



# COUNTY OF INYO

## DRUG AND ALCOHOL POLICY PURSUANT TO THE DEPARTMENT OF TRANSPORTATION REGULATIONS

### I. PURPOSE

The County of Inyo must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the County must comply with the regulations of the Federal Motor Carrier Safety Administration (FMCSA). Adoption of a policy is one of the County's obligations under the regulations. This policy sets forth the rights and obligations of covered employees. If you are an employee covered by these requirements, you should familiarize yourself with the provisions of this policy because compliance with this policy is a condition of your employment.

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the County's Alcohol and Drug Abuse Policy dated 9/11/91. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in the policy.

### II. CONTACT PERSON

Employees shall refer any questions regarding his/her rights and obligations under this policy to the DOT Driver Employee Representative at the Hotline # of 760.878.0377.

### III. FMCSA COVERED EMPLOYEES

Employees in the job classifications listed on Attachment A are "covered employees" and thus, are subject to all of the provisions of this policy.

The County may modify this policy at any time to comply with any and all new regulations without prior notification, add or delete classifications/positions to those listed on Attachment A. The County will notify the Associations of the additions and/or deletions along with justification.



Individuals who operate the following commercial motor vehicles are covered employees:

1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds;
3. A vehicle designed to transport 16 or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials, found in threshold quantities listed in the Hazardous Materials Transportation Act.

#### IV. COLLECTION SITES

Location sites of where collections of both alcohol and drug test can be conducted:

Northern Inyo Hospital – 150 Pioneer Lane, Bishop, CA 93514

#### V. PROHIBITIONS: FMCSA COVERED EMPLOYEES

The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration level of 0.02 or greater;
2. Performing a safety-sensitive function within four hours of using alcohol and/or other controlled substances;
3. Being on duty or operating a vehicle described above, while possessing alcohol and/or other controlled substances;
4. Using alcohol and/or other controlled substances while performing a safety-sensitive function;
5. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when the employee used any controlled substances, except if 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 vehicle or other safety-sensitive functions and the employee has informed the employer of the same;
6. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions if the employee tests positive for alcohol and/or other controlled substances;



7. Refusing to submit to an alcohol or controlled substances test as required by this procedure includes, but is not limited to:
  - a. A refusal to provide a urine sample for a drug test;
  - b. An inability to provide a urine sample without a valid medical explanation;
  - c. A refusal to complete and sign the breath alcohol testing form, and/or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
  - d. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
  - e. Tampering with or attempting to adulterate the urine specimen or collection procedure;
  - f. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
  - g. Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager who shall make a determination whether to send the employee for a post-accident drug and/or alcohol test was not obtained.

## **VI. CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVEL OF 0.02 OR GREATER BUT LESS THAN 0.04**

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed immediately from his or her safety-sensitive position for at least:

1. FMCSA Covered Employees: 24 hours, without pay

## **VII. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON FMCSA COVERED EMPLOYEES**

1. Pre-Employment and Transfer Testing – FMCSA Covered Employees:

All applicants for classifications which are covered by the DOT regulations (see Attachment A) as well as all employees who transfer from classifications which are not covered to



classifications which are covered will be required to submit to a pre-employment/pre-duty alcohol and drug testing. Applicants will not be hired/transferred if they do not pass the required tests.

2. Post-Accident Testing:

a. FMCSA Covered Employees:

Post-accident drug and alcohol testing will be conducted on employees following an accident. Post-accident alcohol tests should be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.

When an accident occurs, resulting in an individual death or when a State or local law enforcement authority issues a citation to the covered employee (driver) for a moving violation involving the bodily injury to any person or damage to any one or more motor vehicle to be transported from the scene by a tow truck or other motor vehicle, a test will be required.

Note: If no citation is issued, each surviving employee who was performing safety-sensitive functions with respect to the vehicle will be tested if the accident involved the loss of human life.

b. For purposes of this section, an accident occurs in the following circumstances:

1. When an individual dies as a result of an occurrence involving the vehicle;
2. When an individual suffers bodily injury as a result of an occurrence involving the vehicle;
3. When a vehicle suffers disabling damage. Disabling damage means damage to the vehicle, which precludes departure from the scene in its usual manner in daylight after simple repairs.

3. Random Testing – FMCSA Covered Employees:

Covered employees will be subject to unannounced random alcohol and drug testing. A driver may be directed to take a drug test even when at home in an off-duty status. Random alcohol testing may only occur when the driver is on-duty as follows:

- a. Random Alcohol Testing: A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (e.g. driving), while the employee is performing a safety-sensitive function, or just after the employee has



stopped performing a safety-sensitive function. The County will subject at least 10% of the total number of covered employees to random alcohol testing per year.

- b. Random Drug Testing: A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employees may be tested more than once in a year, while others are not tested at all depending on the random selection

On the date an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are covered. The employee will receive a written notice indicating the time he/she is to report to the lab for testing and have just enough time to drive to the testing facility.

- c. Selection Process: For purposes of selecting those covered employees for random testing, the County shall place FMCSA covered employees into a pool and random selections shall be made.
4. Reasonable Suspicion Testing – FMCSA Covered Employees:

Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee has violated the prohibitions of this Policy. The observation must be based on short-term indicators, such as blurry eyes, slurring, specific, contemporaneous, articulable, or alcohol on breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for reasonable suspicion testing.

The reasonable suspicion alcohol test should be administered within two hours of observation, but not more than eight hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probably alcohol misuse and use of controlled substances.

All covered employees shall receive training on the applications and procedures established as a result of this policy.



**Return to Duty/Follow-up Testing – FMCSA Covered Employees:**

A covered employee who has violated any of the prohibitions of this policy (see Section IV) must submit to a return-to-duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation. All tests performed under this section will be at the employee's expense.

## **VIII. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL – FMCSA COVERED EMPLOYEES**

The alcohol test is evaluated by a certified technician and results are posted on a U.S. Department of Transportation alcohol testing form.

The drug test sample is taken at the designated hospital and sent off to Plexus Global (19340 Jesse Lane, Ste. 280 – Riverside, CA 92508) and is reviewed by a Medical Review Officer (MRO) who validates if test is negative or positive. The MRO is David Nanin, (9501 Northfield Blvd. – Denver, CO 80238).

Alcohol Testing: Alcohol testing will be conducted by using an evidential breath-testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.

Alcohol testing will be conducted by a certified Breath Alcohol Technician (BAT) at Northern Inyo Hospital.

A screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted.

If a positive test is confirmed, no citation or other law enforcement reporting will be given to the employee.



The procedures that will be utilized by the lab for collection and testing shall conform to Title 49 of the Code of Federal Regulations, Part 40.

Drug Testing: Drug testing will be conducted in conformance with Title 49 of the Code of Federal Regulations, Part 40.

1. The urine specimen will be split into two bottles labeled as “primary” and “split” specimen. Both bottles will be sent to the lab;
2. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours from notification by the Medical Review Officer (MRO) of such positive test, to request that the split specimen be analyzed by a different certified lab at his/her own expense;
3. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine; Four semi-synthetic opioids: hydrocodone, oxycodone, hydromorphone, oxymorphone. (Some common names for these semi-synthetic opioids include OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®);
4. If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis;
5. All drug test results will be reviewed and interpreted by the Medical Review Officer (MRO) before they are reported to the County and employee;
6. With all positive drug tests, the physician (a.k.a. Medical Review Officer) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result will be reported to the County as “negative”;
7. A dilute negative test results in a test that needs to be tested again if levels are between 2-5. This will be identified at the Hospital. A second test will be required under direct observation. If levels read 5.1-20, then it is considered optional to re-test, but Inyo County **will require** a re-test. A driver is only permitted to three hours to produce a urine specimen. Leaving the hospital before the process has been completed may be declared a “refusal.”
8. A dilute positive test is considered a positive drug test and no other test will be required. The MRO will analyze and contact the employee to determine whether there are circumstances that would explain the positive result. If there are none, the MRO will report a positive result to the employer by phone and in writing.



## **IX. REFUSAL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST – FMCSA COVERED EMPLOYEES**

A covered employee who refuses to submit to any required drug/alcohol testing will be considered to have tested 0.04 or greater on an alcohol test or tested positively on a controlled substance test. A refusal can be straightforward as an employee not appearing for a test in a reasonable time frame (or not at all).

## **X. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST – FMCSA COVERED EMPLOYEES**

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination.

Regardless of disciplinary proceedings to follow, the employee:

1. Must be removed from performing any safety-sensitive function;
2. Must submit to an examination by a substance abuse professional (SAP), who will be a professional whose treatment may be covered in whole or in part by the medical insurance offered by the County to its employees. The SAP will not have a financial interest in the employee's treatment, unless the employee voluntarily agrees to submit for treatment from the SAP. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his/her alcohol or drug abuse. The County is not required to pay for this treatment.

If the employee refuses or fails the course of treatment outlined by the substance abuse professional, it will be grounds for immediate termination;

3. Would be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed), which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test and is released by the SAP. An employee may be required to submit to and pass an alcohol test, in addition to the drug test, prior to



returning to his/her safety-sensitive position if recommended by the substance use professional;

4. Will be required to submit to unannounced follow-up alcohol and/or drug testing after he/she has been returned to his/her safety-sensitive position. An employee initially testing positive for drugs may be required to submit to unannounced follow-up alcohol testing if recommended by the substance abuse professional;
5. Any cost incurred as a result of this section shall be borne by the employee.

## **XI. DISCIPLINE – FMCSA COVERED EMPLOYEES**

1. Any employee who tampers, alters, substitutes, adulterates, destroys, attempts to falsify or falsifies any alcohol or controlled substance sample or specimen, document, report, or memorandum pertaining to a drug or alcohol test shall be subject to termination.
2. Any employee who interferes with or attempts to interfere with the procedures, equipment or personnel in the course of collection controlled substance specimens or alcohol testing samples shall be subject to termination.
3. Any covered employee who refuses to submit to testing shall be subject to termination.
4. Any covered employee who engages in conduct prohibited under Part V of this Policy shall be subject to termination, except as provided in 5 immediately below:
5. When a covered employee undergoes random, reasonable suspicion, or post-accident alcohol or controlled substances testing and there is a verified positive result (for purposes of alcohol testing, 0.02 or above), a one-time exception may apply in lieu of termination provided all of the following conditions are met:
  - a. The employee agrees in writing to enter and complete a treatment program specified by the County-designated substance abuse professional;
  - b. The employee attains a verified return-to-work negative test for alcohol and/or other controlled substances as recommended by the substance abuse professional;
  - c. The employee agrees in writing to be subject to unannounced frequent follow-up testing for up to 60 months after the employee returns to duty and does not test positive during such testing; the frequency and duration to be determined by the substance abuse professional.
6. An employee who fails to or refuses to complete the treatment program prescribed by the County substance abuse professional shall be subject to termination.



7. An employee who has verified return-to-work or follow-up alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a verified positive result on a controlled substances test shall be subject to termination.
8. Any cost incurred as a result of this section shall be borne by the employee.

## **XII. EMPLOYEE ASSISTANCE PROGRAM**

The County of Inyo has an Employee Assistance Program available to help employees who need assistance with alcohol and controlled substance abuse. This is a voluntary program and is the employee's responsibility to obtain such assistance. Employees may contact Personnel for information at 760.878.0377. All requests for information will be treated with absolute confidentiality. A request for assistance made after circumstances have arisen which result in an employee being asked to submit to a drug or alcohol test will not preclude the imposition of disciplinary action, including termination.

Attached to this Policy are Fact Sheets addressing the effects of alcohol and the various controlled substances which are tested for under this Policy (see Attachment B).

*[\(Click on hyperlink below to bring up attachments\)](#)*

Attachment A

Attachment B

County of Inyo Department of Transportation Drug & Alcohol Policy Acknowledgement/Receipt Form