

Prohibited Drug Use and Alcohol Misuse Education and Testing Program for Employees Occupying Safety-Sensitive Positions

APPENDIX A – POLICY HANDBOOK

Section I – Program Policy Statement

- A. King County is committed to maintaining a drug-free workplace to promote both the quality of its services and the safety of its employees, its customers and the public. Every King County employee or employee of a transit contractor who holds a position which would be defined as safety-sensitive (covered employee) is subject to regulations issued pursuant to the Omnibus Transportation Employee Testing Act of 1991 (the Act); the following activities are prohibited:
1. Employees are prohibited from consuming alcohol while on-call.
 2. Employees are prohibited from the consumption of alcohol within four (4) hours of the employee's scheduled time to report for work, or within eight (8) hours following an accident or until the employee takes a post-accident alcohol test, whichever occurs first.
 3. Employees are required to submit to an alcohol and/or drug test when directed by King County; and, prohibited from tampering or attempting to tamper with such alcohol and/or drug test.
- B. Each King County covered employee, pursuant to the Drug Free Workplace Act is required to notify his/her supervisor, within five (5) calendar days of any conviction, that he/she has been convicted of a drug crime occurring in the workplace.
- C. Each covered employee, under King County's own authority:
1. Employees are prohibited from reporting to work or performing work while consuming, using, possessing, selling, purchasing, manufacturing, distributing, or transferring alcoholic beverages (except off-duty use at public events) or controlled substances or other performance-impairing substances while on duty or on King County property.
 2. Is responsible for informing his/her physician when being prescribed medication(s) that he/she is covered under the terms of this policy. The employee shall use medically authorized drugs or over the counter medications in a manner which will not impair on the job performance.
 3. Shall promptly report to his/her supervisor whenever he/she observes or has knowledge of another employee who poses a hazard to the safety and welfare of others.
- D. In accordance with the Omnibus Transportation Employee Testing Act of 1991 and the regulations issued pursuant to this Act:
1. It is King County policy that every covered King County employee comply with the Prohibited Drug and Alcohol Misuse Education and Testing Program which details King County's program.
 2. Employees must understand that strict compliance with King County's Prohibited Drug Use and Alcohol Misuse Policy and Education and Testing Program is a condition of employment with King County.
 3. All King County employees and contractors who meet the definition of a crewmember, are subject to US Coast Guard Drug and Alcohol Testing and program requirements, in

accordance with 46 CFR Parts 4 and 16 as well as random alcohol testing in accordance to 49 CFR Part 655.

4. Under King County's own authority, violations will result in discipline in accordance with Section XIII.

Section II – Covered Employees

As required by the regulations issued pursuant to the Omnibus Employee Testing Act of 1991, King County must conduct drug and alcohol testing for all covered employees. Covered employees are those employees who occupy positions which perform a 'safety-sensitive' function and applicants for a safety-sensitive position. 'Safety-sensitive' functions are defined as:

- A. Operating revenue service vehicles, including operation when the vehicle is not in revenue service;
- B. Operating nonrevenue service vehicles when operation of such vehicles requires the driver to hold a Commercial Driver's License (CDL);
- C. Controlling the dispatch or movement of a revenue service vehicle;
- D. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service;
- E. Carrying a firearm for transit security purposes; or
- F. Any position aboard a vessel that requires the person filling that position to perform one or more safety sensitive duties or operation of a vessel on either a routine or emergency only basis as well as Crewmembers that are responsible for the safe handling of passengers. A list of all covered positions/classifications, by King County Department, is attached as Appendix B. In addition, all employees of independent contractors who perform services for King County Department of Transportation, Transit Division in positions which are safety-sensitive as outlined above will also be subject to the testing requirements outlined in this program.

Section III – Education

Every covered King County employee will receive a copy of King County's Prohibited Drug Use and Alcohol Misuse Policy and this Prohibited Drug Use and Alcohol Misuse Education and Testing Program Handbook. Transit employees will receive a minimum of sixty (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.

Under King County authority, additional training will be provided regarding the Prohibited Drug Use and Alcohol Misuse Education and Testing Program and the effects of alcohol misuse. Detailed information on alcohol misuse will be provided, specifically referencing the effects of alcohol misuse, which impacts an individual's biological, emotional and psycho-social wellbeing. The effects of misuse can be seen in an individual's work performance, attitude and social interaction.

All King County supervisory personnel who are designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol and/or drug testing will also receive a minimum of one-hundred and twenty (120) minutes of training on the physical, behavioral, speech, and performance indicators of probable prohibited drug use and alcohol misuse.

Section IV – Substances Tested

A. Alcohol

Employees subject to alcohol testing will have a sample of their saliva or breath tested for the presence of the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol testing must be accomplished just before a covered employee performs safety sensitive duties, during that performance, or just after a covered employee has performed safety sensitive duties. Any refusal to submit to an alcohol test, and all positive alcohol tests (.04 or greater), will be reported immediately by the testing facility to the King County Drug and Alcohol Program Manager as required by law. Employees having an alcohol concentration of 0.04 or greater are prohibited from performing or continuing to perform a safety sensitive function.

No employee performing safety sensitive duties who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 will be allowed to perform or continue to perform safety sensitive functions until (1) The employees alcohol concentration measures less than 0.02 or (2) the start of the employees next regularly scheduled duty period, but not less than eight hours following administration of the test. King County, under its own authority, considers a breath alcohol level of .02 - .039 a King County alcohol violation of this policy. Employees with a King County alcohol violation are subject to discipline and requirements specified in section XIII-Consequences. Any King County alcohol violation (.02 - .039), will be reported immediately by the testing facility to the King County Drug and Alcohol Program Manager (Program Manager).

B. Drugs

Employees subject to drug testing will have a sample of their urine tested for the presence of five (5) drugs, as follows:

1. Marijuana
2. Cocaine
3. Opioids
4. Amphetamines
5. Phencyclidine

All covered employees shall be subject to drug testing anytime while on duty. All drug tests will be reported by the testing laboratory to a medical review officer (MRO) who will evaluate the results. After evaluation and interpretation, all verified positive test results will be reported by the MRO to the employee and the King County Drug and Alcohol Program Manager. Any refusal to submit to a drug test will be immediately reported by the collection site to the King County Drug and Alcohol Program Manager. All verified negative-dilute results will be treated as verified negative results except as follows: a negative-dilute result with creatinine concentration greater than or equal to 2mg/dL but less than or equal to 5mg/dL requires an immediate recollection under direct observation (49 CFR Part 40.67).

With respect to verified positive drug test results, or a verified substituted result, King County guarantees that the split specimen test will be conducted in a timely fashion.

Section V – Types of Testing

The following tests will be required of all covered employees in accordance with King County alcohol and drug testing procedures:

- A. Pre-employment tests
- B. Post-accident tests
- C. Random tests

D. Reasonable suspicion tests

E. Return to duty/Follow-up tests

The King County alcohol and drug testing procedures will incorporate all requirements outlined in the federal regulations 49 CFR Part 40 as amended to ensure employee confidentiality, the integrity of the testing process, safeguard the validity of the test results, and ensure that test results are attributed to the correct covered employee. Prior to performing each test, King County will notify each employee that the alcohol or controlled substances testing is required by the FTA, the FMCSA or the USCG.

It is King County policy that employees who are required to submit to federal drug/alcohol testing will be subject to discipline in accordance with Section XIII if they:

1. Refuse to test as defined in Section XII;
2. Do not appear immediately and complete a random drug and/or alcohol test following notification to appear for such tests; or
3. Test positive for the presence of one or more of the substances listed in Section IV.

Section VI – Pre-employment Tests

A. The following persons will be subject to pre-employment testing in accordance with King County alcohol and drug testing procedures:

1. Applicants selected for hire into one of the covered positions listed in Section II.
2. Current King County employees selected for assignment into one of the covered positions listed in Section II, if not previously employed in one of these positions.

Individuals identified in Section VI.A. will be informed that they are subject to pre-employment drug testing at the time they apply for a covered position. Such persons, once a job offer is made will have urine sample collected and tested for evidence of the substances listed in Section IV.

B. For individuals noted in Section VI.A.1. and 2, tests may be conducted as part of a routine pre-employment physical examination. The time, date and location of the physical examination and drug test will be announced in advance of the test. Individuals applying for positions which do not require a routine pre-employment physical examination will be notified, in advance, of the time, date and location of the drug test only. King County must receive a negative drug test result prior to employee performing a safety-sensitive function. If a test is canceled, King County shall require employee/ applicant to take another pre-employment test and must receive a verified negative result.

C. Disqualification from King County Employment

1. It is King County policy that applicants for initial hire will be disqualified from King County employment if they:
 - a. Fail to appear for the physical examination and urine collection on the designated day unless excused by King County for good and verifiable cause;
 - b. Refuse to test as defined in Section XII;
 - c. Test positive for the presence of one of the substances listed in Section IV.B.
 - d. Refuse to consent to allow King County to obtain the drivers' previous employers' information on positive controlled substances and/or alcohol test results and refusal to be tested within the previous two (2) years for employees subject to FTA and/or USCG regulations or within the previous three (3) years for employees subject to FMCSA regulations; or

- e. have tested positive or have refused to be tested when required by a previous employer within the last (2) years for employees subject to FTA and USCG regulations or within the last three (3) years for employees subject to FMCSA regulations and have not successfully completed a referral, evaluation and treatment plan as described in Sections 655.62, 382.503 or 16.370.
2. Current employees subject to pre-employment testing will be disqualified from the position they are seeking if they commit one of the acts listed in 1.a - 1.f. of Section VI.C.1 above. Current employees subject to pre-employment testing will also be subject to discipline in accordance with Section XIII if they commit one of the acts listed in 1.c and 1.d in Section VI.C.1 above.
3. Employees or applicants who are disqualified from the position that required the pre-employment test shall be disqualified from applying for any covered King County position for a period of six (6) months. Applications from such employees or applicants will thereafter only be accepted if accompanied by a current, written statement from a qualified substance abuse professional verifying that s/he has successfully completed a referral, evaluation and treatment plan as described in Sections 655.62, 382.503 or 16.370.
4. When a covered employee/applicant has not performed a safety-sensitive function for 90 consecutive calendar days, regardless of the reason, and the employee has not been in the random pool, the employee shall take a pre-employment drug test. King County must have a verified negative result prior to the employee performing safety-sensitive work.
5. Applicants who test positive or refuse to test as defined in Section XII will be referred to a Substance Abuse Professional as required by 49 CFR part 40.

Section VII – Post-Accident Tests

All surviving employees in covered positions as identified in Section II will be subject to post-accident alcohol and drug testing in accordance with King County alcohol and drug testing procedures.

- A. A King County safety officer, supervisor or other qualified person shall be responsible for making a determination as to whether a post-accident drug and alcohol test is required at the time any covered employee is involved in an accident. An 'accident' requiring an alcohol and drug test is any accident where:
 1. A fatality has occurred;
 2. A non-fatal accident involving a "transit" rubber-tired bus, automobile, van or non-revenue service commercial motor vehicle has occurred in which injuries were sustained requiring the injured person to immediately receive medical attention away from the scene or any vehicle involved in the accident is disabled and towed away unless it is determined, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident; or
 3. A non-fatal accident involving a non-transit commercial motor vehicle operating on a public road that requires the driver to carry a commercial driver's license (CDL) has occurred in which:
 - a. the driver receives a citation for a moving traffic violation within 8 hours (to test for alcohol) or within 32 hours (to test for controlled substances); AND

- b. injuries were sustained requiring the injured person to immediately receive medical attention away from the scene or any vehicle involved in the accident is disabled and towed away
- 4. A non-fatal accident involving a fixed-guideway rail car, trolley car or streetcar, or involving a vessel* has occurred in which:
 - a. injuries were sustained which required the injured person to immediately receive medical attention away from the scene; OR
 - b. the fixed-guideway vehicle or the vessel is removed from revenue service
- 5. *A* Serious Marine Incident* - any reportable marine casualty as defined in 46 CFR 4.03-1 and 46 CFR 4.05-1, involving a vessel in commercial service, which results in any of the following:
 - a. One or more fatalities;
 - b. An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties;
 - c. Damage to property, as defined in 46 CFR 4.05-1, in excess of \$100,000;
 - d. The actual or constructive total loss of any vessel subject to Coast Guard Inspection;
 - e. The actual or constructive total loss of any self-propelled vessel, not subject to inspection by the Coast Guard, of 100 gross tons or more;
 - f. A discharge of oil of 10,000 gallons or more, into a navigable waterway; or
 - g. A release of a hazardous substance equal to or greater than its reportable quantity into the navigable waters of the United States, or into the environment of the United States, whether or not the release resulted from a marine casualty.

King County is responsible for determining what personnel were directly involved in a *Serious Marine Incident*. This determination should be based on the operation being performed at the time of the accident, and what personnel could have or should have had a role in that operation. A guideline is to test any personnel whose negligence cannot be discounted as contributing to the *Serious Marine Incident*. A law enforcement officer has the authority to further name personnel as being directly involved in a *Serious Marine Incident* and as such, direct them to submit to alcohol and drug testing.

- B. King County will also test any covered employee whose performance could have contributed to the accident.
- C. An employee required to submit to post-accident drug and alcohol testing must be tested as soon as possible. Drug tests must be conducted within thirty-two (32) hours following the accident; alcohol tests must be conducted within eight (8) hours of the accident. If an alcohol test is not completed within two hours, King County shall prepare and maintain a record stating the reason. If an alcohol test is not completed within 8 hours, King County shall cease attempt to administer test and maintain a record stating the reason. A covered employee who is required to submit to a reasonable suspicion alcohol and drug test under Section IX need not be required to also submit to a separate post-accident drug and alcohol test under this Section.
- D. A covered employee must remain readily available for post-accident drug and alcohol testing, including notifying King County of his/her location is he/she leaves the scene of an accident prior to submission of these tests. Failure to remain readily available for post-accident testing constitutes a refusal. Post-accident testing is delayed while the covered employee assists in the resolution of the accident or receives medical attention following the accident.

E. An employee required to submit to a post-accident drug and alcohol test will be transported by King County to the collection site to provide a urine and breath sample. Following the test, under King County authority, the employee will be relieved of duty with pay pending King County's receipt of the results of the tests from the MRO.

If the employee is unable to provide a specimen/sample of sufficient quantity, as described in 49 CFR Part 40, King County will refer the employee to the MRO or a licensed physician acceptable to the MRO, to determine if there is a medical explanation for the inability to provide the specimen/sample.

Section VIII – Random Tests

- A. King County will maintain a listing of the names of all employees in the covered positions listed in Section II. During each calendar year, alcohol and/or drug tests will be administered to these employees on a random-selection basis in accordance with the federal alcohol and drug testing regulations required testing rates and King County's alcohol and drug testing program. King County may have separate pools to ensure random testing is performed as required by different federal regulations. King County shall insure that random drug and alcohol tests conducted will be unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year. Testing can be conducted on all days and hours during which safety sensitive work is performed.
- B. A computer based random number generator, which is a scientifically valid method, is used for random selections. All covered employees shall have an equal chance of being selected each time selections are made. King County shall test at least the minimum random testing rate requirement for both drug and alcohol tests. Federal Transit Administration (FTA), Federal Motor Carrier Safety Administration (FMCSA) and U S Coast Guard (USCG) rates may vary. Covered employees shall be placed in separate pools, based on their DOT mode, if the rates are not the same.
- C. Employees selected for random alcohol and/or drug tests will be provided with transportation and are required to report immediately to the collection site where they will be required to provide a breath and/or urine sample.

Section IX – Reasonable Suspicion Testing

- A. All employees in the covered positions listed in Section II may be required to submit to a reasonable suspicion alcohol and/or drug test.
- B. Employees who are reasonably suspected by a supervisor of violating King County's Prohibited Drug Use and Alcohol Misuse Policy will be required to submit to an alcohol and/or drug test in accordance with King County alcohol and drug testing procedures. A trained supervisor or other trained company official who makes a determination that a test is required, will be required to complete a form indicating the grounds for his/her suspicion. The determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the employee.
- C. Employees will be transported by King County to the collection site and will be required to provide a breath and/or urine sample. Following completion of the test, under King County authority, employees will be transported home and relieved of duty with pay pending King County's receipt of the results of the test from the MRO and consultation with EAP.

Section X – Return to Work Testing

Employees who have been disciplined in accordance with Section XIII as a result of their first positive test indicating the presence of one or more of the substances listed in Section IV, or return to work after a violation other than a first positive through the grievance process, will be required, prior to returning to work, to take a return to duty alcohol and/or drug test with a verified negative result in accordance with King County alcohol and drug testing procedures as required by 49 CFR part 40.

Under King County authority, employees who have been disciplined in accordance with Section XIII as a result of their King County alcohol violation, will be required, prior to returning to work, to take a Non-Federal return to duty alcohol and/or drug test with a verified negative result in accordance with King County alcohol and drug testing procedures. All return to duty testing for King County alcohol violations (.02-.039) will be performed using Non-Federal Breath Alcohol Test and Custody and Control Forms.

Section XI – Follow-up Testing

Current employees who have been disciplined in accordance with Section XIII as a result of a positive alcohol and/or drug test required under Section V, upon return to work shall be subject to a minimum of six (6) unannounced drug and/or alcohol follow up tests during the first twelve (12) months following the employee's return to work, and further testing as recommended by the substance abuse professional, up to a maximum of sixty (60) months as required by 49 CFR Part 40. In addition, employees who have been disciplined in accordance with Section XIII will also be subject to the testing requirements of Section V.

Under King County authority, current employees who have been disciplined in accordance with Section XIII as a result of a King County alcohol violation (.02-.039) required under Section V, upon return to work shall be subject to a minimum of six (6) unannounced drug and/or alcohol follow up tests during the first twelve (12) months following the employee's return to work, and further testing as recommended by the substance abuse counselor, up to a maximum of sixty (60) months. In addition, employees who have been disciplined in accordance with Section XIII will also be subject to the testing requirements of Section V.

Under King County authority, all follow-up testing for King County alcohol violations (.02-.039) will be performed using Non-Federal Breath Alcohol Test and Custody and Control Forms.

Section XII – Refusal to Test

The following are behaviors which constitute a refusal to test. A refusal to test constitutes a violation of this policy and the Federal regulations and a verified positive drug/alcohol test result.

A. Refusal to submit to submit (to an alcohol test). A covered employee is considered to have refused to take an alcohol test if they:

1. Fail to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer (except for pre-employment);
2. Fail to remain at the testing site until the testing process is complete (except for pre-employment when an employee/applicant leaves before the testing process begins);
3. Fail to attempt to provide a breath specimen for any test required by 49 CFR Parts 382 or 655, or 46 CFR Parts 4 or 16;
4. Fail 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;

5. Fail to undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures outlined in 40.265;
6. Fail to sign the certification at Step 2 of the Alcohol Testing Form (ATF); or
7. Fail to cooperate with any part of the testing process.

An employee who refuses to take an alcohol test violates DOT agency regulations and incurs the consequences specified under those regulations.

B. Refusal to submit (to a drug test). A covered employee is considered to have refused to take a drug test if they:

1. Fail to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer (except for pre-employment test);
2. Fail to remain at the testing site until the testing process is complete (except for preemployment when an employee/applicant leaves before the testing process begins);
3. Fail to attempt to provide a urine specimen for any test required by 49 CFR Parts 382 or 655 or 46 CFR Parts 4 or 6;
4. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of the specimen;
5. Fail to provide a sufficient amount of urine when directed, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fail or declines to take a second test King County or collector has directed him/her to take;
7. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures outlined in 40.193 (except for pre-employment unless the employee/applicant's pre-employment test was conducted following a contingent offer of employment);
8. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so 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.)
9. For an observed collection, fail to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process.
10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
11. Admit to the collector or MRO that the employee adulterated or substituted the specimen.

If the MRO reports that an employee has a verified adulterated or substituted test result, the employee has refused to take a drug test. An employee has refused to take a drug test, s/he has violated DOT agency regulations and incurs the consequences specified under those regulations.

Section XIII – Consequences

Current employees who have a confirmed positive drug or alcohol test (.04 or greater), or who have refused to a test as defined in Section XII, will be immediately removed from duty. The employee will be provided with information from King County's employee assistance program (EAP) regarding resources available for evaluating and resolving problems associated with

prohibited drug use and alcohol misuse, including the names, addresses and telephone numbers of Substance Abuse Professionals and treatment programs as required by 49 CFR Part 40. Under King County authority, current employees who have a confirmed King County alcohol violation (.02-.039) will be immediately removed from duty. The employee will be provided with information from King County's employee assistance program (EAP) regarding resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses and telephone numbers of Substance Abuse Counselors (SAC) and treatment programs.

A. Termination

Under King County authority, circumstances that warrant termination of employment include but are not limited to:

1. An employee uses, possesses, sells, purchases, manufactures, distributes, or transfers drugs or alcoholic beverages while on duty, on call, or on a rest or meal period (except legal, off-duty alcohol use, not otherwise in violation of this policy, at public events on King County property is allowed).
2. An employee consumes alcohol within four (4) hours of the employee's scheduled time to report for work, or within eight (8) hours following an accident or until the employee takes a post-accident alcohol test, whichever occurs first.
3. An employee refuses to submit to an alcohol and/or drug test (as defined in Section XII) when directed by King County;
4. An employee does not notify his/her supervisor, within five (5) calendar days of any conviction, that he/she has been convicted of a drug crime occurring in the workplace.
5. An employee has a verified positive drug test or a confirmed positive alcohol test (.04 or greater) or a King County alcohol violation (.02-.039) and was involved in an accident resulting in death, serious injury or extensive property damage; or
6. An employee has a verified positive drug test or a confirmed positive alcohol test (.04 or greater) or a King County alcohol violation (.02-.039) and is also being terminated for other misconduct which could independently result in their discharge; or
7. An employee has a verified positive drug test or a confirmed positive alcohol test (.04 or greater) or a King County alcohol violation (.02-.039) and has not completed their initial probationary period following hire into their first King County position.
8. An employee does not appear immediately and complete a random or follow-up drug and/or alcohol test following notification to appear for such tests
9. An employee has a second confirmed positive drug or alcohol test
10. An employee has a third confirmed King County alcohol violation where the random alcohol test had a level of .02-.039, and the initial test was greater than the confirmation test.
11. Because of an alcohol or drug-related matter, an employee loses his or her Marine license, certificate of registry, or merchant mariner's document, if such credential is a requirement of his or her employment (*subject to bargaining with Marine Division labor organizations*).
12. An employee has a verified positive drug test or a confirmed positive alcohol test, or a King County alcohol violation (.02-.039) and is not eligible or chooses not to enter into a Conditional Retention of Employment Agreement.

B. Consequences for a Positive Drug or Alcohol Test or King County Alcohol Violation (.02-.039)

1. Conditional Retention – under King County authority, it is King County's policy that current employees, who have a verified positive drug or alcohol test or King County

Alcohol Violation (.02-.039) and are not subject to the terms under Section XIII.A., will be offered conditional retention of employment if the employee:

- a. Submits to an evaluation by a King County EAP approved substance abuse professional for a verified positive drug or alcohol test or a substance abuse counselor for an alcohol violation (.02-039).
- b. Signs a conditional retention of employment agreement;
- c. Attends an appropriate King County approved education and/or treatment program and signs a monitoring agreement with King County's EAP to ensure successful completion of the education/treatment program specified by the substance abuse professional;
- d. Prior to returning to work after a positive drug or alcohol test, is subject to a return to duty drug and/or alcohol test with a verified negative result(s). Follow up tests are required as recommended by the substance abuse professional; and
- e. Prior to returning to work after a King County alcohol violation (.02-.039), is subject to a Non-Federal return to duty alcohol and/or drug test with a verified negative result(s). Non-Federal follow up alcohol and/or drug tests are required as recommended by the Substance Abuse Counselor (SAC).

The employee who is conditionally retained must fully comply with the conditions of retention of employment, including successful completion of the treatment program specified by the Substance Abuse Professional or Substance Abuse Counselor.

2. Discipline for a Positive Drug or Alcohol Test or King County Alcohol Violation (.02-.039) - it is the county's policy, that current employees who have a confirmed positive drug or alcohol test or King County Alcohol Violation (.02-.039) will be removed from duty and disciplined as follows:
 - a. Consequences for a Positive Drug or Alcohol Test: Employees with their first confirmed positive drug or alcohol test will be suspended for one (1) week without pay.
 - b. Consequences for a King County alcohol violation with a Random Alcohol Level of .02-.039 (where the initial test was greater than the confirmation test).
 - (i) Employees who have their first confirmed King County alcohol violation with a random alcohol test level of .02-.039, where the initial test was greater than the confirmation test, will be removed from duty for two (2) days without pay.
 - (ii) Current employees who have their second confirmed King County alcohol violation with a random alcohol test with a level of .02-.039, where the initial test was greater than the confirmation test, will be suspended for one (1) week without pay.
 - c. Employees who have a confirmed King County alcohol violation with an alcohol test level of .02-.039 where the initial test was lower than the confirmation test will be disciplined in accordance with Section XIII.B.2.a.(1).

Section XIV – Confidentiality

All testing will be conducted in accordance with the federal regulations to ensure test results are accurate and reliable. Further, King County will carry out this policy in a manner which respects the dignity and confidentiality of those involved.

King County takes seriously its commitment to provide safe conditions to the public and its employees. Recognizing this commitment, King County maintains employee assistance programs

which can provide access to professional services in an effort to aid any employee who has an alcohol or chemical dependency problem. All employees who suspect they may have alcohol or substance abuse problems are encouraged to utilize employee assistance program resources before the problem affects their employment status. Participation in this program is voluntary and confidential.

The laboratory and MRO shall maintain strict confidentiality of all test results in accordance with Section 655.73 of FTA regulations, Section 382.401 of FMCSA regulations or Section 16.390 of USCG regulations. This confidentiality shall be maintained at all times. At a minimum the contractor will:

- A. Store all specimens that test verified for drugs in a secure locked freezer for one (1) year or as required by law. Evidence shall be stored in the original specimen container in which it arrived in order to guard against court claims of improperly conducted testing.
- B. Store test results and chain of custody documents for five (5) years or as required by law in a secured area complying with legal requirements.
- C. Test results shall be reported to the King County Program Manager or designee via a secure fax machine, or other means as appropriate, on a daily basis.

The laboratory, MRO and King County shall disclose information related to a positive drug test of an individual to the individual, the employer or the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.

For questions about King County's Prohibited Drug Use and Alcohol Misuse Program, contact the Program Manager, King County Drug & Alcohol Office.

Section XV – Modifications

It is King County policy that the Program Manager is authorized and directed to promulgate such modifications, amendments and revisions to the King County Drug and Alcohol Program as s/he deems necessary after a review process and concurrence by the affected departments to carry out the provisions of regulations issued pursuant to the Omnibus Transportation Employee Testing Act of 1991 and to enact such additional policies and procedures as may be necessary to insure King County's compliance with state and federal law affecting drug and alcohol matters. Nothing herein is intended to waive a union's legal right to bargain over modifications, amendments and revisions to the extent that they are mandatory subjects of bargaining.

Section XVI – Effects of Alcohol

For information regarding the effects of alcohol refer to King County Drug and Alcohol Program Manager. In addition, if an alcohol problem is suspected, please contact King County Employee Assistance Program.

Section XVII – Information Disclosure

The King County Drug & Alcohol Program Manager may only release drug and alcohol testing records and results under the following circumstances:

- A. When an employee gives written instruction that King County may release information or copies of records regarding his/her test results to a third party or subsequent employer;
- B. When, due to a lawsuit, grievance, or proceeding initiated on behalf of the employee tested, the result may be released to the decision-maker in the case; • When an employee provides a written request for copies of his/her records relating to the test(s);

- C. When an accident investigation is being performed by the National Transportation Safety Board (NTSB) and the post-accident results are needed for the investigation; or
- D. When the DOT or any DOT agency with regulatory authority over the employer or any of its employees requests records.

An employee request for release of information must specifically identify the person to whom the information is to be released, the circumstances under which the release is authorized, and the specific kind of information to be released. A separate release must be signed each time information is to be disclosed.