

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Randy Gillespie TODAY'S DATE: May 12, 2022

DEPARTMENT: Personnel

SIGNATURE OF DEPARTMENT HEAD:



REQUESTED AGENDA DATE: May 23, 2022

SPECIFIC AGENDA WORDING: Consideration to approve Johnson County CDL Driver Drug and Alcohol Testing Policy.

PERSON(S) TO PRESENT ITEM: Randy Gillespie

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 10 minutes

ACTION ITEM: X

WORKSHOP:

(Anticipated number of minutes needed to discuss item) **CONSENT:**

EXECUTIVE:

STAFF NOTICE:

COUNTY ATTORNEY: X IT DEPARTMENT:

AUDITOR: PURCHASING DEPARTMENT:

PERSONNEL: PUBLIC WORKS:

BUDGET COORDINATOR: OTHER:

*******This Section to be Completed by County Judge's Office*******

COMMISSIONERS COURT

ASSIGNED AGENDA DATE: **MAY 23 2022**

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE

COURT MEMBER APPROVAL

Approved
Date

Johnson County Texas CDL Drug and Alcohol Testing Policy and Procedures

Introduction

Drivers are an extremely valuable resource for County's business. Their health and safety is a serious County concern. Drug or alcohol use may pose a serious threat to driver health and safety. It is, therefore, the policy of the County to prevent substance use or abuse from having an adverse effect on our drivers. The County maintains that the work environment is safer and more productive without the presence of alcohol, illegal or inappropriate drugs in the body or on County property. Furthermore, drivers have a right to work in an alcohol and drug-free environment and to work with drivers free from the effects of alcohol and drugs. Drivers who abuse alcohol or use drugs are a danger to themselves, their co-workers and the County's assets.

The adverse impact of substance abuse by drivers has been recognized by the federal government. The Federal Motor Carrier Safety Administration ("FMCSA") has issued regulations, which require the County to implement a controlled substance testing program. The County will comply with these regulations and is committed to maintaining a drug-free work place. All drivers are advised that remaining drug-free and medically qualified to drive are conditions of continued employment with the County.

Specifically, it is the policy of Johnson County that the use, sale, purchase, transfer, possession or presence in one's system of any controlled substance (except medically prescribed drugs) by any driver while on County premises, engaged in County business, while operating County equipment, or while under the authority of the County is strictly prohibited. "FMCSA" stated that mandatory testing must apply to every person who operates a commercial motor vehicle in interstate or intrastate commerce and is subject to the CDL licensing requirement.

The execution and enforcement of this policy will follow set procedures to screen body fluids (urinalysis) conduct breath testing, and/or search all driver applicants for alcohol and drug use, and those drivers suspected of violating this policy who are involved in a U.S. Department of Transportation (DOT) reportable accident or who are periodically or

randomly selected pursuant to these procedures. These procedures are designed not only to detect violations of this policy, but to ensure fairness to each driver. Every effort will be made to maintain the dignity of drivers or driver applicants involved.

Neither this policy nor any of its terms are intended to create a contract of employment or to contain the terms of any contract of employment. Johnson County retains the sole right to change, amend or modify any term or provision of this policy without notice. This policy is effective (5-23-22), and will supersede all prior policies and statements relating to alcohol or drugs for CDL drivers.

This policy outlines the responsibilities of employees, supervisors and managers with regard to drug and alcohol testing of employees in safety-sensitive positions in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

Policy Statement

It is the policy of the Johnson County to comply fully with the regulations mandating pre-employment, random, reasonable suspicion and post-accident and follow-up drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation. This policy applies to employees whose job requires them to obtain and retain a Commercial Drivers' License (CDL) and operate a Commercial Motor Vehicle (CMV). Positions and employees covered by this Policy shall be referred to herein as "CDL positions" and "CDL employees" respectively.

It is the policy of Johnson County to comply with the U.S. Department of Transportation, FMCSA Clearinghouse, a secure online database that provides employers with real-time information about CDL driver drug and alcohol program violations. Johnson County will conduct both electronic queries and traditional manual queries with previous employers as required by FMCSA's drug and alcohol use testing program, for checking CDL driver violation histories. Drivers may view their own records. Employees will be required to provide a consent form from the CDL holder to conduct both Limited and Specific inquiries.

This policy contains the requirements of the regulations, except where indicated that a particular provision is based on the authority of Johnson County, as follows:

- The performance of safety-sensitive functions is prohibited by CDL employees having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test; by employees using alcohol or within four hours after using alcohol; and by employees in the possession of any medication containing alcohol unless the package seal is unbroken. In addition, Johnson County prohibits the performance of any

safety-sensitive function by an employee with a breath alcohol concentration of .02 percent or greater.

- Use of controlled substances by CDL employees covered by the Policy is prohibited and is in accordance with the regulations issued by the U.S. Department of Transportation.
- A CDL employee is performing a safety-sensitive function at the following times:
 - All time on county property, public property, or other property waiting to be dispatched to drive,
 - All time inspecting, servicing or conditioning any CMV at any time,
 - All CMV driving time,
 - All time other than driving time in or upon any CMV,
 - 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 receipts for shipments loaded or unloaded,
 - All time spent performing driver requirements relating to accidents, and
 - All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Definitions

Accident: An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol concentration (or content) means 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 under this part.

Breath Alcohol Technician (BAT): A person who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Clearinghouse: A secure online database that gives the county real-time information about CDL driver drug and alcohol program violations.

Collection site means a place where individuals present themselves for the purpose of providing breath, body fluid to be analyzed for alcohol or specified controlled substances. The site must possess all necessary personnel, materials, equipment,

facilities and supervision to provide for the collection, security, temporary storage and transportation of shipment of the samples to a laboratory.

Commercial Driver's License (CDL): A special license required of drivers who drive Commercial Motor Vehicles which meets the following criteria:

- Meets or exceeds 26,001 lbs. gross vehicle weight; or
- Transports 16 or more passengers, including the driver; or
- Transports hazardous materials as determined by the Hazardous Materials Act, 49 USC 5101, and are required to placard the vehicle under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

Commercial Motor Vehicle (CMV): Any self-propelled or towed vehicle used on a highway, any roadway or passage which may be available to public transportation at any time, whether on private or public property, in interstate or intrastate commerce to transport passengers or property when the vehicle:

- Has a gross vehicle weight rating or gross combination weight rating of 26,001 lbs. or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 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 hazardous materials as determined by the Hazardous Materials Transportation Act, 49 USC 5101, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.

Confirmation Test: For alcohol testing, a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration. For controlled substances testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test in order to ensure reliability and accuracy.

Controlled substance has the meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedule I through V as they may be revised from time to time (21 CFR 1308).

Designated Employer Representative (DER): An employee authorized by Johnson County to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the County, consistent with the requirements of 40.3.

Driver means 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; leased drivers and independent, owner-operator contractors who are directly employed by or under lease to the County or who operate a commercial motor vehicle at the direction of or with the consent of Johnson County. For the purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying for a position with Johnson County, which requires a CDL to drive a commercial motor vehicle.

Drug means any substance (other than alcohol) that is a controlled substance as defined in this section and 49 CFR Part 40.

Evidential Breath Testing device (EBT): A device approved by the National Highway Traffic Safety Administration ("NHTSA") for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations, placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" ("CPL"), and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

Medical Review Officer (MRO): A licensed physician responsible for receiving and reviewing laboratory results generated by the county's drug testing and for evaluating medical explanations for certain drug test results.

On duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. "On duty time" shall include:

1. All time on the County's premises, at a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been released from duty by the County.
2. All time inspection, servicing, or conditioning any commercial motor vehicle at any time;
3. All driving time;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time spent performing the driver requirements relating to accidents;
7. All time repairing, obtaining assistance, or remaining in attendance upon a

disabled vehicle.

Performing a Safety-Sensitive Function: Any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.

Safety-Sensitive Function: Any of the seven on-duty functions set forth by FMCSA regulations, Title 49 Section 395.2, On-duty time, listed below:

- All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatch, unless the driver has been relieved from duty by the employer.
- All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- All time spent at the driving controls of a commercial motor vehicle.
- All time, other than driving time, spent on or in a commercial motor vehicle.
- All time loading or unloading a commercial motor 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 driver requirements associated with an accident.
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test:

- In alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.
- In controlled substance testing it means an immunoassay screen to eliminate negative urine specimens from further consideration.

Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning evaluation, treatment, follow-up testing, and after-care.

Responsibilities

Personnel Office or Person: Safety Coordinator is responsible for the following Drug and Alcohol Screening compliance activities:

- Ensure each employee required to have a CDL participates in an appropriate drug and alcohol testing program in accordance with DOT regulations. All results will be kept and maintained on file by Johnson County personnel pursuant to county policy.
- Review all driver qualification forms and documents for completeness and compliance.
- Maintain Driver Qualification files includes mandatory drug testing information (for drivers operating a vehicle with a GVWR of 26,001 lbs. or more; a vehicle requiring a placarding for hazardous materials; or a vehicle designed to transport 16 or more passengers including the driver)
- Use the DOT Clearinghouse to make queries regarding CDL drivers' violations, as well as, updating Clearinghouse after a CDL driver has completed drug and alcohol testing in accordance with DOT regulations.

Supervisor/Department: The duties of the driver's supervisor or his/her department include:

- Active participation in the hiring process for employees who drive CMVs, which includes:
 - Ensuring all offers of employment shall be contingent upon successful conformation of prior employment, driving record, completion of drug and alcohol testing, and other DOT requirements for drivers.
 - Ensuring the post-offer applicant obtains his/her CDL drug testing.
- Informing and requiring CDL drivers to submit a urine sample for drug/alcohol testing at the designated medical and/or collection facility when the supervisor has reasonable suspicion that the driver is under the influence of drugs or alcohol, pursuant to DOT regulations and County policy, and
 - Contact Personnel Department as soon as possible following the incident, and
 - Complete the Supervisors Reasonable Suspicion Form.
- Compliance with DOT regulations

Driver: The responsibilities of a driver include:

- Avoid the use of non-prescribed drugs and alcohol while conducting safety-sensitive activities, and to comply at all times with county policy.
- Submit a sample for drug or alcohol testing when called upon to do so by his/her supervisor, including random testing for CDL drivers, pursuant to county policy (see "Refusal to Submit Form").

SUBSTANCE PROHIBITED/PRESCRIPTION MEDICATIONS

- A. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medications containing alcohol which, when consumed causes an alcohol concentration of 0.02 or greater.
- B. **Controlled Substance:** In accordance with FHWA rules, urinalyses will be conducted to detect the presence of the following substances:
 - Marijuana
 - Cocaine
 - Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone)
 - Amphetamines
 - Phencyclidine (PCP)
- C. **Prescription Medications:** Drivers taking legally prescribed medication issued by a licensed health care professional familiar with the driver's work-related responsibilities must report such use to their immediate supervisor, and may be required to present written evidence from the health care professional which describes the effects such medications may have on the driver's ability to perform his/her tasks.

In the sole discretion of the Elected Official, a driver may be temporarily removed, with pay, from a safety-sensitive position if deemed appropriate.

PROHIBITIONS

A. Alcohol Prohibitions:

The new alcohol rule prohibits any alcohol misuse that could affect performance of a safety-sensitive function, including:

1. Use while performing safety-sensitive functions.
2. Use during the 4 hours before performing safety-sensitive functions.
3. Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.02 or greater.

4. Possession of alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines which contain alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
 5. Use during 8 hours following an accident or until he/she undergoes a post-accident test.
 6. Refusal to take a required test.
- **NOTE:** A driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, on or be permitted to perform, safety-sensitive functions for at least 24 hours. The other consequences imposed by the regulations and discussed below do not apply. However, documentation of this test constitutes written warning that County policy has been violated, and could result in disqualification of a driver and disciplinary action, up to an including termination under Johnson County Texas policy.

B. Drug Prohibitions:

The regulations prohibit any drug use that could affect performance of safety-sensitive functions, including:

1. Use of any drug, except by doctor's prescription, and then only if the doctor has advised the driver that the drug will not adversely affect the driver's ability to safely operate the CMV;
2. Testing positive for drugs; and
3. Refusing to take a required test.

All drivers will inform the Elected Official of any therapeutic drug use prior to performing a safety-sensitive function.

Procedures

Types of Tests: To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. All testing required by this policy will be conducted in accordance with the Omnibus Transportation Employee Testing Act of 1991 and drug testing guidelines and regulations issued by the Department of Transportation. The following tests are required:

- **Pre-employment.** All applicants for employment in CDL positions, or candidates for transfer or promotion to such positions are subject to screening for improper use of controlled substances. (Pre-employment alcohol testing is optional) **Note:** A pre-employment drug test may be required for an existing employee who was removed from the random testing program for more than 30 days.
- **Post-Accident.** Conducted after accidents on CDL employees in County vehicles whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation.
 - Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours, after the accident.
 - CDL employees must refrain from all alcohol use until the test is complete.
 - Post-accident drug tests must be conducted within 32 hours.
- **Reasonable Suspicion.** Conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or illicit drug misuse.
 - If a CDL employee's behavior or appearance suggests alcohol or drug misuse, a reasonable suspicion test must be conducted.
 - If a test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours.
 - Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties.
 - Testing for substance abuse may occur at any time upon suspicion.

The following conditions are signs of possible alcohol or drug use (not all-inclusive):

- Abnormally dilated or constricted pupils
- Glazed stare - redness of eyes (sclera)
- Flushed face
- Change of speech (i.e. faster or slower)
- Constant sniffing
- Increased absences
- Redness under nose
- Sudden weight loss
- Needle marks
- Change in personality (i.e. paranoia)
- Increased appetite for sweets
- Forgetfulness-performance faltering-poor concentration
- Borrowing money from co-workers or seeking an advance of pay or other unusual display of need for money
- Constant fatigue or hyperactivity

- Smell of alcohol
 - Slurred speech
 - Difficulty walking
 - Excessive, unexplained absences
 - Dulled mental processes
 - Slowed reaction rate
- **Random:** Conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for drugs.
 - Each year, the number of random alcohol tests conducted by the County must equal at least *10% of all the safety-sensitive CDL employees.
 - Random drug tests conducted by the County must equal at least *25% of all CDL employees.

*Note: These percentages are subject to change. The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for random alcohol and controlled substances testing will be applicable starting January 1 of the calendar year following publication in the **Federal Register**.

- **Return to Duty and Follow-up.** Conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety-sensitive duties. All positive tests require a negative test result in or for employee to return to duty.
 - Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty.
 - Follow-up testing may be extended for up to sixty (60) months following the return to duty.

Conducting Tests

- **Alcohol:** DOT rules require breath testing using evidential breath testing (EBT) devices.
 - Two breath tests are required to determine if a person has a prohibited alcohol concentration.
 - A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted

- **Drugs:** Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility.
 - Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised.
 - DOT rules require a split specimen procedure.
 - Each urine specimen is subdivided into two bottles labeled as primary and split.
 - Both bottles are sent to the laboratory.
 - Only the primary specimen is opened and used for the urinalysis.
 - The split specimen remains sealed at the laboratory.
 - If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
 - All urine specimens are currently analyzed for the following drugs:
 - Marijuana (THC metabolite)
 - Cocaine
 - Amphetamines
 - Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone)
 - Phencyclidine (PCP)
 - Testing is conducted using a two-stage process.
 - First, a screening test is performed.
 - If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug.
 - Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.
 - All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the County.
 - If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen.
 - For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. The MRO will take into consideration when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

- If the MRO determines that the drug use is legitimate, the test will be reported to the Designated Employer Representative as a negative result.

Refusal to Submit to an Alcohol or Drug Test and the Consequences

- Refusal to submit to an alcohol or controlled substances test means that a CDL employee:
 - Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy,
 - Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy,
 - Refuses to wash his or her hands after being directed to do so during collection of a urine sample,
 - Admits to the collector of a urine sample that he or she has adulterated or substituted their specimen,
 - An observed collection of a urine sample, fails to follow the observer's instructions to raise his or her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he or she has any type of prosthetic or other device that could be used to interfere with the collection process,
 - Possesses or wears a prosthetic or other device that could be used to interfere with the collection process, or
 - Behaves in a confrontational way that disrupts the collection process or otherwise engages in conduct that clearly obstructs the testing process.
- CDL employees who refuse to submit to an alcohol or drug test are not allowed to perform safety-sensitive functions. Pursuant to the County's authority, CDL employees who refuse to submit to a test will be subject to discipline, up to and including discharge.

Consequences of Alcohol/Drug Misuse

- CDL employees who have any alcohol concentration, defined as 0.02 or greater, who are tested just before, during or just after performing safety-sensitive functions must be removed from performing such duties for a minimum 24 hours.
 - Disciplinary action may up to and including termination may be imposed upon an employee whose alcohol test reveals any alcohol concentration, between 0.02 and 0.04.
- CDL employees who engage in prohibited alcohol or drug conduct, CDL employees who test positive for alcohol use greater than 0.04 or drug use,

must be immediately removed from safety-sensitive functions for a period of time determined by the County at its' sole discretion.

- Disciplinary action, up to and including termination, may be imposed upon a CDL employee who engages in prohibited alcohol or drug conduct, CDL employees who test positive for alcohol use greater than 0.04 or drug use.

NOTE BELOW ARE ONLY SOME OPTIONS TO CONSIDER:

- Unless the circumstances warrant more serious discipline, the first time a CDL employee tests positive for alcohol use greater than 0.04 or drug use, he/she shall receive a one (1) day unpaid suspension.
- If a CDL employee tests positive for alcohol use greater than 0.04 or drug use for a second time within the five year period immediately following his/her first positive test, he/she will be terminated.
- A CDL employee in his/her introductory or training period who tests positive for any alcohol concentration (defined as 0.02 or greater) or drug use, shall be terminated.
- A CDL employee who tests positive for alcohol use greater than 0.04 or drug use, but is not terminated must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with his/her alcohol or drug problem. Failure to comply will result in immediate termination.
 - The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable).
 - Employees may be placed on sick leave or leave without pay status during the treatment period, whichever is appropriate.
- CDL employees who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02, and who are then subject to unannounced follow-up tests at the employees' expense, may return to work.
- Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.

Information/Training

- All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse.
- All employees must receive a copy of this policy and sign the Confirmation of Receipt.

- All personnel responsible for supervising and managing CDL employees must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.
 - Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, on-going training will also occur after implementation of the policy.
- This policy will be posted on employee bulletin boards and will be available to all employees.
- Educational information will be made available periodically which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with pre-employment drug screening and "reasonable suspicion" testing, the effects on job performance measured in loss of productivity, and the potential safety hazards presented to the individual employee, other employees and the public.
- All recruitment advertising will include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.
- All final candidates for employment will be given a copy of this policy, and be given the opportunity to read the policy in its entirety.

Record Keeping

- Johnson County will keep detailed records of its drug and alcohol program per DOT Regulations.
- These records are confidential. Test results will only be released to the county, the substance abuse professional or the MRO. Any other release will only be made with written consent of the CDL driver or in response to court order.
- All Johnson County drug and alcohol test results will be updated in the DOT Clearinghouse online database as required by DOT regulation.

APPEAL OF TEST RESULTS

- A. Alcohol and drug abuse may not only threaten the safety and productivity of all employees of Johnson County, but causes serious individual health consequences to those who use them. Any confirmed actions prohibited by this Policy, while performing a safety-sensitive function or refusing to take a breath test, will be grounds for termination. Refusal may be defined as not providing a breath sample or urine as directed, neglecting to sign appropriate control forms, using alcohol within 8 hours of an accident, or engaging in conduct that clearly obstructs the testing process.

- B. Any driver testing positive for the presence of a controlled substance will be

contacted by the County's MRO. The driver will be allowed to explain and present medical documentation to explain any permissible use of a drug. All such discussions between the driver and the MRO will be confidential. The County will not be a party to, or have access to matters discussed between the driver and the MRO. If medically supportable reasons exist to explain the positive result, the MRO will report the test result to the County as a negative.

- C. Within 72 hours after the driver has been notified of a positive test result for drugs he/she may request a retest at their expense of the split sample. This signed request will be provided to the MRO in writing, who will then initiate the new laboratory analysis. If a different result is detected by the subsequent laboratory, the test will be voided by the MRO, and the Johnson County Personnel Office will be notified. A retest may be initiated as appropriate.

VIII. CONFIDENTIALITY

Under no circumstance, unless required or authorized by law, will alcohol or drug testing information or results for any employee or applicant be released without written request from the applicable employee, except for the requirement to utilize the Clearinghouse, which is the DOT online database for drug and alcohol testing results.

Drivers are entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substance tests. Copies will be provided within 5 days.

:

Collection of breath and urine samples must always be documented and sealed with a tamper-proof sealing system in the presence of the driver, to insure that all tests can be correctly traced to the driver. Drug test analysis from the DHHS approved laboratory will be forwarded directly to the Medical Review Officer assigned.

Alcohol and drug test results will be forwarded by the MRO to the Johnson County Personnel Office for confidential record keeping.