

**Drug and Alcohol Policy
for DOT Safety Sensitive Employees subject to Federal drug and alcohol testing
US DOT 49 CFR Part 40
and
US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382**

Adopted by the Kootenai County Board of County Commissioners on November 29, 2016

I. COUNTY PHILOSOPHY

The County believes that 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.

The purpose of this testing policy is to protect the physical and psychological well-being of all the employees at the County's facilities and job sites and protect the safety of the public as well as comply with federal regulations. 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 work force 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 County Employee Assistance Program, (EAP), unless the EAP proves ineffective for that employee.

The Kootenai County Human Resources Director is the Designated Employer Representative (DER). For questions about drug testing, contact the Human Resources Department.

II. SCOPE

This policy applies to employees who are required to maintain a Commercial Driver's License (CDL) to perform their duties as an employee of Kootenai County. Departments impacted include: Airport, Solid Waste, Parks & Waterways and Snow Groomers. Covered positions include, but are not limited to: Snow Groomers, Equipment Operators, Equipment Mechanics, Spotter-Scale-Recyclers, Landfill Operators and Supervisors/Managers, Environmental and other solid waste Systems Technicians, Airport Operators. A master list of jobs impacted is maintained in the Human Resources Department.

III. DEFINITIONS

Accident (as defined by FMCSA §390.5)

Except as provided in this definition, an occurrence involving a *commercial motor vehicle*

operating on a highway in interstate or intrastate commerce which results in:

- A fatality;
- Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include:

- I. An occurrence involving only boarding and alighting from a stationary motor vehicle; or
- II. An occurrence involving only the loading or unloading of cargo.

Alcohol

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

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.

Commercial motor vehicle

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- 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
- Has a gross vehicle weight rating of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- 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.

Confirmation 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 quantitative data about the alcohol concentration.

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).

Controlled substance

Controlled substance means the category of drugs as listed in 49 CFR Part 40 including:

- Marijuana
- Cocaine
- Opiates
 - o (Codeine and Morphine)
 - o 6-acetylmorphine (6-AM)
- **When specimen confirms w/morphine at 2000 ng/mL or greater**
- Phencyclidine (PCP)
- Amphetamines
 - Methamphetamines

Covered employee

Any employee that is subjected to alcohol and drug testing requirements of 49 CFR 382 or this policy.

Covered position

Covered position is one that is subject to the alcohol and drug testing requirements of 49 CFR 382 or this policy.

Designated Employer Representative (DER)

The person(s) designated by Kootenai County to receive confidential test results.

Dilute Specimen

A urine sample with a low Specific Gravity and a low Creatinine level.

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.

Invalid Test

A urine sample with which the laboratory has been unable to obtain a valid test result.

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.

On-Duty time

- All time at a carrier or shipper plant, terminal, facility or other property or on any public property, waiting to be dispatched (as defined by Kootenai County), unless the driver has been relieved from duty by Kootenai County;

- All time inspecting equipment or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time;
- All driving time, i.e., time spent at the driving controls of a commercial motor vehicle at any time;
- All time, other than driving time, in or upon any commercial motor vehicle;
- All time loading or unloading a vehicle, supervising, or 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 for shipments loaded or unloaded;
- All time spent performing the requirements relating to accidents; or
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

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 available to perform a safety-sensitive function.

Positive Drug Test

A drug test that is confirmed by G.C./M.S. technology at or above the cut-off levels established by the Department of Health and Human Services (DHHS). These cut-off levels may change from time to time depending upon 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 cut-off 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 w/morphine at 2000 ng/mL or greater		
• Phencyclidine (PCP)	25	25
• Amphetamines	1000	500
• Methamphetamines	1000	500

Prohibited Conduct

- 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;

- Reporting to work or engaging in work with a breath alcohol level of 0.02 Breath Alcohol Concentration (BrAC) or greater;
- The possession, sale, storage, transporting (without manifest) or use of alcohol while on-duty and/or on County property;
- No employee shall perform safety sensitive duties within four (4) hours after using alcohol;
- 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;
- Refusing to submit to any testing required under this policy or required by 49 CFR Part 382;
- 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.

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

- 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.
- 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.
- Failure to cooperate with the process in a manner that obstructs the collection of the specimen.

Safety-sensitive function

Any of those duties set forth in DOT Regulations: 49 CFR Part 382 (See also "on duty time").

Screening alcohol test

An analytical procedure, to determine whether an employee may have a prohibited concentration of alcohol in a breath sample.

Screening drug test

An immunoassay screen, to eliminate "negative" urine specimens from further analysis.

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 and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

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 DOT guidelines.

Waiting to be dispatched

All other time not specified as on-duty time.

IV. PROHIBITIONS

- 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.
- 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.
- On-duty use: No covered employee shall use alcohol or a controlled substance while performing safety-sensitive functions.
- Pre-duty use: No covered employee shall perform any safety-sensitive function within four (4) hours after ingesting alcohol.
- 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.
- 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, or return to duty alcohol or controlled substance test, or the follow-up alcohol or controlled substance test as required under 49 CFR 382 or this County's policy and procedures.
- 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 DOT 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 Kootenai County.

- 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.

V. REQUIRED TESTS

Pre-employment

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.

Refusal to test by any finalist for a covered position will result in the individual not being hired into that position.

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

Post-accident

Kootenai County conducts post-accident drug testing in accordance with FMCSA §382.303. 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 DOT requirements:

- Covered employee was performing safety-sensitive functions with respect to the vehicle if the accident involved the loss of human life or;
- Covered employee receives a citation under State or local law for a moving traffic violation arising for the accident AND
- The commercial vehicle was disabled (such that it cannot be driven in daylight hours), OR anyone involved in the accident was immediately transported from the scene for emergency medical care.

If the *alcohol test* is not administered within two (2) hours of the accident Kootenai County shall follow the requirements of 49 CFR 382. Kootenai County shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, Kootenai County shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

If the *controlled substance* test is not administered within thirty-two (32) hours or the alcohol test within eight (8) hours of the accident, Kootenai County shall cease attempts to administer the test and follow the requirements of 49 CFR 382. Kootenai County shall cease attempts to administer a controlled substances test and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

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 Kootenai County 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 medical care.

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 Kootenai County in a timely manner.

The supervisor or designee must accompany the employee to the drug testing facility.

Random

Kootenai County conducts random drug testing on DOT safety sensitive positions, in accordance with FMCSA §382.305. The minimum annual percentage rates for these tests are set, and can be modified, by the Federal Motor Carrier Safety Administration.

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.

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.

The supervisor or designee must accompany the employee to the drug testing facility. Kootenai County will pay testing costs including paid time for random testing.

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 FMCSA §382.307 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 the chronic 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 substances 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 substances 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.

The supervisor or designee must accompany the employee to the drug testing facility.

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. All return-to-duty controlled substance testing must be direct observed per 49 CFR part 40. The return-to-duty test result for controlled substance must indicate a verified negative result for use. The return-to-duty test result for alcohol must indicate an alcohol concentration of less than 0.02.

The supervisor or designee must accompany the employee to the drug testing facility.

Follow-up

All drivers who have engaged in prohibited conduct and are eligible to return to duty, shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to sixty (60) months. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and shall 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 the requirements for follow-up testing at any time after the first six (6) tests have been administered, if the substance abuse professional determines that such testing is no longer necessary. All follow up controlled substance testing must be direct observed per 49 CFR part 40. Follow up testing will be conducted at the employee's expense.

VI. HANDLING TEST RESULTS AND CONFIDENTIALITY OF RESULTS

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.

Confidentiality and access to records Kootenai County Drug and Alcohol Policy for DOT Safety Sensitive Employees subject to Federal drug and alcohol testing US DOT 49 CFR Part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382.

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. 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.

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

Kootenai County is 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 two (2) years of the date of application for employment. Departments are required to make reasonable effort to collect the information post-job offer, prior to the contingent employee's first day on the job. Departments should document the attempts made to collect this information. Applicable pre-employment forms can be found on KC Place.

The Department must ensure completion of the "CDL Holder Pre-Employment Form" for past two years where the contingent employee was required to hold a Commercial Driver's License (CDL). If during past two years, the contingent employee used their CDL as an independent operator (self-employed, farmer, firefighter or in the military), the following form is needed: "CDL/Independent Operator Pre-Employment Form."

This process check also applies to employees transferring from a non DOT safety sensitive position into a covered position.

VII. 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 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. In most cases, refusals to be tested will result in immediate termination.

VIII. EMPLOYEE VOLUNTARY ADMISSION OF ALCOHOL OR CONTROLLED SUBSTANCES USE

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:

- The employee does not self-identify in order to avoid testing under CFR Part 40 rules;
- 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
- The employee does not perform a safety sensitive function until Kootenai County 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.

Kootenai County will take no adverse action against an employee making a voluntary admission within the parameters of this policy. If an employee self-discloses, the supervisor should notify the Human Resources Department immediately. Kootenai County may refer the employee for an evaluation with a Substance Abuse Professional (SAP).

The employee must complete the initial evaluation with the SAP as soon as possible, and no longer than five (5) business days from the time of self-disclosure. If the employee has failed to complete the evaluation as directed, it will be considered misconduct and Kootenai County will take disciplinary action up to and including termination.

Employees who have voluntarily admitted use are not qualified to perform safety sensitive functions and will be placed on a paid medical leave or assigned non-safety sensitive work duties if available and appropriate.

The employee will be allowed to return to safety sensitive duty when the SAP 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-DOT return to duty drug and/or alcohol test prior to return to safety sensitive duty. The employee will be required to submit to follow up 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 Kootenai County.

Any employee returned to duty following a voluntary admission may be required to consent to follow-up, non-DOT Kootenai County Drug and Alcohol Policy for DOT Safety Sensitive Employees subject to Federal drug and alcohol testing US DOT 49 CFR Part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382.

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 DOT rules. Employees who have engaged in prohibited conduct are subject to immediate disciplinary action by Kootenai County up to and including termination.

IX. TESTING PROCEDURES AND RESULTS

Alcohol Testing Procedures

The instrument that will be used to determine the presence of alcohol is the Evidential Breath Testing device (EBT). Only qualified Breath Alcohol Technicians shall be used to conduct breath alcohol testing according to 49 CFR Part 40. If test results are negative, the Breath Alcohol Technician will inform Kootenai County and the employee and no further action is needed. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed. If the result of the confirmation test is 0.02 or greater but less than 0.04, the driver will be immediately removed from safety sensitive function and placed on a paid leave for at least 24 hours or the next working day whichever comes first. The driver will also be required to take a County required breath alcohol test prior to performing any safety sensitive function. If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive for a controlled substance.

Controlled Substance Procedures

Kootenai County is required to use the "split sample" method of collection when conducting the test for controlled substances. The collection of samples for controlled substances testing shall be conducted by qualified collection technicians following the guidelines as published in 49 CFR Part 40. The employee will be required to show the collection technician the contents of his/her pockets. If the employee possesses a substance that is obviously intended to adulterate or substitute a specimen, a direct observation shall be immediately conducted in accordance with federal protocols.

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 Kootenai County. Kootenai County 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 Kootenai County.

If, at any time, the employee refuses to submit to an observed collection when it is required under any of the circumstances outlined in 49 CFR Part 40, it will be deemed a refusal to submit. The urine sample will be placed into two (2) separate specimen bottles for shipment to a Department of Health and Human Services (DHHS) certified laboratory.

If the screening test indicates a negative result Kootenai County will inform the employee and no further action is needed. If the test result of the primary specimen is positive for drugs, adulterated or substituted the MRO shall notify the employee of the verified test result. The employee will be offered the opportunity to request that the MRO direct the split specimen be tested in a different DHHS-certified laboratory to re-confirm the presence of the drug(s), adulterant, or substitution for which a non-negative result was obtained. The MRO shall honor this request if it is made within 72 hours of the employee having been notified of a verified non-negative test result. The result on the split specimen will be transmitted back to the MRO. While waiting for the test result to be

completed on the split specimen the employee shall not be permitted to perform safety-sensitive functions and shall be placed on a paid leave. If the test results of the split specimen fail to reconfirm the non-negative result of the primary specimen, the MRO will cancel the test and report the reasons as required by 49 CFR 382.

A canceled test is considered neither positive nor negative. If a split sample test fails to reconfirm the non-negative test result, the employee will be paid for the time that he/she normally would have worked during the waiting process. In certain cases of a cancelled pre-employment, post-accident, return to duty or follow-up test a recollection may be necessary. If a test is cancelled due to the split sample not being available for testing, Kootenai County is required to have an immediate direct observation sample conducted. The MRO may also require a direct observation collection on cancelled tests in which the employee has not provided an adequate explanation for an invalid test result. Employees who request a split sample to be tested at a second DHHS laboratory shall bear all costs associated with the split testing unless the test fails to confirm the non-negative test result.

Shy Bladder or Shy Breath Syndrome

If an employee has a medical condition that prevents an acceptable sample from being collected in accordance with 49 CFR Part 40, the employee will be required to have a medical examination conducted by a physician acceptable to the employee and the MRO. The employee will have five (5) business days to obtain a physician's statement verifying that a qualifying medical condition exists that would have prevented the employee from providing an acceptable sample. If the employee has failed to keep the appointment with the physician the employee may be disciplined up to and including termination. If the employee is unable to get an appointment with a physician in the five (5) day period, the employee is required to notify Kootenai County immediately of the situation.

Kootenai County will then assist the employee to find a qualified physician to conduct the examination. If, after the examination is completed and the physician has determined that the employee does not have a qualified medical condition that would prevent an acceptable urine/breath sample from being obtained, the test result will be reported as a refusal to submit.

Requirement to Submit to Observed or Monitored Urine Specimen Collection

Under certain circumstances, a covered employee may be required to submit to an observed specimen collection. Some situations that will require the specimen collector to conduct an immediate direct observation collection are:

- Providing a sample that is not within the acceptable temperature range.
- Providing an obviously adulterated specimen.
- Conduct that clearly indicates an attempt to adulterate or substitute a specimen.
- Return-to-duty test.
- Follow-up testing.

In other cases, Kootenai County has the right to request an observed collection for follow-up or return-to-duty testing. The Medical Review Officer has the right to require a direct observation in

other circumstances such as an invalid or cancelled test result.

The covered employee is required to submit to the observed specimen collection when requested. Failure to permit an observed or monitored collection when requested will be deemed a refusal to submit.

X. CONSEQUENCES OF ENGAGING IN PROHIBITED ALCOHOL AND/OR CONTROLLED SUBSTANCES USE OR TREATMENT/ FOLLOW-UP VIOLATIONS

The county has a zero tolerance policy. Employees who violate any provision of this policy shall be subject to immediate discipline up to and including discharge with or without notice. Employees of Kootenai County are AT-WILL nothing in this document shall change, modify or alter that employment relationship.

Referral, Evaluation, and Treatment

Employees in violation of this policy will be subject to discipline or discharge. The DOT safety sensitive employee must still be given a list of SAP and must undergo evaluation in order to be eligible to work in any DOT safety sensitive position for any company/county in the future.

The employee shall be evaluated by a qualified SAP. If determined necessary by the SAP, the employee must properly follow any education, treatment or rehabilitation program identified. The employee must be re-evaluated by the SAP to determine that the employee has properly followed, and is in compliance with, the prescribed treatment or rehabilitation program.

The employee shall undergo a return-to-duty drug and/or alcohol test with a result indicating an alcohol concentration less than 0.02 and/or a negative controlled substances test.

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. Such follow-up testing shall not exceed 60 months from the date of 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.

Employees are financially responsible for any and all costs associated with the SAP 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.

Available work for employees removed from safety sensitive duties

Kootenai County will not be required to 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.

XI. CONSEQUENCES OF AN ALCOHOL TEST RESULT OF AT LEAST 0.02 BUT LESS THAN 0.04

Any covered employee tested under the provisions of 49 CFR 382 or this policy that is found to have an alcohol concentration of 0.02 or greater but less than 0.04, shall not perform or continue to perform safety-sensitive functions. Testing positive may result in immediate termination.

If the employee is permitted to undergo treatment prescribed by an SAP, 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 the test. They may not be permitted to return to safety sensitive duties without the completion of a treatment program, and follow up testing as provided in the section above.

If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive.

Kootenai County 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 may be required to pass a County required return-to-duty test, which results in an alcohol concentration of less than 0.02 before he or she begins their next regularly scheduled duty period.

XII. EDUCATIONAL INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES

All covered employees will receive training and/or 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. Supervisors are required to complete annual drug free workplace training, which is available online at KC Place.

XIII. PRESCRIPTION MEDICATIONS AND OVER THE COUNTER DRUGS

Employees are responsible to report to-duty free from the effects of any controlled substance or alcohol. Covered employees must report the use of prescriptions 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 prescription/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 DOT.

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.

XIV. CERTIFICATE OF RECEIPT

Each covered employee will be required to sign a certificate of receipt certifying that he or she has 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 substances testing of covered employees.

ACKNOWLEDGEMENT AND RECEIPT OF KOOTENAI COUNTY

Drug and Alcohol Policy for DOT Safety Sensitive Employees
Subject to Federal Drug and Alcohol Testing US DOT 49 CFR Part 40
and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382

I, _____ have received a copy of the *Drug and Alcohol Policy for DOT Safety Sensitive Employees* from Kootenai County; and furthermore, I understand and agree to adhere to the *County's Drug Testing Policy 431*, which is a condition of employment. I acknowledge that I may choose from any DOT approved drug testing facility/laboratory to perform my re-test at my own expense should I elect to have a re-test performed pursuant to Section XIX of the Drug Testing Policy 431.

The Drug and Alcohol Policy for DOT Safety Sensitive Employees was adopted by the Kootenai County Commissioners in Resolution 2016-122, approved November 29, 2016

Signature

Date

Printed Name