



Safety Incentive Discount Program

2011-2012

**Important
Safety Incentive Discount Program
Application Guidelines**

Members of both ACCA Insurance Funds need to complete and return only one application by December 30, 2012.

Members of only the ACCA Workers' Compensation Self-Insurers' Fund need to complete and return the application by September 30, 2012.

Members of only the ACCA Liability Self-Insurance Fund need to complete and return the application by December 30, 2012.

Please contact Henry van Arcken, ACCA Director of Insurance Services,
if assistance in completing the application is required.
(334) 263-7594 or hvanarcken@alabamacounties.org.



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www.alabamacounties.org

Hon. Tim Choate, Etowah County, President

Sonny Brasfield, Executive Director

To: County Commission Administrators

From: Henry van Arcken, Director of Insurance Services

Date: January 12, 2012

RE: ACCA Insurance Funds' Safety Incentive Discount Program

The Association of County Commissions of Alabama is pleased to provide its Liability Self-Insurance Fund and Workers' Compensation Self-Insurers' Fund participants with this *Safety Incentive Discount Program* booklet.

Included in this booklet are application guidelines, discount schedules and program requirements as well as sample policies. You will note in the program requirements section that various training classes are required; however, item number 7 is the most urgently required training class and will be provided at the Administrator's (ACAA) Conference, scheduled for May 16 & 17, 2012, at Perdido Beach Resort.

If you have any questions regarding the *Safety Incentive Discount Program* do not hesitate to contact me at 334-263-7594 or hvanarcken@alabamacounties.org.

Enclosure

CC: County Commission Chairs (memo only)

SAFETY INCENTIVE DISCOUNT SCHEDULES

The Funds' Boards of Directors shall establish the Safety Incentive Discount percentage and caps, if any, before the beginning of the coverage period. If a Fund Member withdraws from the Fund(s), it will not be entitled to a Safety Incentive Discount.

ACCA Liability Self-Insurance Fund – For Fund Members of the 1/1/2012-1/1/2013 coverage period the available discount is 5% of the current premium contribution up to a maximum amount of \$6,000, payable by March 31, 2013 if the current year premium contribution has been paid.

ACCA Workers' Compensation Self-Insurers' Fund – For Fund Members of the 10/1/2011-10/1/2012 coverage period the available discount is 5% of the current premium contribution up to a maximum amount of \$7,500, payable by December 31, 2012 if the current year premium contribution has been paid.

SAFETY INCENTIVE DISCOUNT PROGRAM REQUIREMENTS

1. APPOINT AN ACTIVE SAFETY COORDINATOR AND CREATE A SAFETY COMMITTEE - The Safety Coordinator would be responsible for the actions below:
 - a. Establish a countywide Safety Committee. Information on forming a Safety Committee and assistance with meeting topics is available from Meadowbrook Loss Control.
 - b. Preside over the Safety Committee and report to the County Commission.
 - c. Have at least two (2) Safety Committee meetings per year.
 - d. Work with Meadowbrook Loss Control representatives and follow up with loss control surveys.
 - e. Coordinate safety training and implementation of safety rules with Safety Sensitive Departments.
 - f. Attend at least one (1) ACCA-sponsored Loss Prevention Training Session during the coverage period. ACCA Safety Coordinator training sessions are posted on the ACCA website under the Insurance section.
 - g. Maintain documentation of who attended the Safety Committee meetings, topics discussed, findings, and any recommendations to report to the County Commission.

Safety Sensitive Department representatives of the Safety Committee are responsible for:

- a. Holding at least four (4) departmental safety meetings during the coverage period.
 - b. Maintaining documentation of who attended the committee meetings, topics discussed, findings, and any recommendations to report to the Safety Coordinator.
 - c. Cooperating with Meadowbrook Loss Control surveys and following up with loss control recommendations.
 - d. Conducting safety inspections of the workplace to help identify potential exposures with work place practices and procedures.
 - e. Reviewing all incidents and accidents to determine the cause of the incident/accident.
 - f. Documenting and maintaining records and implementing follow-up actions for their department.
2. ESTABLISH A DRUG/ALCOHOL PROGRAM – minimal requirements include required testing for safety sensitive positions and post-accident drug/alcohol testing. A sample policy is available on the ACCA website under the insurance section.

3. EMPLOYEE ORIENTATION - must be completed by the Fund Member for each new employee hired and will include the following Personnel and Administrative procedures:
 - a. Employee handbook must be made available with safety information that is relevant to the employee's position (e.g. seat belt, cell phone, return to work, etc.).
 - b. Employee's signature is required to document that policies were explained to him/her.
4. ESTABLISH A WRITTEN RETURN TO WORK POLICY - must be in place by the Fund Member to provide transitional employment for an employee that is unable to perform their normal job duties during their recovery period. A sample policy is available on the ACCA website under the Insurance section.
5. WRITTEN SEAT BELT POLICY - will be implemented and enforced by the Fund Member. Sample Policies are available on the ACCA website under the Insurance section.
6. WRITTEN CELL PHONE POLICY - will be implemented and enforced by the Fund Member. Sample Policies are available on the ACCA website under the Insurance section.
7. PUBLIC OFFICIALS AND/OR ADMINISTRATIVE STAFF - at least one (1) representative must attend one (1) or more ACCA-sponsored Loss Prevention Training Session during the coverage period. Loss prevention training for public official/administrative staff will be held at the annual Administrator's Conference and are posted on the ACCA website under the Insurance section.
8. SHERIFF'S EMPLOYEES - are required to complete at least one (1) ACCA Jailer Training Program during the coverage period. The ACCA Jailer Training Series is not to be confused with the Jail Management Training (JMT) series.
9. COOPERATE WITH LOSS CONTROL EFFORTS – must agree to cooperate and support the efforts of the Fund's Loss Control Program. Fund Member agrees to respond to Workers' Compensation and Liability loss control recommendations in writing within ninety (90) days of a loss control visit.

APPENDICES

**Association of County Commissions of Alabama Self-Insurance Funds'
Safety Incentive Discount Program**

Safety Incentive Verification Form

The members of the _____ County Commission hereby verify that they have fully complied with all* nine requirements of the Association of County Commission of Alabama Self-Insurance Insurance Funds' Safety Incentive Discount Program.

_____ County Commission Chairman

_____ Date

The appointed **Liability Safety Coordinator** is _____

Title _____ Email Address _____

The appointed **Liability Insurance Contact** is _____

(The Liability Insurance Contact receives invoices, renewals and related information.)

Title _____ Email Address _____

The appointed **Workers' Compensation Insurance Safety Coordinator** is _____

Title _____ Email Address _____

The appointed **Worker's Compensation Insurance Contact** is _____

(The Worker's Compensation insurance contact receives invoices, renewals and related information.)

Title _____ Email Address _____

Completed Requirements checklist:

1. Appoint Safety Coordinator
2. Establish a Drug/Alcohol Policy
3. New Employee Orientation
4. Establish a Return to Work/Modified Duty Policy
5. Written Seat Belt Policy
6. Written Cell Phone Policy
7. Public Officials and/or Administrative Staff Loss Prevention Training
8. Sherriff's Employees ACCA Jailer-Training Program
9. Cooperate with Fund's Loss Control Program

*All nine safety discount requirements must be met to qualify for the safety incentive discount.

Safety Coordinator Resolution

WHEREAS, _____ County has agreed to establish the position of Safety Coordinator to establish and oversee a safety program to assist with the loss prevention efforts of the county;

WHEREAS, the Safety Coordinator will be responsible for insuring compliance with certain safety rules and regulations that protect the well-being of county employees and the general public;

WHEREAS, the Safety Coordinator will be responsible for:

- Establishing and coordinating safety meetings and self inspections to identify safety related hazards;
- Coordinating and implementing safety rules and training for supervisors and employees and/or making recommendations to management regarding such items;
- Reviewing and/or investigating all employee accidents for causes and making recommendations for improvements and corrections;
- Conducting periodic safety self inspections of all vehicles, buildings, grounds, equipment and machinery, and work practices and conditions to determine potential injury exposures;
- Documenting and maintain inspection records and implementing any follow up actions; and

WHEREAS, the Safety Coordinator can ensure that qualifications have been met that will enable the county to receive a substantial discount/discounts on their insurance costs.

NOW THEREFORE BE IT RESOLVED that the position of Safety coordinator is established for _____ County.

RESOLVED this _____ day of _____, 20_____.

_____ County Commission

County Commission Chairman

ATTEST:

County Administrator

Adopted: _____

Guidance for Adoption of Drug Test Policy

Federal law requires entities, including local governmental entities that employ certain categories of workers to implement a Drug and Alcohol policy. This law is administered by the United States Department of Transportation (“USDOT”). Employees who *must* be tested pursuant to USDOT regulations include all CDL drivers who operate commercial motor vehicles on public highways and all transit employees. In addition, the Association of County Commissions of Alabama recommends that all members adopt a comprehensive Drug and Alcohol policy applicable to all employees. Such a policy ensures the safety of all County residents and employees and can lower your liability risk.

Therefore, the Association is providing a sample Drug and Alcohol policy, which may be customized and adopted for your county. This policy satisfies current USDOT requirements and is the policy recommended under the Association’s Workers’ Compensation Self-Insurers’ Fund and Liability Self-Insurance Fund. While you should read the entirety of the policy very carefully, there are a few areas to which you should pay special attention, including as follows:

- **Safety Sensitive Employees:** Please carefully review the definition of “safety sensitive employees” contained in the sample policy. When determining whether an employee is safety sensitive, ask yourself whether the employee could seriously injure or kill himself or others if he makes a mistake while intoxicated. If the answer is “probably not,” then the employee is not safety-sensitive. It is very important that you have current, accurate job descriptions that clearly state whether the position is safety-sensitive.
- **Random Testing:** Public employers cannot randomly drug test all employees. Only those employees who hold positions that have been designated to be safety sensitive can be randomly drug tested! Randomly drug testing public employees who do not qualify as safety sensitive is a violation of the Fourth Amendment of the United States Constitution.
- **Pre-Employment Testing:** There is a debate about whether non-safety sensitive employees may be subjected to pre-employment testing. The issue has not been definitively decided in Alabama. Some courts across the country have held that pre-employment testing is acceptable because it is different from random drug testing in that an applicant’s interest in obtaining a job is lower than a current employee’s interest in maintaining a job, while the employer’s interest in finding out whether the applicant has used drugs is higher than their interest in randomly testing employees with satisfactory job performance. However, many other courts have rejected that test. Importantly, in Chandler v. Miller, 520 U.S. 305 (1997), the United States Supreme Court has held candidates for public office, who are essentially applicants for public employment, may not be subjected to drug-testing as a precondition to getting on the ballot, finding that there was no justification for doing so that outweighed the candidates’ Fourth Amendment rights because the positions at issue could not be considered safety sensitive. After carefully considering the relevant law, the ACCA recommends that counties only conduct both random and pre-employment testing for safety-sensitive positions.

- **Reasonable Suspicion/Post-Accident Testing:** The restrictions on pre-employment and random testing do not mean that you must tolerate non-safety-sensitive employees being intoxicated at work. All employees can and should be subjected to reasonable suspicion and post-accident testing.
- **Employee Assistance Program:** As stated in the sample policy, employers are required to provide information to employees regarding Substance Abuse Professionals (“SAPs”) who can assist them in fighting a drug or alcohol addiction. In addition, employers *may*, but are not required to, institute an Employee Assistance Program (“EAP”) to assist employees who are fighting such an addiction while remaining employed. A brief sample EAP policy is included in the larger sample policy. If you do not wish to adopt an EAP, then you should delete it. If you currently have an EAP or wish to institute such a program, then you should customize this policy to your needs.
- **USDOT Requirements:** USDOT has very specific requirements for drug and alcohol policies. The Association recommends that most of these requirements, such as the provision of annual training for employees and supervisors and the use of certified testing labs, be adopted across the board. However, even if a comprehensive policy is adopted, there are still a few special requirements for employees subject to USDOT regulations. For example, USDOT has very specific yearly requirements for how many employees must be randomly tested and requires that these employees be placed in a separate random-testing pool from other safety-sensitive employees. You should check USDOT’s website each year to ensure compliance (www.dot.gov/adapc). USDOT may also require you to submit a report to ensure compliance; therefore, it is important that you keep appropriate records of all testing.
- **Drug Program Coordinator:** Each county should designate a Drug Program Coordinator who will be responsible for ensuring compliance with your drug and alcohol policy, including ensuring that the testing laboratories and Medical Review Officer are properly certified.

**SAMPLE DRUG AND ALCOHOL ABUSE
POLICIES AND PROCEDURES**
(Effective date: _____)

GENERAL STATEMENT OF POLICY

EMPLOYER is committed to providing a safe working environment for all employees while serving the citizens of ____ County. **Employer** recognizes that any employee who improperly uses intoxicating substances, including drugs and alcohol, poses a serious threat to his or her self, his or her coworkers, and to the public in general. Even small quantities of narcotics, abused prescription or over-the-counter drugs or alcohol can impair judgment and reflexes. This impairment can have dire results, particularly for employees operating vehicles or potentially dangerous equipment.

It is therefore the policy of the EMPLOYER that all employees or any person performing any kind of work for EMPLOYER must report to work completely free from alcohol, illegal or unauthorized drugs, or any other substances that may have a mind-altering or intoxicating effect or otherwise impair the employee's judgment, reaction times, or functioning.

Employer also prohibits all employees from using, possessing, manufacturing, distributing or making arrangements to distribute alcohol, illegal or unauthorized drugs, or any other intoxicating substances while at work or on or about any county property.

In order to avoid creating safety problems and violating this Policy, employees must inform their supervisor when they are legitimately taking any medication, including prescription drugs or over-the-counter medications, which may affect their ability to work. Employees whose job performance may be affected by such medications may be required to provide a fitness-for-duty certification before being allowed to resume their job duties.

Any employee who violates this Policy in any way shall be immediately removed from his or her job duties and shall be subject to discipline, up to and including immediate termination.

No part of this Policy shall be construed to create a contract of continued employment or to confer upon any employee or applicant a property interest in his or her employment. **Employer** maintains the right to change this policy at any time without notice. To the extent that any portion or provision of this Policy and Procedure conflicts with any applicable federal or state laws or regulation, such federal or state laws or regulations will be controlling.

Employer has designated {Drug Program Coordinator} as the Drug Program Coordinator. If you have any questions or concerns regarding this Policy or its application, please contact him/her at: {Contact Information}.

DEFINITIONS

- "Accident" means any on the job accident. "Accident" includes vehicular accidents as well as any acts or omission causing an accident or injury to any person, or damage to any equipment or property belonging to the county.
- "Administrator" means the person or entity that implements drug testing on employees and applicants.
- "Alcohol" means distilled or fermented beverage containing ethyl alcohol, including, but not limited to, beer and wine.
- "Chain of Custody" means procedures implemented by the Employer for the identification and integrity of each urine specimen. Employer requires [person responsible for policy implementation] to track the handling and storage of each urine specimen from the point of specimen collection to final disposition of the specimen. These procedures include an appropriate drug testing chain of custody form to be used from time of collection to receipt by the testing laboratory. Chain of custody forms shall document the date and purpose of each time a specimen is handled or transferred and shall identify every individual in the chain of custody.
- "Collector" means a person who instructs and assists tested employees and applicants for eligible positions at a collection site and who receives and makes an initial examination of the urine specimens. The collector shall have successfully completed training to carry out this function or shall be a licensed medical professional or technician who shall be provided instructions for collection under this procedure and certifies completion as required herein. In any case, where a collection is observed or monitored by non-medical personnel, the collector shall be a person of the same gender as the employee or applicant.
- "Collection Site" means a place designated by Employer where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of specified controlled substance and alcohol. The site will possess necessary personnel, materials, equipment facilities, and supervision to provide for the collection, security, temporary storage, and the transportation or shipment of the samples to a laboratory.
- "Controlled Substance" means any substance defined or classified as a controlled substance according to Federal or State law. Title II of the Comprehensive Drug Abuse Prevention Act of 1970 (Controlled Substance Act), as it is amended from time to time, provides the basic standard. Controlled substances include, but are not limited to, any and all forms of marijuana, stimulants or hallucinogens the sale, and purchase, transfer, use or possession of which are prohibited or restricted by law.
- "County" means ___ County.
- "DOT Employee" is an employee who is subject to the rules and regulations of the United States Department of Transportation regarding drug and alcohol testing because of the job duties that he or she performs.
- "Drug Program Coordinator" is the person designated by Employer to ensure compliance with this Policy, including, but not limiting, ensuring that proper testing procedures are followed, ensuring that the lab(s) used by Employer are properly certified, and ensuring that the Medical Review Officer is properly credentialed. The name and contact information of the Drug Program Coordinator will be distributed to all employees.

- “Employer Premises” includes all property owned, leased, used or under the control of Employer, including, but not limited to, the job site of any employee, structures, building offices, facilities, vehicles and equipment, or transportation to and from those locations while in the course and scope of County employment.
- “Employee” means any and all employees of Employer.
- “Illegal/Unauthorized Drug” means any drug (A) which is legally obtainable but has not been legally obtained or, even if legally obtained, is not being used in accordance with instructions given either by a physician or, if over-the counter, on the drug’s label; or (B) all illegal drugs, including, but not limited to, methamphetamine, marijuana, cocaine, etc.
- “Intoxicating Substance” means any substance, whether legal or illegal, that may have an intoxicating or mind-altering effect when ingested, snorted, smoked, or otherwise introduced into the body. Intoxicating substances include, but are not limited to, “bath salts,” nitrous oxide, glues, solvents, or herbs or other plants such as salvia.
- “Legal Drug” means prescribed drugs and over-the-counter drugs which have been legally obtained and are being used appropriately for their intended purpose in accordance with directions given either on the label or by employee’s treating physician.
- “Possession” means actual or constructive care, custody, control or immediate access.
- “Under the Influence” means being unable to perform work in a safe and productive manner; being in a physical or mental condition which creates a risk to the safety and well-being of the individual, other employees, the public and/or having any laboratory evidence of the presence of drugs, alcohol, prohibited or controlled substance in the employee’s body.
- “Medical Review Officer” (MRO) means a licensed physician (medical doctor) responsible for receiving laboratory results generated by the county’s drug testing program. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual’s confirmed positive test result, together with his/her medical history and any other relevant biomedical information.
- “Random Selection Process” is the process used to ensure that each employee holding a safety-sensitive position has an equal chance of being drug-tested every time that random drug tests are conducted. This process means that some employees may be tested multiple times in any given year.
- “Reasonable Cause” means that the County believes the actions or appearance or conduct of an employee on duty are indicative of the use of a controlled substance or alcohol.
- “Safety-Sensitive Employees” are those persons who are subject to random drug and alcohol testing. These employees include, but are not limited to, persons who inspect, service, repair or maintain a vehicle or other heavy equipment, operate or load a vehicle or heavy equipment, use tools, including both power and hand tools, that have the capacity to injure any person, and those who are authorized to carry weapons of any kind. An employee is engaged in a safety-sensitive function at all times from the time that an employer begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work.

PERSONS SUBJECT TO TESTING

The following employees have been designated by Employer to submit at any time to be tested for illegal drug abuse and alcohol abuse:

- All employees who hold positions or regularly perform duties that have been designated to be "safety sensitive" by Employer.
- Any employee who, during the course of said employee's employment, is involved in an accident causing physical injury to any person or damage to any property.
- Any employee, regardless of whether he or she holds a safety sensitive position, whose conduct, behavior, or physical symptoms establishes reasonable cause to believe that said employee is under the influence of any, drug and/or alcohol while performing his or her job duties, or while being physically present on the premises of the Employer's property during any activity sponsored, supervised, or in which the Employer participates.

TYPES OF TESTING

Pursuant to Employer's policy and procedures, employees will undergo testing as follows:

- 1) **PRE-EMPLOYMENT TESTING:** All employees applying for a position that has been designated as safety-sensitive will be required to submit to a pre-employment drug and alcohol test before a final offer of employment is extended. All pre-testing offers of employment to such persons are explicitly conditioned on the employee successfully taking and passing the drug and alcohol test. Pre-employment testing will also be done when an employee transfers from a non-safety-sensitive position to a safety sensitive position.
- 2) **RANDOM TESTING:** All employees holding safety-sensitive positions will be subject to testing on a random basis without advance notice to them.
- 3) **REASONABLE CAUSE TESTING:** Employer may schedule a drug/alcohol test when behavioral observations indicate to the employee's supervisor that any employee may be involved in illegal use of a controlled substance, use of alcohol, or abuse of legal drugs. Before testing, the employee's supervisor shall either (a) contact another supervisor to observe the employee's behavior and to concur with the decision to test the employee, or (b) review the employee's behavior with another supervisor to obtain concurrence with the decision to test the employee. The employee shall be promptly escorted to the collection site for testing by the employee's supervisor or designee.
 - Employees arrested or convicted for the off-the-job use or possession of illegal or controlled substances shall undergo testing to assist Employer in determining fitness for duty. If the employee tests positive, Employer shall discharge the employee.
- 4) **POST ACCIDENT TESTING:** All employees are required to report all injury or damage related accidents and submit to a post accident drug/alcohol test as set out in this policy. Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident shall be subject to testing. The employee's supervisor or his designee shall schedule the drug screening test immediately following an incident reportable or a reportable accident.
- 5) **RETURN-TO-DUTY TESTING:** If you have violated the prohibited drug and alcohol rules, you must take and pass a drug and alcohol test before being returned to work. Further, any person who has violated the prohibited drug and alcohol rules is required to take a

drug and/or alcohol test before returning to safety-sensitive functions for *any* DOT regulated employer and is also subject to unannounced follow-up testing at least six (6) times in the first twelve (12) months following a return to active safety-sensitive service.

Any and all drug testing conducted by Employer will not be used to identify the existence of any disability.

In the event there is reasonable suspicion of a violation of this policy, Employer also reserves the right to search all property, cabinets, tool boxes, vehicles, including personal vehicles brought onto Employer's property, or any other property on Employer's property, under control of any employee or in the personal vehicle of any employee, and located on Employer's property and used by said employee in commuting to work or in that employee's duty as an employee.

SAFETY-SENSITIVE EMPLOYEES

Employees are considered to be "safety-sensitive" when their job duties regularly require them to engage in activities that have the potential to cause physical injury to themselves or others or to cause serious property damage. Such activities include, but are not limited to,

- Maintaining or repairing motor vehicles or heavy equipment, including, but not limited to, bulldozers, tractors, and riding mowers
- Maintaining or repairing tools that have the capacity to seriously injure the user or another person, including, but not limiting to, chainsaws or weed-eaters
- Regularly operate motor vehicles or heavy equipment as part of his or her job duties, including equipment such as tractors or riding mowers for which licensure is not required by the State of Alabama
- Regularly operate tools that have the capacity to seriously injure the user or another person
- Loading and unloading vehicles or heavy equipment.
- Any activity related to the safe operation of a mass transit system, including dispatching vehicles.
- Carrying any weapon or object that could reasonably be used as a weapon, including, but not limited to, firearms, knives, machetes, blades, tasers, or batons.
- Answering emergency calls and/or directing the provision of emergency services.
- Providing emergency medical services.

A list of positions that have been designated as safety sensitive by Employer is attached hereto as Appendix A. Some safety-sensitive positions are specifically subject to regulation by the Department of Transportation (DOT). These positions are indicated by an asterisk. An accredited testing laboratory will maintain two different random testing pools, including one pool for persons specifically subject to regulation by DOT and one pool for all other safety-sensitive employees.

All employees are subject to drug and alcohol testing when there is reasonable cause to believe that they have violated this policy and after any accident involving physical injury or serious property damage. However, employees who have been designated as safety-sensitive are also subject to pre-employment testing and random testing. Random drug tests can be performed any time a safety-sensitive employee is on duty. An alcohol test can be performed when the safety-sensitive employee is performing a safety sensitive duty, just before, or just after the performance of a safety sensitive duty.

In addition, employees occupying positions deemed to be "safety-sensitive" must promptly report any arrests, charges, or convictions for drug or alcohol related criminal offenses, including both misdemeanors and felonies, to his or her supervisor. *FAILURE TO REPORT SUCH ARRESTS, CHARGES, OR CONVICTIONS MAY BE GROUNDS FOR DISCIPLINE, UP TO AND INCLUDING IMMEDIATE DISMISSAL.*

NECESSITY OF COMPLIANCE WITH TESTING REQUIREMENTS

All employees are subject to reasonable suspicion and post-accident testing as a condition of their employment. In addition, all safety-sensitive employees will be subject to pre-employment and random urine drug test and breath alcohol testing as a condition of their employment.

Any employee who refuses to take a drug and/or alcohol test to which he or she is properly subject shall be considered to have a verified positive test result. An employee who has a verified positive test result, including by refusal, shall be immediately removed from their duties and may be subject to immediate termination. In addition, any employee subject to DOT regulations will receive educational and rehabilitative information and a referral to a Substance Abuse Professional.

Refusals can include a variety of behaviors, including as follows:

- Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the employer;
- Failure to remain at the testing site until the testing process is complete;
- Failure to provide a urine specimen for any required drug test;
- Failure to permit the observation or monitoring of the specimen collection when required to do so;
- Failure to provide a sufficient amount of urine when directed without an adequate medical explanation for this failure;
- Failure to take a second test when directed to do so by the employer or collector;
- Failure to undergo a medical examination when directed to do so by the MRO or employer;
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- Failure to follow the observer's instructions during an observed collection, including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process; and
- Admit to the collector or MRO that you adulterated or substituted the specimen
- Failure to sign step 2 of the alcohol test form
- Leaving the scene of an accident without a valid reason before post accident tests have been completed. Failure to remain "readily available."

OFF-DUTY CONDUCT

Off-the-job use of drugs, alcohol, or any other prohibited substance which results in impaired work performance, including, but not limited to, absenteeism, tardiness, poor work product, or harm to the County's image, tasks, or government is prohibited. Employees should realize that these regulations prohibit all illicit drug use, on and off duty.

PRESCRIPTION DRUGS

The proper use of medication prescribed by a physician is not prohibited; however, Employer prohibits the misuse of prescribed and/or over-the-counter medications or other intoxicating substances and requires all employees using drugs at the direction of a physician to notify the Employer's Medical Review Officer (MRO), or their Drug Program Coordinator where these drugs may affect their job performance, such as by causing drowsiness. Employees may not perform safety-sensitive functions while using any controlled substances unless the employee's physician certifies that the substances will not adversely affect the employee's ability to perform his or her job.

PRE-EMPLOYMENT

All safety-sensitive applicants shall undergo urine drug testing prior to performing safety sensitive duties. This requirement also affects employees not in safety-sensitive positions who seek reclassification into a safety-sensitive position. Receipt by Employer of a negative test result is required prior to performing safety sensitive duties in a covered position. A cancelled test result is not acceptable and must be retaken. If the applicant has a positive pre-employment drug test, he/she cannot be hired for a safety sensitive position.

A negative result on a pre-employment test by a job applicant is valid for thirty days. If a current covered employee has not performed a safety sensitive duty for 90 days or longer, and has been removed from the random pool, the employee must submit to a new pre-employment test and receive a negative result before resuming safety-sensitive duties.

A MRO may report negative pre-employment test results for individuals who are unable to provide sufficient volume due to permanent disability, but has a medical evaluation that indicates no chemical evidence of illegal drug use.

All applicants for safety-sensitive positions will be notified in writing that they will be required to undergo pre-employment/reclassification drug testing prior to their employment and that they will be subject to drug and alcohol testing throughout the period of their employment. Applicants will acknowledge in writing their understanding of these provisions for their application and employment. Employer will retain on file the negative drug test results of all new hires.

In addition to undergoing pre-employment testing, applicants for a safety-sensitive position will be asked to sign forms for release of information from any previous employer for whom the applicant performed safety sensitive functions. Failure to sign this form will result in not being hired. When a covered applicant has previously failed a pre-employment drug test with a prior employer, the employee must present proof of successfully having completed a referral, evaluation and treatment plan.

REASONABLE CAUSE

All employees (whether or not safety-sensitive) will be required to submit to screening whenever a supervisor observes circumstances which provide reasonable cause to believe an employee has used a controlled substance or has otherwise violated the substance abuse rules. Examples of circumstances that may establish reasonable cause to warrant testing include supervisor observation, co-worker complaints, performance decline, attendance or behavior changes, involvement in workplace or vehicular accident, or other actions which indicate a possible error in judgment or negligence, or other violations of the drug or other Commission policy. Before testing the employee, another supervisor shall be contacted to observe the employee's behavior and to concur with the decision to test the employee, or the observing supervisor will review the employee's behavior with another supervisor either face to face or via telephone, to obtain concurrence with the decision to test the employee. The documentation of the employee's conduct shall be prepared and signed by the witnesses within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier.

Upon the reasonable suspicion determination being made, Employer shall ensure that the employee is transported immediately to a collection site for the collection of a urine sample. The employee shall be counseled not to drive a vehicle and a supervisor shall provide transportation for the employee to the collection site.

All persons designated to make a determination that reasonable suspicion exists to require an employee to undergo testing under this provision shall receive at least sixty (60) minutes of training on both alcohol and controlled substance use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Any employee refusing to submit to reasonable suspicion testing or any employee having a positive drug and/or alcohol test will be terminated.

RANDOM TESTING

Employer will conduct random unannounced screening of all designated employees at unannounced times throughout the year. An accredited laboratory will maintain two computerized random testing pools including one DOT pool and one non-DOT pool. There will be no maximum number of samples that any one individual will be required to provide during the testing schedule in either pool.

Employees will be required to report to the designated collection site for testing as soon as possible but in no case later than two (2) hours following notification. Failure to report for drug/alcohol screening within two (2) hours of notification will be treated as a positive test result.

POST ACCIDENT TESTING

Employees are required to immediately notify the Drug Program Coordinator or his designee of any accident resulting in injury or damage to any county property or personnel.

Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to an accident shall provide a urine specimen to be tested for the use of controlled substances and/or alcohol as soon as possible after the accident, but in no case later than eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing.

Employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident that results in a fatality. A post-accident test will also be conducted in situations where there is no fatality but the following occurs: (1) an individual requires immediate transport to a medical treatment facility as a result of collision or non-collision; (2) any time one or more vehicles incurs disabling damage that prevents any of the vehicles involved from leaving the scene of the occurrence in their usual manner in daylight after simple repairs; or (3) with respect to any occurrence in which a vehicle including a mass transit vehicle (rail car, trolley car, trolley bus or vessel) is removed from operation. In a non-fatal accident as previously described, post-accident testing will be conducted unless the operator's performance (and any other covered employees whose performance could have contributed to the accident) can be completely discounted as a contributing factor to the accident as determined by employer using the best information at the time of the decision. In addition, drug screening and alcohol screening will be required for any driver receiving a citation for any moving violation resulting from an accident.

After notification of any accident, County will arrange for the employee to be taken as soon as practicable to collection site designated by County. The supervisor or designee will schedule the employee and assure that he/she is tested the same day as the reportable accident, if possible.

If an employee is injured, unconscious, or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. A supervisor may elect not to test under these circumstances, but such a decision must be made based upon information received as a result of an investigation of the accident. *Nothing in this document should be construed to require the delay of necessary medical attention for injured people following an accident, or prohibiting a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.*

Any employee subject to post-accident testing must refrain from consuming alcohol or taking any controlled substance for eight hours following an accident, or until he/she submits to an alcohol test, whichever comes first. As stated above, the employee will be tested not to exceed eight (8) hours following an accident for alcohol and not to exceed thirty-two (32) hours post-accident for drug testing. If there is a delay of greater than 2 (two) hours for an alcohol test, a reason must be given in writing, retained in a file for possible later referral, and the employer must still attempt to administer an alcohol test for up to 8 (eight) hours following the accident or until the employee undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing must remain available and follow these guidelines, or the County may consider the employee to have refused to submit to testing.

The Commission will discipline or terminate any employee who fails to report an accident or submit to substance screening where required by law or this policy. The Drug Program Coordinator shall insure that an Accident Report is filed in compliance with Commission Policy and applicable laws and regulations.

GENERAL TESTING PROCEDURES

Employer will contract with a properly certified testing laboratory that will ensure that all proper testing procedures are followed in accordance with this Policy and all applicable laws. The following is a list of the general procedures that will be followed for all drug and alcohol testing, regardless of the reason why the test is being performed:

- All testing procedures, including collections, will be performed by certified technicians and/or laboratories.

- Upon arrival at the collection site, the employee must provide proof of identification. The employee will be required to read and sign the controlled substance testing consent form provided by County. The signature shall be witnessed by the collector. Acceptable proof of identification shall be a current driver's license, with photo, other form of picture identification, or identification by a County representative.
- The Employee shall complete a drug testing custody and control form.
- The Drug Program Coordinator shall notify the employee directly of the results of any positive drug test in order to give the employee an opportunity to challenge the findings. The County may, but shall not be required to, reanalyze the employee's original sample to clarify the findings.
- Controlled substance testing must follow split sample procedures. Under this provision, an employee whose urine sample has tested positive for a controlled substance has the option of having the other portion of the split sample tested at another laboratory. The employee must notify the County within 72 hours after notification of a positive sample that he/she desires a retest under this provision.
- If a split sample test produces a negative result or if the second portion is not available, the test is considered negative and no sanctions will be imposed.
- All persons who receive information by County regarding drug tests shall maintain this information on a confidential basis.

Both **Employer** and the laboratory shall rely, when practical, on the guidance of the Federal Department of Transportation, Procedures for Transportation Workplace Drug Testing Programs.

SUBSTANCES TESTED FOR

DOT employees will regularly be tested for:

- 1) Marijuana (THC Metabolite)
- 2) Cocaine
- 3) Amphetamines
- 4) Opiates (including heroin)
- 5) Phenylephidine (PCP)
- 6) Alcohol

Non DOT-employees may be tested for other substances without advance notice. DOT employees may also be separately tested for other substances without advance notice by the **Employer** for safety purposes. Such tests will be coordinated with the Drug Program Coordinator.

COLLECTION SITES

Employer will designate a collection site in a reasonably accessible location.

COLLECTION PROCEDURES

Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy. The collector seals and labels the specimen, completes a chain of custody document and prepares the specimen and accompanying paper

work for shipment to a drug-testing laboratory. The specimen collection procedures and chain of custody ensures the specimen's security, proper identification, and integrity is not compromised.

Split specimen procedures:

- 1) Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen.
- 2) Both bottles are sent to a laboratory.
- 3) Only "primary" specimen is opened and used for analysis.
- 4) "Split" specimen remains sealed and stored at the laboratory.
- 5) If the "primary" specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request in writing the "split" specimen be sent to another DHHS certified laboratory for analysis.
- 6) If it is positive for one or more of the drugs then a continuation test is performed for each drug using state-of-the-art gas chromatography/mass spectrometry ("GC/MS") analysis.
- 7) GC/MS confirmation insures that over-the-counter medications or prescriptions are not reported as positive results.

DIRECT OBSERVATION

Observed collections are required in a number of situations for DOT employees. Any employee subject to a drug test may also be required to undergo observed collection. The purpose of direct observation is to guard against employee attempts to mask the testing process. Observed collections are required in the following circumstances:

- 1) All return-to-duty tests
- 2) All follow-up tests
- 3) Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90 – 100 degrees Fahrenheit
- 4) Anytime the employee is directed to provide another specimen because the original specimen appears to have been tampered with;
- 5) Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- 6) Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determines that there is not an adequate medical explanation for the result'
- 7) Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt as appropriate, above the waist, lower clothing and underpants, and turn around completely at the direction of the observer in order to show that he or she is not wearing any prosthetic device.

Where necessary, an Employer representative or medical personnel may obtain a specimen outside of a designated collection site (such as the emergency room following an accident investigation, etc.).

ALCOHOL TESTING PROCEDURES

All employees are prohibited from possessing, drinking, or being impaired or intoxicated by alcohol while at work or on duty. ***In addition, safety-sensitive employees are prohibited from consuming any alcohol four hours prior to going on duty.*** A BAC of 0.04 will be accepted as presumptive evidence of intoxication.

Any employee may be subject to alcohol testing either for reasonable suspicion or post-accident. Safety sensitive employees are also subject to random alcohol testing. Random testing will be conducted just before, during, or just after the employee has performed a safety-sensitive function. Safety sensitive employees with a BAC of 0.02 will be immediately removed from the safety sensitive duties for a period of at least twenty-four (24) hours.

All alcohol tests will be conducted using evidentiary breath testing devices approved by the National Highway Traffic Safety Administration by a properly trained person. Any result showing greater than a 0.02 BAC will be repeated.

EVALUATIONS AND RETURN OF RESULTS

The MRO will be responsible for reviewing the quantified test results of employees and confirming that the individuals testing positive have used drugs in violation of policy. Prior to making a final decision, the MRO shall give the individuals testing positive an opportunity to discuss the result either face to face or over the telephone. If the test result is negative dilute, the MRO may decide that the employee must take another test. If this second test results in a negative dilute result, the test will ordinarily be considered to be a negative and no additional testing will be required unless the MRO so directs.

The MRO shall then promptly tell the Drug Program Coordinator which employees or applicants test positive.

REQUEST FOR RETEST

An employee may submit a written request for a retest of the original specimen within 72 hours of receipt of the final test results. Requests must be submitted in writing to the Drug Program Coordinator. The employee may be required to pay the associated costs of retest in advance but will be reimbursed if the result of the retest is negative.

RELEASE OF TEST RESULTS

Except where otherwise specifically required by law, employee drug testing results and records are maintained under strict confidentiality by the employer, the drug testing laboratory, and the medical review officer. They cannot be released to others without the written consent of the employee. Exceptions to this confidentiality are limited to DOT agencies when license or certification actions are required or to the decision-maker in arbitration, litigation, or administrative proceedings arising from a positive drug test.

However, all employees will be required to execute a consent/release form permitting the Employer to release test results and related information to the Department of Industrial Relations or other relevant government agency. Applicants for safety-sensitive positions will also be required to execute a consent/release form permitting Employer to review records of previous drug and alcohol testing information.

RETENTION OF RECORDS

All records will be maintained so as to preserve confidentiality and prevent unauthorized persons from accessing, releasing, or tampering with records. The following records will be maintained:

- (1) Records related to the collection process, including:
 - (i) Collection logbooks, if used.
 - (ii) Documents relating to the random selection process.
 - (iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests.
 - (iv) Documents generated in connection with decisions on post-accident drug and alcohol testing.
 - (v) MRO documents verifying existence of a medical explanation of the inability an employee to provide adequate urine or breathe sample.

- (2) Records related to test results:
 - (i) The employer's copy of the custody and control form.
 - (ii) Documents related to the refusal of any employee to submit to a test
 - (iii) Documents presented by an employee to dispute the result of a test

- (3) Records related to referral and return to duty and follow-up testing, including records of any DOT employee's entry into and completion of the treatment program recommended by the substance abuse professional.

- (4) Records related to employee training:
 - (i) Training materials on drug use awareness and alcohol misuse, including a copy of the employer's policy on prohibited drug use and alcohol misuse.
 - (ii) Names of employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.
 - (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.
 - (iv) Certification that any training conducted under this part complies with the requirements for such training.

- (5) Copies of any annual MIS reports submitted to FTA.

The following records will be maintained for no less than five years: Records of verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, referrals to the substance abuse professional, and copies of annual MIS reports submitted to FTA.

The following records will be maintained for no less than two years: records related to the collection process and employee training.

The following records will be maintained for no less than one year: records of negative drug or alcohol test results, with the exception that all post-accident testing records will be maintained for at least three (3) years after an accident.

EMPLOYEE EDUCATION AND TRAINING

Employer will provide written information in drug/alcohol use and treatment resources to safety-sensitive employees. Employer will provide one hour of training for employees on the dangers of controlled substance use annually. All supervisors of safety-sensitive employees must also attend one hour of training on the signs and symptoms of drug abuse. The training is necessary to assist supervisors in making appropriate determinations for reasonable suspicion testing.

EMPLOYMENT ASSESSMENT

Any safety-sensitive employee or applicant who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, or has refused to submit to a drug or alcohol test (except in the case of an applicant) will be referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. The SAP will follow the protocols and meet the requirements defined in 49CFR part 40. All employees and applicants will be given contact information for a USDOT qualified SAP if they test positive.

EMPLOYEE ASSISTANCE PROGRAMS (EAP)

The County's EAP shall include:

- a) Education and training for employees regarding drugs and alcohol.
- b) Education and training for Supervisors regarding drugs and alcohol, including:
 - 1) Effects and consequences of substance use on personal health, safety, and work.
 - 2) Manifestations and behavioral causes that may indicate substance use.
 - 3) Documentation of training provided.
- c) A written statement on file and available at the Commission office outlining the EAP.

The Drug Program Coordinator or his designee should be contacted for further guidance. [CONTACT INFORMATION HERE]

INVESTIGATION/SEARCHES

Where a supervisor has reasonable cause to suspect that an employee has violated the substance abuse policy, he/she may inspect vehicles which an employee brings on the Commission's property, lockers, work areas, desks, purses, briefcases, tool boxes, or other belongings, and at locations where County related activities are being conducted without prior notice in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. Where the employee is not present or refuses to remove a personal lock, the Drug Program Coordinator will do so for him/her. The Commission may release any illegal, or controlled drugs, or paraphernalia to appropriate law enforcement authorities.

All searches should be coordinated with the Drug Program Coordinator or his designee.

SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following transit system representative:

Designated Employer Representative/Program Manager:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

SAMHSA Certified Laboratory

Name: _____

Medical Review Officer:

Name: _____

Address: _____

Substance Abuse Professionals

Primary SAP: _____

Agency: _____

Address: _____

Telephone Number: _____

Backup SAP: _____

Agency: _____

Address: _____

Telephone Number: _____

Attachment A

Safety-Sensitive Functions

Safety-Sensitive Positions

All positions were reviewed for safety-sensitive duties, as defined in 49 CFR part 655, to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following positions were determined to be safety-sensitive:

(Examples)

Dispatchers

Operations Manager

Full-time Bus Drivers

Part-time Bus Drivers

Leadman/Mechanic

Mechanic

Attachment B

(Proof of Policy Adoption by Governing Board or Highest Authority.)

EMPLOYEE RECEIPT OF DRUG AND ALCOHOL TESTING POLICY

Return this completed form to your immediate supervisor

Employee Name : _____
(print)

I hereby certify that I have received and will read this Drug and Alcohol Abuse Testing Policy. I understand that I will be held responsible for the content of the policy and I agree to abide by drug and alcohol testing policy. If I need any clarification or if I have any questions regarding the substance of the policy, I will address them with the company's program administrator.

I understand that violation of this Policy may be grounds for immediate termination of my employment

This policy adheres to the Federal Transit Administration's mandated regulations for drug and alcohol testing.

Employee Signature: _____

Date Signed:

Sample Return to Work/Modified Duty Policy

An employee who is on leave as a result of a work-related injury or illness may be released to work on modified or light duty subject to conditions specified by his or her physician. [EMPLOYER] will make reasonable efforts to provide the employee with a position meeting the requirements imposed by the physician for the duration of a reasonable recovery period. Such a position is temporary and does not constitute a contract of employment or property interest in the modified or light duty position. An employee working in such a position is still subject to the same policies and procedures applicable to all employees, including the Drug and Alcohol Policy. Any employee who is offered a physician-approved, modified duty job will be required to accept the offer; otherwise, such a refusal will be considered job abandonment.

When the injured employee reaches Maximum Medical Improvement, [EMPLOYER] will make reasonable efforts to place the employee in a permanent position with as similar terms and conditions of employment as possible as the employee's original position.

Sample Seat Belt Policy

(County Name) recognizes that seat belts are extremely effective in preventing injuries and fatalities in motor vehicle accidents.

Wearing your seat belt can reduce your risk of dying in a motor vehicle accident by up to 60%. We care about our employees and want to make sure that no one is injured or killed in a tragedy that could have been prevented by the simple use of a seat belt.

Therefore our county policy is that all employees must wear seat belts when operating any vehicle or equipment on county business.

All employees and their family members are strongly encouraged to wear seat belts whenever they are driving or riding in any vehicle at any time. Whether on or off the job, we don't want to see you hurt.

Employees who violate this policy will be subject to disciplinary action, up to and including termination.

Employee Signature

Date

Supervisor Signature

Date

Usage of Wireless Communication Devices While Driving

SAMPLE POLICY

Employees are prohibited from using any cell phone, PDA or any wireless communication system (whether or not it is owned by the county) while:

- (1) operating any county owned vehicle, including off-road heavy equipment, at any time, to include both working and non-working hours.
- (2) operating any vehicle, including off-road heavy equipment, not owned by county while in the performance of his/her duties.
- (3) operating any vehicle, including off-road heavy equipment, while engaging in any business related to county operations.

Employees who must utilize cell phones, PDA or any other wireless communication system shall do so only after safely exiting traffic and parking the vehicle safely off the road. The vehicle shall remain parked off the roadway until all communication has been completed.

If the Appointing Authority determines the use of such communication and devices is a vital necessity of performing one's job duties, the employees may be authorized to utilize the devices with a hands-free option.

In no circumstances may a county employee type, text or read any cell phone, PDA or any wireless communication system while operating any vehicle as described herein.

Employees who violate this policy and are involved in accidents or charged with traffic violations caused by or resulting from the use of a cell phone, PDA or wireless communication system while driving, are solely responsible for liabilities that result from such actions and are acting outside the line and scope of their duties.

In addition to compliance with this policy, all employees are expected to follow applicable state, federal and local laws or regulations regarding the use of cell phones and PDA's at all times.

Discipline:

Failure to follow this policy shall..... (each county will need to provide for discipline for those found to be violating the policy.)