially responsible for any and all costs associated with the substance abuse professional process and required follow-up drug/alcohol testing. The substance abuse professional shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. An employee who has not been terminated or who may be eligible for a return to duty contract is responsible to have the substance abuse professional initial assessment completed within ten (10) working days after referral from the employer.

b. If determined necessary by the substance abuse professional, the employee must properly follow any education, treatment or rehabilitation program identified.

c. The employee must be re-evaluated by the substance abuse professional to determine that the employee has properly followed, and is in compliance with, the prescribed treatment or rehabilitation program.

d. The employee shall undergo a return-to-duty drug and/or alcohol test with a result indicating an alcohol concentration less than 0.02 under the DOT CDL regulation and no detectable level of alcohol under Marion County policy on Drug and Alcohol Use and Testing #518 and/or a negative controlled substances test.

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e. Additionally, the employee will be subject to unannounced follow-up alcohol and/or controlled substance tests following his or her return to duty. The number and frequency shall be as directed by the substance abuse professional and consist of at least six (6) tests in the first 12 months following the employee's return to duty. The substance abuse professional may terminate, at his or her discretion, the follow-up tests at any time after the first six (6) tests have been administered. The treatment or rehabilitation program used may not be the substance abuse professional's private practice or be provided by a person or organization from which the substance abuse professional receives remuneration or has a financial interest.

7.4. Available Work for Employees Removed from Safety Sensitive Duties

The employer will not provide non-safety sensitive work for a covered employee who has violated any of the provisions of this policy. If however, an employee has made a voluntary admission of use in accordance with this policy; if appropriate non-safety sensitive work is available, it may be offered on a case-by-case basis.

8. Consequences of an Alcohol Test Result of Any Detectable Level:

Any covered employee tested under the provisions of 49 CFR 382 or this policy who is found to have an alcohol concentration of any detectable level shall not perform or continue to work and is subject to discipline up to and including termination. The employee may not return to work until the start of the employee's next regular scheduled duty period, but not less than 24 hours following administration of an alcohol test. If the result of the confirmation test is 0.04 or greater, the employee will be subject to consequences under Section 7 of this policy.

The employer will not provide non-safety sensitive work for a covered employee tested under the provisions of 49 CFR 382 or this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04. Additionally, the employee will be required to pass a county required return-to-duty test, which results in an alcohol concentration of no detectable level before he or she begins their next regularly scheduled duty period. The employee will be referred to the Employee Assistance Program (EAP) for a substance abuse assessment and be required to follow through with any recommended education or treatment plan. The initial contact with the EAP must be completed within ten (10) working days after referral from the employer and the employee is financially responsible for any and all costs associated with recommended education or treatment.

9. Payment of Costs Associated with the Testing Program:

9.1. Pre-employment

The employer will pay the costs associated with pre-employment testing. The employer will not pay the candidate's time for a pre-employment test.

9.2. Regular Status and Initial Service Employees

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The employer will pay testing costs including paid time for random, reasonable suspicion and post-accident testing. Additional costs, which result from an employee who voluntarily admits use or violates any of the provisions of this policy, will be the responsibility of the employee unless those costs are covered by insurance or otherwise covered by any employer program for which the employee is eligible. Such costs may include the dependency evaluation, treatment, return-to-duty testing and follow-up testing. An employee who requests to have a test performed on a split specimen following a positive drug result on the primary specimen must make the arrangements and pay for the test through the medical review officer. The employer will reimburse the employee for the testing cost if the test result does not re-confirm the non-negative test. Time loss incurred while seeking an evaluation or participating in treatment programs as well as the time needed to submit to follow-up testing shall be at the employee's expense and will not be compensated by the employer.

10. Educational Information on Effects of Alcohol and Controlled Substances:

All covered employees will have available training and/or a packet of education materials on the effects of alcohol and controlled substances on a person's health, work and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervention when an alcohol or controlled substances program is suspected.

11. Medical Marijuana:

The county, as well as the Department of Transportation, views marijuana as a Schedule 1 controlled substance and prohibits employees from having any detectable level in their system while working for the county. Operation of a commercial motor vehicle is prohibited while using marijuana.

12. Prescription Medications and Over-the-Counter Drugs:

Employees are responsible to report to duty free from any controlled substance or alcohol. Covered employees must report the use of prescription and over-the-counter drugs that could have a disabling effect or otherwise adversely affect the covered employee's fitness for duty or job performance to their immediate supervisor (without giving the name of the prescription or over-the-counter drug).

It is the covered employee's responsibility to determine from the physician, pharmacist or other health care professional whether or not the prescribed or over-the-counter drugs could affect the covered employee's fitness for duty or impair job performance or if the medication is listed on the prohibited controlled substance listing as published by the Department of Transportation. Covered employees may be required to provide a written medical authorization to work from a physician, upon reporting the use of prescription or over-the-counter drugs. Failure to report the use of prescription or over-the-counter drugs that have disabling effects or otherwise affect the covered employee's fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including suspension and/or discharge.

13. Employee Voluntary Admission of Alcohol or Controlled Substances Use:

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Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation or treatment requirements of CFR Part 40 rules, provided that:

- 13.1. The employee does not self-identify in order to avoid testing under Part 40 rules;
- 13.2. The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
- 13.3. The employee does not perform a safety sensitive function until the employer is satisfied that the employee has been evaluated and has successfully demonstrated compliance with any education or treatment requirements in accordance with the recommended treatment plan as established by the evaluator.

The employer will take no adverse action against an employee making a voluntary admission within the parameters of this policy. The employer will allow the employee up to fourteen (14) calendar days to complete the evaluation process. If the employee has failed to complete the evaluation within fourteen (14) calendar days from the date of referral, it will be considered misconduct and the employer will take disciplinary action up to and including discharge. Employees who have voluntarily admitted use are not qualified to perform safety sensitive functions and will be placed on paid or unpaid medical leave or assigned non-safety sensitive work duties if available and appropriate.

Employees voluntarily entering substance abuse treatment may apply for accommodation under the Americans with Disabilities Act or paid/unpaid leave under the Family Medical Leave Act or Oregon Family Leave Act if applicable.

The employee will be allowed to return to safety sensitive duty when the evaluating counselor determines that the employee is in full compliance with recommended education or treatment and has an established follow-up program in place. The employee will be required to take and pass a non-Department of Transportation return-to-duty drug and/or alcohol test prior to return to safety sensitive duty.

Any employee returned to duty following a voluntary admission may be required to consent to follow-up, non-Department of Transportation random testing at an interval and number established by the evaluating counselor. Employees who are returned to duty following voluntary admission shall be required to sign a last chance agreement with the employer.

If during the follow-up period, the employee fails to comply with the recommended treatment or fails a follow-up drug and/or alcohol test, it will be considered prohibited conduct under 49 CFR Part 40. The employee who has engaged in prohibited conduct will be required to comply with all applicable requirements under the Department of Transportation rules. Employees who have engaged in prohibited conduct are subject to immediate disciplinary action by the employer up to and including termination.

14. Certificate of Receipt:

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Each covered employee will be required to sign a certificate of receipt certifying that he or she received a copy of this policy, which is the basis for implementing the requirements of the U.S. Department of Transportation Federal Motor Carrier Safety Administration rules and regulations pertaining to alcohol and controlled substance testing of covered employees.

15. Questions Regarding this Policy:

The following county representative is available to answer questions regarding the information contained in this policy:

Marion County Risk Management Loss Control Manager

Adopted: 12/94

Revised: 3/15/95

Corrected Revision: 6/20/95

Revised: 2/10

Revised: 5/23/11