

January 23, 2018

SUBJECT:**Alcohol and Drug Testing Requirements for Designated Employees****ORIGINATING DEPARTMENT:**

Human Resources

Page 1 of 4

POLICY

The Omnibus Transportation Employee Testing Act of 1991 requires testing for drugs and alcohol of "safety-sensitive" employees. Safety-sensitive positions include anyone required to have a Commercial Driver's License, such as equipment operators, bus drivers, and mechanics, trades workers and other appropriate job classifications. Under the Federal Transit Administration (FTA) rules, the performance of safety-sensitive functions include dispatchers and first-line supervisors if the supervisor's responsibilities include the performance of a safety-sensitive function. Safety-sensitive functions include operating, maintaining or controlling the movement of vehicles. The regulations apply to regular employees (full-time and part-time), intermittent or casual drivers and independent, owner-operator contractors who are either directly employed by or under lease to Citrus County or who operate a commercial vehicle at the direction of or with the consent of the County. (NOTE: Volunteers who perform safety-sensitive functions are considered employees.)

The purpose of this administrative regulation is to establish an official policy regarding a mandatory testing program for affected County employees and to express our support for measures designed to prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of County.

In general, the Omnibus Act and the rules require five different types of testing as follows:

1. Post-job offer

Employers are required to administer drug tests to persons selected for employment prior to the employee actually performing safety-sensitive functions for the first time. This requirement also applies when an employee is transferring from or is being promoted from a non-safety sensitive position to a safety-sensitive position.

2. Post-accident

If the driver is cited for a moving violation or is involved in an accident that results in a fatality, the driver must be tested for both alcohol and drugs. In addition to the previous listed conditions, FTA covered employees must also be tested post-accident if one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. Drug tests must be administered within 32 hours; an alcohol test must be given within 8 hours, however, if more than a 2 hour delay, the employer must document reasons for the delay. Drivers may leave the scene of an accident for required medical attention or emergency assistance but must remain readily available for drug and alcohol testing. If they don't, it's considered a refusal to be tested which means disqualification from their safety sensitive position for one year. Employees must refrain from using alcohol for at least 8 hours until all required testing has been completed.

3. Random testing

Random testing shall be conducted throughout the year on an unannounced basis with unpredictable frequency just before, during or just after the employee has ceased performing safety-sensitive functions.

Each year, the number of random alcohol and drug tests conducted by the employer must meet the requirements of federal laws.

4. Reasonable Suspicion

The County shall require a safety-sensitive employee to submit to an alcohol or drug test when the County has reasonable suspicion that the employee has violated prohibitions concerning alcohol or controlled substances. Reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee or other evidence, including but not limited to the presence of alcohol or non-prescribed drugs in the person's work area or upon their person. Observations may include indications of the chronic and withdrawal effects of controlled substances.

Supervisors of safety-sensitive drivers must attend at least one hour of training on alcohol misuse symptoms and indicators used in making determinations for reasonable suspicion and at least one hour of training on the signs and symptoms of drug abuse.

5. Return to Duty

Before a driver can return to duty to perform a safety-sensitive function following certain prohibited conduct, a verified alcohol test result of 0.04 or greater, that driver must first be evaluated by a Substance Abuse Professional (SAP), participate in any treatment program prescribed, and pass an alcohol return-to duty test.

The purpose of the return-to-duty test and the evaluation of an individual's return-to duty status by the SAP is to ensure that the driver receives proper care, if needed. It is also to provide some degree of assurance to the employer that the individual is free of alcohol and is able to return to work without undue concern about continued alcohol abuse. The driver must have a verified alcohol test result of less than 0.02 to return to a safety-sensitive function.

As Citrus County has a zero tolerance drug testing policy, any safety-sensitive employee who test positive for any controlled or illegal substance, will be terminated immediately.

Alcohol Testing

The rules require breath testing using evidential breath testing devices approved by the National Highway Traffic Safety Administration (NHTSA). Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screen test is conducted first. Any result less than 0.02 concentration is considered a "negative" test. If the concentration is 0.02 or greater, a second confirmation test must be conducted. The confirmation test results determine any actions taken. An employee with an alcohol concentration of 0.02 or greater but less than 0.04 is not permitted to perform safety-sensitive functions for a minimum of 24 hours. Any non-work time during regular work hours will be charged to the employee's annual leave or leave without pay.

Performance of safety-sensitive functions is prohibited:

- While having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test.
- While using alcohol.
- Within four hours after using alcohol.

In addition, refusing to submit to an alcohol test and using alcohol within eight hours after an accident or until tested (for drivers required to be tested) are prohibited.

Drug Testing

Drug testing is to be conducted by analyzing a driver's urine specimen. The Omnibus Act requires that drug-testing procedures for drivers include split specimen procedures, which are identified as "primary" and "split" specimen. Only the primary specimen is opened and used for analysis. The split specimen bottle remains sealed and is stored at the testing laboratory. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the driver has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis. The split

specimen analysis will be at the employee's expense. This split specimen procedure essentially provides the driver with an opportunity for a "second opinion".

All urine specimens are to be analyzed for the following drugs:

1. Marijuana (THC metabolite)
2. Cocaine
3. Amphetamines
4. Opioids
5. Phencyclidine (PCP)

All drug test results must be reviewed and interpreted by a physician (Medical Review Officer or MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, contacts the driver (in person or by telephone) and conducts an interview to determine if there is an alternative.

For all positive drug tests, a medical explanation for the drugs found in the driver's urine specimen will be required. For all the drugs except PCP, there may be limited, legitimate medical uses that may explain the positive test result. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited substance, the drug test result will be reported as negative to the employer.

The drug rules prohibit any unauthorized use of controlled substances. Illicit use of drugs by safety-sensitive drivers is prohibited on or off duty.

As with alcohol misuse violation, a driver must be removed from safety-sensitive duty if he or she has a positive drug test result.

Drug Testing Records

Driver drug testing results and records are to be maintained under strict guidelines by the drug testing laboratory and the medical review officer (MRO). They cannot be released to others without the written consent of the driver.

Violations of Prohibitions

All persons selected for employment in safety-sensitive positions shall be required to take a drug test prior to initial employment. Any person who refuses to take the required tests or whose test results indicate present drug use will not be hired.

No driver shall refuse to submit to an alcohol or drug test on any of the following instances: post-accident, random, reasonable suspicion, return-to-duty or follow-up tests. Failure to submit to any required tests will result in immediate termination.

Any driver who has been removed from his/her safety-sensitive position due to alcohol misuse and/or testing positive for drugs will be referred to an appropriate treatment facility. Drivers shall be advised of the resources available for evaluating and resolving problems associated with misuse or abuse of alcohol or drugs.

Upon successful completion of an alcohol treatment program the employee will be reinstated to the same or equivalent position that was held prior to such rehabilitation.

The County will not discharge, discipline or discriminate against an employee solely on the basis of any prior medical history revealed to the County pursuant to this policy.

The County will not dismiss, discipline or discriminate against an employee solely upon the voluntary seeking of treatment for an alcoholic or drug program.

Employees who violate this policy with a first time positive confirmed alcohol test will be referred to rehabilitation programs as appropriate. However, use of the rehabilitation resources will not shield the employee from appropriate disciplinary action for violations of other County policies. Employees referred to treatment programs as a result of a first violation will be allowed to continue employment with the County provided that:

1. They immediately contact the rehabilitation resource for treatment and strictly adhere to all terms of treatment and counseling prescribed.
2. They immediately cease any and all abuse of alcohol.
3. They consent in writing to a minimum of 6 follow-up alcohol tests over the first 12 months after returning to work or completion of any rehabilitation program whichever is later.
4. They pass all tests administered under this program.
5. They execute and abide by an agreement describing the above stated conditions.

Failure to meet any of the above conditions or a second confirmed positive alcohol test will result in immediate dismissal from employment.

The County has no responsibility for substance abuse treatment referral or rehabilitation for persons who fail or refuse the required post-job offer test.

All employees who are affected by the federal regulations will be furnished a copy of this policy including information concerning the testing requirements and available resources on alcohol and drug treatment.

Further specific testing procedures and training programs will be established and administered by the Human Resources Department.

Questions regarding the County's policies and procedures related to substance abuse or alcohol misuse or questions regarding the County's testing procedures should be addressed to the Human Resources Director.

FOOTNOTES & REFERENCES TO RELATED AR's: Supersedes AR 7.18 dated January 10, 1995; AR 7.18.2 dated January 6, 1999; AR 7.5 dated February 9, 2010.