



**COLUMBIA COUNTY, OREGON**  
**Transit Department**

**Drug and Alcohol Policy for Mass Transit Safety-Sensitive Functions**

**SECTION 1. POLICY**

The Columbia County Board of County Commissioners (“County”) is dedicated to providing safe, dependable, and economical transportation services to its patrons. The County’s employees are a valuable resources and it is also the County’s goal to provide a safe, healthy and satisfying work environment for these employees. In meeting these goals, it is the County’s policy to:

- Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;
- Create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse;
- Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substance.
- Encourage employees to seek professional assistance when substance abuse adversely affects their ability to perform their assigned duties.

This Policy implements a drug and alcohol testing program for all safety-sensitive, transit-related system employees. Each affected employee shall be provided a copy of the adopted Policy.

The County will contract to provide all testing services outlined in this Policy. A copy of that contract is available from the Human Resources Director upon request.

The Human Resources Director is designated as the person to answer employee questions regarding this Policy.

**SECTION 2. PURPOSE**

This Policy is established to comply with Federal Transit Administration (FTA) drug and alcohol testing requirements to ensure employee fitness for duty and to protect the County’s employees, passengers and the general public from the risks posed by the use of alcohol and prohibited drugs. In conjunction with the County’s Drug Free Workplace Policy, this Policy is also intended to comply with and incorporate 49 CFR Part 29, The Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA, including the reporting of employees convicted of criminal drug offenses that occur in the workplace.

**SECTION 3. COVERED EMPLOYEES**

This Policy applies to all safety-sensitive employees of the Transit Department as identified and

described herein. Paid part-time employees, when performing safety-sensitive duties, are also covered by this Policy when performing any County related business. This Policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Additionally, this Policy applies to volunteers who perform safety sensitive duties who are required to hold a Commercial Driver's License, or who receive remuneration in excess of his or her actual expenses incurred while engaging in the volunteer activity. This written Policy shall be distributed to all employees and applicable volunteers in safety-sensitive transit-related system positions. Adherence to this policy and its provisions are a condition of employment in a safety sensitive position, per 49 CFR Part 655. While this Policy does not apply directly to employees of a contracted service partner, the County requires that contractor to implement a compliant policy for its employees.

Safety-Sensitive Employees and Applicants for Safety-Sensitive Positions covered by this Policy include those who:

- Operate a revenue service vehicle, including when not in revenue service
- Operate a non-revenue service vehicle when such is required to be operated by a holder of a commercial driver's license
- Control the movement/dispatch of a revenue service vehicle
- Perform maintenance on a revenue service vehicle or equipment used in revenue service
- Carry a firearm for security purposes
- May perform any of the above safety sensitive functions in a supervisory or training role.

This Policy is applicable to the following positions (which may or may not currently be filled) within the County:

- Transit Program Administrator
- Transit Program Coordinator
- Transit Driver
- Transit Mechanic/Vehicle Maintenance
- Transit Dispatcher

#### **SECTION 4. PROHIBITED SUBSTANCES**

In accordance with US DOT 49 CFR Parts 655 and 40; the following are prohibited substances:

- Cocaine
- Opiates (e.g., heroin, codeine)
- Phencyclidine (PCP)
- Cannabinoids (Marijuana)
- Amphetamines
- Alcohol Misuse as defined below

#### **SECTION 5. PRESCRIPTION AND OVER THE COUNTER MEDICATIONS**

The appropriate use of legally prescribed drugs and non-prescription medications are not prohibited. A legally prescribed drug means a prescription or other written approval from a physician for the use of a drug by an individual in the course of medical treatment. However, the use of any substance which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, before performing safety sensitive duties.

The misuse or abuse of legally prescribed drugs is prohibited; this includes the use of medication that is prescribed to another individual as well as illegally obtained prescription drugs.

The County strongly encourages employees to inform their prescribing physician of the safety-sensitive job functions that they perform, in order to ensure that appropriate medications are prescribed.

## **SECTION 6. EMPLOYEE PROTECTIONS**

The procedures that will be used to test for the presence of prohibited substances or misuse of alcohol shall be such that they protect the employee's privacy, the validity of the testing process and the confidentiality of the test results.

All urine drug testing and breath alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. All urine specimen collections, analysis and reporting of results shall to be in accordance with 49 CFR Part 40, as amended.

Drug and alcohol testing shall be conducted in a manner that will ensure the highest degree of accuracy and reliability using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS).

Alcohol initial screening tests will be conducted using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing Device (EBT) or non-evidential alcohol screening device that has been approved by NHTSA. Confirmatory tests for alcohol concentration will be conducted utilizing a NHTSA approved EBT.

Except as required by law or expressly authorized in this section, the County shall not release employee information that is contained in records maintained per 49 CFR section 655.73.

An employee may, upon written request, obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

The County shall release information regarding an employee's records as directed, by the specific written consent of the employee authorizing release of the information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.

Records pertaining to a Substance Abuse Professional's evaluation, treatment and follow up testing results shall be made available to a subsequent DOT employer upon receipt of written

consent from an employee.

## **SECTION 7. EMPLOYEE RESPONSIBILITY TO NOTIFY THE COUNTY OF CRIMINAL DRUG OR ALCOHOL CONVICTION**

It is a violation of this Policy for any employee to fail to immediately notify the County of any criminal drug or alcohol statute conviction, or a finding of guilt whether or not adjudication is withheld, or the entry into a diversionary program in lieu of prosecution. An employee who violates this Policy shall be immediately removed from safety sensitive duties.

## **SECTION 8. EMPLOYEE TRAINING**

Safety-sensitive employees will receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

Supervisors who may make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral and performance indicators of probable drug use and 60 minutes on the physical, behavioral and performance indicators of probable alcohol use.

## **SECTION 9. PRE-EMPLOYMENT DRUG AND ALCOHOL BACKGROUND CHECKS**

In compliance with 49 CFR Part 40.25, the County must make a good faith effort to obtain drug and alcohol testing records from prior DOT covered employer(s) for the previous two years for all applicants seeking safety-sensitive positions and all current employees transferring into a safety-sensitive position. The County will require each applicant/transferee to a safety-sensitive position to complete a written consent that allows the release of drug and alcohol testing information from previous DOT covered employers to the County. An applicant/transferee who refuses to provide written consent will not be permitted to perform safety-sensitive functions for the County.

All safety-sensitive applicants who have previously failed a DOT pre-employment test must provide proof that they have completed a Substance Abuse Professional's evaluation, treatment and return to duty process in addition to a pre-employment drug test with negative results, prior to their employment into a safety-sensitive job function. The credentials, training and education of the Substance Abuse Professional must meet the requirements of 49 CFR Part 40 Subpart O.

## **SECTION 10. PRE-EMPLOYMENT TESTING**

All safety-sensitive position applicants shall undergo a urine drug test prior to placement in a safety sensitive position. The County must be in receipt of a negative urine drug test result prior to the applicant's performance of any safety sensitive function. A cancelled test result will require an applicant to undergo a subsequent pre-employment urine drug test, until a negative test result can be obtained.

If an applicant's pre-employment urine drug test result is verified as positive, the applicant is not

permitted to be placed into a safety sensitive position, unless and until, the applicant has completed the return to duty process as outlined below.

An employee returning from an extended leave period of 90 consecutive days or more, and whose name was removed from the random testing selection pool, will be subject to a pre-employment urine drug test. The County must be in receipt of a negative drug test result prior to the employee being reinstated to safety sensitive duty.

## **SECTION 11. RANDOM TESTING**

Employees in safety-sensitive positions shall be subject to random, unannounced testing. The minimum annual percentage rate for random alcohol testing and controlled substances testing shall be in accordance with 49 CFR Part 655.

The administering of random testing shall be spread reasonably throughout the calendar year and throughout all times of day when safety-sensitive functions are performed. Each covered employee who is notified of selection for random alcohol or drug testing shall immediately proceed to the testing site.

Random alcohol testing shall be conducted while an employee is performing a safety-sensitive function or just before the employee is to perform a safety-sensitive function or just after the employee has performed a safety-sensitive function.

Random urine drug testing may be conducted anytime while an employee is on duty or on call. The selection of employees for random alcohol and drug testing shall be made by a scientifically valid method. The selection process shall provide each covered employee an equal chance of being tested each time selections are made. A computer based random number generator that is fair and equitable for the covered employees shall derive the list.

## **SECTION 12. REASONABLE SUSPICION TESTING**

All safety-sensitive employees are subject to reasonable suspicion urine drug testing and/or breath alcohol testing. Only supervisors that have been trained to identify the probable signs and symptoms of prohibited substance use and the probable signs and symptoms of alcohol misuse may make the determination to test an employee.

## **SECTION 13. POST-ACCIDENT TESTING**

**Fatal Accident:** All safety-sensitive employees shall be required to undergo urine drug and breath alcohol testing following an accident involving a revenue service vehicle that results in a fatality (regardless of whether or not the vehicle is in revenue service at the time of the event). Any other employee(s), i.e., maintenance personnel, dispatchers, controllers, whose performance could have contributed to the accident, shall also be tested. As soon as practical following an accident involving the loss of human life, surviving covered employees shall undergo drug and alcohol testing.

**Non-Fatal Accident:** Post-accident drug and alcohol testing shall be conducted if an accident results in injuries requiring immediate medical treatment away from the scene, and/or if one or more vehicles incurs disabling damage that requires towing from a site; unless the County determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. Any other safety sensitive employee whose performance could have contributed to the accident shall be tested. The decision regarding whether or not the employee's performance could have contributed to the accident will be made in the sole discretion of the County using the best information available at the time of the decision.

Following an accident, the employee must be "readily available" for testing. Post accident tests will be done as soon as possible. All reasonable efforts shall be made to test the safety sensitive employee(s) within (2) two hours of the accident, but not after eight (8) hours for alcohol testing and thirty two (32) hours for drug testing. If a drug or alcohol test required by this section is not administered within the required testing windows, the County shall prepare and maintain on file, a record stating the reasons the testing was not promptly administered and efforts to conduct testing shall cease.

Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test. Any safety-sensitive employee, who leaves the scene of the accident without a justifiable reason or explanation prior to submitting to drug and alcohol testing, shall be considered to have refused the test.

The post-accident testing requirements shall not delay necessary medical attention for injured persons, nor will they prohibit an employee who was performing a safety-sensitive function from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

In the rare event that an employee is unable to submit to a post-accident test within the required time period (i.e., 8 hours for alcohol and 32 hours for drugs) due to circumstances beyond the County's control, the results of a blood, urine or breath alcohol test conducted by a federal, state or local official having independent authority for the test, will be considered to meet the requirements for a post-accident test. The test must conform to the applicable federal, state, or local testing requirements and the results must be obtained by the County, per 49 CFR Part 655.44.

#### **SECTION 14. RETURN TO DUTY TESTING**

Following a verified positive drug test result, an alcohol result of 0.04 or greater, or a refusal to submit to a DOT required drug or alcohol test, an employee is not permitted to "return to duty" to perform a safety-sensitive function until the following actions have been taken:

- Employee has been evaluated by a Substance Abuse Professional who is qualified in accordance with 49 CFR Part 40 Subpart O.
- Employee has adhered to the course of treatment as prescribed by the Substance

Abuse Professional.

- Employee has submitted to a return to duty urine drug test and/or breath alcohol test and the County is in receipt of a negative result(s).

All Return to Duty urine collections will be conducted under direct observation, in accordance with 49 CFR Part 40.67, as amended. See below for a description of direct observation collection procedures.

## **SECTION 15. FOLLOW UP TESTING**

Upon completing the return to duty process, employees will be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be prescribed by the Substance Abuse Professional. All follow up urine drug collections will be conducted as directly observed collections in accordance with 49 CFR Part 40.67, as amended.

## **SECTION 16. REFUSAL TO SUBMIT TO URINE DRUG TESTING**

All safety-sensitive employees will be subject to urine drug testing and breath alcohol testing as described above. An employee who fails to cooperate with the testing process or attempts to thwart the testing process will be considered to have "refused testing". That employee will face the same consequences as if he or she produced a verified positive urine drug test result. The following actions constitute a "refusal to test" in accordance with 49 CFR Part 40, as amended:

- Failure to appear for any test within a reasonable time, as determined by the employer, consistent with applicable regulations, after being directed to do so by the employer. (pre-employment testing is not applicable).
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine specimen for any drug test required by this Policy
- In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen.
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Failure or declining to take an additional drug test the employer or collector has directed the employee to take.
- Failure to undergo a medical examination or evaluation, as directed by the Medical Review Officer (MRO) as part of the verification process, or as directed by the County.
- Failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process, failure to wash hands after being directed to do so by the collector).
- For an observed collection, failure to follow the observer's 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.

- Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
- Admission to the collector or MRO that the employee adulterated or substituted the specimen.

Refusals to test will result in the employee's immediate removal from safety sensitive duties and a referral to a Substance Abuse Professional who has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, and who meets the qualifications outlined in 49 CFR Part 40.281 Subpart O.

### **SECTION 17. MEDICAL REVIEW OFFICER'S ROLE AND RESPONSIBILITIES**

The designated Medical Review Officer (MRO) shall be a licensed physician (doctor of medicine or osteopathy) with knowledge of drug disorders.

The role of the MRO is to review and interpret confirmed positive test results obtained through the employer's testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

An employee shall be notified by the MRO of a laboratory confirmed positive test and a verification interview will be conducted with the employee, by the MRO in accordance with 49 CFR Parts 40.131, through 40.141.

### **SECTION 18. VERIFIED POSITIVE RESULTS**

MRO verified positive urine drug tests will result in immediate removal from safety sensitive duties and a referral to a Substance Abuse Professional that has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, and who meets the qualifications outlined in 49 CFR Part 40.281 Subpart O, will be provided to employee. An employee must complete the evaluation and treatment prescribed by the Substance Abuse Professional, submit to a return-to-duty test with negative results and adhere to the follow up testing schedule as prescribed by the Substance Abuse Professional in order to be reinstated to safety sensitive duties.

### **SECTION 19. CANCELED/INVALID TEST RESULTS**

A drug test that has been declared canceled by the Medical Review Officer, because the specimen was invalid or for other reasons, shall be considered neither positive nor negative. Additionally, a specimen that has been rejected for testing by the laboratory will be reported by

the MRO as a canceled test.

When a negative urine drug test result is required (as is the case with pre-employment, return to duty and follow up test types), the employer must conduct another drug test on the individual. For some categories of canceled drug tests, the MRO will indicate that a re-collection of a specimen using direct observation specimen collection procedures is required, regardless of test type. Direct observation collection procedures will be in accordance with 49 CFR Part 40.67 as amended. The MRO may also direct an employee to undergo a medical evaluation to determine whether or not clinical evidence of drug use exists when there are documented medical explanations for an individual producing invalid specimens and a negative result is needed for a pre-employment, return to duty or follow-up test.

For alcohol testing, a test that is deemed to be invalid per 49 CFR Part 40.267, shall be canceled and therefore considered neither positive nor negative.

## **SECTION 20. ALCOHOL**

For the purposes of this Policy, alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol. 49 CFR Part 655 authorizes alcohol testing and requires the County to take action on the findings, regardless of whether it was ingested as a beverage alcohol or in a medicinal or other preparation.

## **SECTION 21. ALCOHOL USE AND BREATH ALCOHOL TESTING**

No safety-sensitive employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. If there is actual knowledge that an employee may be under the influence of alcohol while performing safety sensitive functions, the employee shall not be permitted to perform or continue to perform safety-sensitive functions, pending a reasonable suspicion interview. No safety-sensitive employee shall use alcohol while performing safety-sensitive functions, within (4) four hours prior to performing a safety sensitive function, or during the hours that they are on call or standby for duty. No safety-sensitive employee shall use alcohol within eight (8) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.

A Breath Alcohol Technician (BAT) qualified to conduct DOT breath alcohol testing shall conduct all DOT required alcohol screening tests.

In accordance with the provisions of 49 CFR Part 40, as amended, the results of both the screening and confirmation of breath alcohol tests, as applicable, shall be displayed to the individual being tested immediately following the test(s).

The results of breath alcohol testing will be transmitted by the breath alcohol technician to the County in a confidential manner, in writing, in person, by telephone or electronic means in accordance with 49 CFR Part 40, as amended. All testing will be conducted consistent with the

procedures put forth in 49 CFR Part 40, as amended.

The County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. Handling of tests and confidentiality shall be in conformance with 49 CFR Part 40, and as follows: If the initial test indicates any alcohol concentration, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02 or greater will be considered to have a positive alcohol test and be in violation of this policy. An employee testing positive for alcohol will be immediately removed from duty and will be provided with a referral to a DOT qualified Substance Abuse Professional, in accordance with 49 CFR part 40, as amended.

## **SECTION 22. REFUSAL TO SUBMIT TO ALCOHOL TESTING**

The following actions constitute a refusal to submit to Alcohol Testing:

- Failure to appear for any test within a reasonable time, as determined by the County, consistent with applicable DOT agency regulations, after being directed to do so by the County.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations.
- Failure to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Failure to undergo a medical examination or evaluation, as directed by the County.
- Failure to sign the certification at the alcohol testing facility.
- Failure to cooperate with any part of the testing process.

Employees violating this Policy will be immediately removed from safety sensitive duties and provided a referral to a Substance Abuse Professional who has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, and who meets the qualifications outlined in 49 CFR Part 40.281 Subpart O.

## **SECTION 23. CONSEQUENCES FOR VIOLATION OF THIS POLICY**

Any violation of this Policy will subject the employee to discipline up to and including dismissal.

The County will not provide non-safety sensitive work for an employee who has violated any of the provisions of this Policy. Employees will either utilize earned leave or take leave without pay to accomplish return-to-work requirements.

A refusal by the employee to participate in counseling and/or rehabilitation services will result in immediate dismissal from County employment. A refusal by the employee to consent to retesting or a positive test during the follow up period shall result in immediate dismissal from County employment.

If there are any subsequent positive tests after the follow up period, the employee will be subject to dismissal from County employment.

Should an employee, as a result of an arrest or conviction for drug or alcohol violations, have his or her driver's license revoked or suspended, the County will not be obligated to provide work in positions not requiring a valid driver's license.

#### **SECTION 24. HOT LINE NUMBERS AND HELP LINES**

1-800-COCAINE

The American Council on Alcoholism Help Line  
1-800-527-5344

The National Institute on Drug Abuse Hot Line  
1-800-662 HELP

Alcoholics Anonymous  
<http://www.aa-oregon.org/>

**CERTIFICATE OF RECEIPT**

I have received a copy of the Drug and Alcohol Policy and I understand that it is my responsibility to read and comply with the provisions contained in this Policy and any revisions made to them, as a condition of continued employment.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Name (Typed or Printed)