King County

**Administrative Policies and Procedures**

General Administrative Policies & Procedures

| Title | Document Code No. |
|---|---|
| Prohibited Drug Use and Alcohol Misuse Education and Testing Program Policy for Employees Occupying Safety-Sensitive Positions | PER 15-3 (AEP) |
| Department/Issuing Agency<br>Department of Transportation Transit Division<br>Department of Executive Services Human Resources Division | Effective Date.<br>3/14/12 |
| Approved<br>Dow Constantine | |

**1.0 SUBJECT TITLE:** Prohibited Drug Use and Alcohol Misuse Education and Testing Program Policy for Employees Occupying Safety Sensitive Positions

1.1 Supersedes and replaces King County Executive Policy, PER 15-2-1 (AEP) "King County Prohibited Drug Use and Alcohol Misuse Education Program" (October 25, 1995)

1.2 In relation to safety-sensitive employees, supersedes and replaces King County Executive Order, FES 8-1 (AEP) "Policy Restricting Alcohol Consumption on County Property" (October 17, 1988)

**2.0 PURPOSE:**

2.1 This policy is intended to promote a safe, healthy, drug-free, and alcohol-free work environment for all King County executive branch employees. It is designed to encourage and support appropriate professional assistance to interested employees with drug and alcohol problems. This policy ensures King County compliance with the Omnibus Transportation Act of 1991 and the U. S. Drug Free Workplace Act of 1988.

2.2 In addition to the federal requirements, this policy is intended to decrease absenteeism, increase productivity, and prevent accidents and casualties. The policy reflects King County's commitment to safely and efficiently providing the highest quality services to King County residents.

2.3 This policy is intended to ensure King County's compliance with state and federal laws, rules, and regulations.

**3.0 ORGANIZATIONS AFFECTED:** All King County Executive branch departments, offices and agencies and employees who occupy safety-sensitive positions including all career service, provisional, temporary, probationary and appointed employees; transit contractors in safety-sensitive positions.

## 7.0 PROCEDURES:

7.1 Procedures are included in Appendix 9.1 and the King County Prohibited Drug Use & Alcohol Misuse Testing & Education Program Policy Handbook, as amended.

## 8.0 RESPONSIBILITIES:

The Program Manager is responsible for:

8.1.1 Administering the King County Drug and Alcohol Program and overseeing compliance with this policy.

8.1.2 Maintaining a current list of safety-sensitive county positions and a current list of employees who occupy safety-sensitive positions.

8.1.3 Modifying, amending and revising the Prohibited Drug Use and Alcohol Misuse Education and Testing Program Policy's Appendix 9.1, 9.2, 9.3 and the Prohibited Drug Use and Alcohol Misuse Education and Testing Program Policy Handbook as necessary.

## 9.0 APPENDICES:

9.1 Prohibited Drug Use and Alcohol Misuse Education and Testing Program

9.2. List of Safety Sensitive Positions

9.3 Definitions

Appendix 9.1

**Section I - Prohibited Drug Use And Alcohol Misuse Education And Testing 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 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. Employees are prohibited from consuming alcohol while on-call.
3. 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 and/or drug test, whichever occurs first.
4. 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. 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.
2. 2. 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 Alcohol and Drug 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 Crew members that are responsible for the safe handling of passengers.

A list of all covered positions/classifications, by King County Department, is attached as Appendix 9.2. 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 and Alcohol Misuse Education and Testing Program. Transit employees will receive a minimum of sixty (60) minutes of training regarding the Prohibited Drug Use and Alcohol Misuse Education and Testing Program and the effects of prohibited drug use and alcohol misuse. Detailed information on alcohol misuse will be provided, specifically referencing the effects of alcohol misuse which impacts an individual's biological, emotional, psycho-social well being. 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 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.

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. Opiates
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.

With respect to verified positive drug tests, employees will be notified by the MRO that they have seventy-two (72) hours following this notification in which they can request, at their own expense, that a split urine specimen be tested by another Department of Health and Human Services (DHHS) certified testing laboratory. However, in the event that the split sample test is negative, the employee will be reimbursed for the test.
Failure to request testing of the split specimen within seventy-two (72) hours of being notified of a positive test by the MRO will result in the test results from the original specimen being accepted as the final test results.

**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. attempt to alter, taint or otherwise provide a false sample; or
3. do not appear immediately and complete a random drug and/or alcohol test following notification to appear for such tests; or
4. 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 preemployment 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. attempt to alter, taint, or otherwise provide a false sample; or
d. test positive for the presence of one of the substances listed in Section IV.B.
e. 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
f. 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 required recommendations of a substance abuse professional.

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. Persons 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 persons 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 655.63, 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

OR

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

OR

5 **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
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. The employee must provide a urine and breath sample unless it is determined by medical personnel present that the employee is medically unable to provide the required samples. Following the test, the employee will be relieved of duty with pay pending King County's receipt of the results of the tests from the MRO.

**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 Test**

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 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, 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 a King County alcohol violation, 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, 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 or 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 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, 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 s/he:

1. Fails 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. Fails 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. Fails 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. Fails 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. Fails to undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures outlined in 40.265;
6. Fails to sign the certification at Step 2 of the Alcohol Testing Form (ATF); or
7. Fails 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 s/he:

1. Fails 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. Fails 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. Fails to attempt to provide a urine specimen for any test required by 49 CFR Parts 382 or 655 or 4 6 CFR Parts 4 or 6;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the specimen;
5. Fails 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. Fails or declines to take a second test King County or collector has directed him/her to take;
7. Fails 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. Fails 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. Admits 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, or 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 Professionals and treatment programs as required by 49 CFR Part 40.

A. Termination

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 and/or drug 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; or, tampers or attempts to tamper with an alcohol and/or drug test.
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 -- 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 substance abuse professional approved by King County's EAP;
   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; and
   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.
   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 Professional.

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.

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:
(i) 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 law suit, grievance or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.
Questions about King County's prohibited drug use and alcohol misuse education and testing program and/or King County's employee assistance programs should be addressed to Lori Jones, the Program Manager.

**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 Handbook (June 2003), page 87 Alcohol Fact Sheet. In addition, if an alcohol problem is suspected, please contact King County Employee Assistance Program or refer to the handbook – Where to Get Help.

**Section XVII – Information Disclosure**

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;
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.

# Appendix 9.2

# Safety Sensitive Positions

## A. DEPARTMENT OF TRANSPORTATION – FTA TRANSIT DIVISION

***Operations:***
Base Dispatcher/Planner
Communications Coordinator
Service Supervisor
Supervisor-In-Training
Transit Chief of Training
Transit Instructor
Transit Operator
Transit Operator Trainee
Transit Superintendent of Training
Tunnel Controller
Van Service Operator
Waterfront Streetcar Conductor

***Power and Facilities:***
Cable Splicer
Electrical Constructor Crew Chief
Electronic Communication Tech
Equipment Operator
Fire Detection Specialist
Grounds Specialist
Line Crew Chief
Line Worker – Helper
Line Worker – Material
Line Worker – Utility
Maintenance Constructor
Power Distribution Chief
Radio & Comm Systems Specialist
Radio Maintenance Chief
Utility Laborer

***Vehicle Maintenance:***
Electronic Technician
Electronic Technician, Lead
Equipment Dispatch
Equipment Service Worker
Equipment Service Worker, Lead
Equipment Service Worker-StoresDriver
Maintenance Constructor
Maintenance Machinist
Maintenance Machinist, Lead
Metal Constructor
Mechanic
Mechanic, Apprentice
Mechanic, Lead
Sheetmetal Worker
Sheetmetal Worker, Lead
Transit Maintenance Analyst
Transit Stores Driver
Transit Vehicle Maintenance Chief
Transit Vehicle Procurement Admin
Utility Service Worker Driver CDL
Vehicle Damage Estimator

***Transit Safety:***
Safety & Health Admin IV
Safety & Health Supervisor

***MEHVA:*** *(Metro Employees Historic Vehicle Assn)*
Volunteer Operator
Volunteer Mechanic

***Rail*** *(incl LINK Light Rail and So Lk Union Streetcar)*

***LINK:***
Rail Electrical Worker
Rail Electro-Mechanic
Rail Facilities Maintenance Chief
Rail Facilities Mechanic
Rail Grounds Specialist
Rail Laborer
Rail Operations Chief
Rail Operator
Rail Power Chief
Rail SCADA Systems Specialist
Rail SCADA Systems Specialist, Lead
Rail Service Worker
Rail Signal and Communications Chief
Rail Signal and Communications Tech
Rail Supervisor
Rail Supervisor (Operations Control)
Rail Technical Trainer
Rail Track and ROW Maintainer
Rail Training Chief
Rail Vehicle Maintenance Chief

***Streetcar:***
Streetcar Maintainer
Streetcar Operator
Streetcar Operator Trainee
Streetcar Ops & Maint Supervisor
Streetcar Ops & Maint Spvsr Trainee

## Appendix 9.2

## Safety Sensitive Positions (continued)

### B. DEPARTMENT OF TRANSPORTATION – USCG [MARINE DIVISION]

Marine Captain
Marine Deckhand, Purser
Marine Engineer
Marine Oiler
Marine Deckhand
Marine Deckhand, Senior
Marine Information Agent

### C. DEPARTMENT OF TRANSPORTATION – FMCSA

**ROADS DIVISION**
Equipment Operator
Truck Driver II/III
Utility Worker II

**FLEET ADMINISTRATION**
Equipment Service & Maintenance Specialist-HD
Mechanic/Automotive Machinist HD-I
Supervisor II
Truck Driver III

**TRAFFIC ENGINEERING**
Sign and Marking Specialist II
Traffic Signal Technician

**AIRPORT DIVISION**
Equipment Operator
Mechanic/Automotive Machinist HD-I

### D. DEPARTMENT OF NATURAL RESOURCES AND PARKS – FMCSA

**WATEWATER TREATMENT DIVISION** Employees who are required to operate vehicles which require the possession of a commercial driver's license (CDL). Specific employees subject to testing will be identified by WTD management and notified of the testing requirements.

**SOLID WASTE DIVISION***
Automated Scale Technician
Electrician I/II
Equipment Operator
Mechanic/Automotive Machinist HD I/II
Metal Fabricator
SW Preventive Maintenance Specialist
Truck Driver III
Truck Driver III Lead

**PARKS DIVISION***
Equipment Operator
Parks Maintenance Specialist III
Parks Maintenance Specialist II-Utility
Playground Specialist
Truck Driver II

**WATER & LAND RESOURCES DEVELOPMENT DIVISION**
Environmental laboratory Scientist III

* Employees in the covered classifications are subject only if the vehicles they operate require the possession of a Commercial Driver's License (CDL), and if the identified vehicles are operated on public roadways.

**Appendix 9.3**

**Terms and Definitions**

**Accident** means an occurrence associated with the operation of a vehicle, if as a result:

1) An individual dies;
2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
3) With respect to an occurrence in which the mass transit vehicle involved is a rubber-tired bus, van, or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle;
4) With respect to an occurrence in which the mass transit vehicle involved is a fixed-guideway rail car, streetcar, or trolley car, or a vessel*, the mass transit vehicle is removed from revenue service;
5) With respect to an occurrence in which a commercial motor vehicle (non-transit) operating on a public road in interstate or intrastate commerce and one or more motor vehicles incurs disabling damage as the result of the accident and is transported away from the scene by a tow truck or other vehicle.

*(See "**Serious Marine Incident**")

**Actual Knowledge** (FMCSA) means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in § 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under § 382.307.

**Adulterated Specimen** means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be presented but is at a concentration so high that it is not consistent with human urine.

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

**Alcohol Concentration (or content)** means the amount of 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.

**Alcohol Use** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Blind Sample or Blind Performance Test Specimen** means a urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

**Breath Alcohol Technician (BAT)** means an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

**Cancelled Test** means a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

**CDL** means a Commercial Driver's License

**Chain of Custody** means the procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With

respect to drug testing, these procedures shall require that an appropriate drug testing custody and control form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory Custody and Control form(s) account(s) for the sample or sample aliquots within the laboratory.

**CFR** means Code of Federal Regulations.

**Commercial Motor Vehicle** **(FMCSA – Non-Transit)** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2) Has a gross vehicle weight rating of 26,001 or more pounds; or
3) Is designed to transport 16 or more passengers, including the driver; or
4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

**Confirmation or Confirmatory Test**

1) In drug testing, means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine.)
2) In alcohol testing means, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

**Confirmed Drug Test** means a confirmation test result received by an MRO from a laboratory.

**Controlled Substances** means those substances identified in 49 CFR 40.85.

**Contractor (FTA)** means a person or organization that provides a safety-sensitive service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

**County premises** means all county worksites, property and vehicles.

**Covered Employee** means a person, including an applicant, or transferee, who performs or will perform a safety-sensitive function for an entity subject to 49 CFR Parts 382 or 655, or 46 CFR Parts 4 or 16.

**Designated Employer Representative (DER)** means an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

**County** means King County and any other organization that is legally governed by the county with respect to personnel matters.

**County premises** mean all **County** worksites, property and vehicles. For the purposes of this policy, "county worksites" include those provided under telecommuting agreements during designated telecommuting work hours.

**Crewmember** **MARINE DIVISION)** means an individual who is either:

1) On board a vessel acting under the authority of a license or merchant mariner's document issued under this subchapter, whether or not the individual is a member of the vessel's crew; or

2) Engaged or employed on board a vessel owned in the USA that is required by law or regulation to engage, employ, or be operated by an individual holding a license, certificate of registry, or merchant mariner's document issued under this subchapter.

3) Exceptions: The following personnel are not subject to drug and alcohol testing under 46 CFR 16:

a) Individuals on fish processing vessels who have no duties that directly affect the safe operation of the vessel

b) Scientific personnel on an oceanographic research vessel

c) Individuals aboard a vessel, not fulfilling a requirement for manning under 46 CFR Part 15, who have no duties that directly affect the safe operation of the vessel (*see* "**Safety Sensitive Positions**")

**Department of Transportation (DOT)** means a Federal cabinet level agency charged with responsibility for a safe transportation system for the public. This agency includes the following administrations: Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), and Pipeline and Hazardous Material Safety Administration (PHMSA). The Coast Guard was part of DOT but is now with the Department of Homeland Security (DHS), however, the drug test program mandated by Coast Guard follows procedures established by DOT 49 CFR part 40.

**DHHS** means The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**Dilute Specimen** means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Directly Involved in a Serious Marine Incident** (MARINE DIVISION) means a marine employer 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. (see "**Serious Marine Incident**")

**Disabling Damage** means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

1) Inclusion: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

2) Exclusions:

a) Damage which can be remedied temporarily at the scene of the accident without special tools or parts

b) Tire disablement without other damage if no spare tire is available

c) Headlamp or taillight damage

d) Damage to turn signals, horn, or windshield wipers which make them inoperative

**District DAPI** (MARINE DIVISION) means the person in charge of a drug and alcohol testing program for a USCG District. This congressionally mandated billet manages the program within district boundaries, conducts audits of marine employers' programs, has regulatory authority over service agents, and is empowered to inspect service agents. Each Coast Guard District has at least one District DAPI, who operates through the authority of the District Commander and under the guidance of the USCG Headquarters Program Manager in Washington, DC. See"**Designated Employer Representative**")

**DOT Agency** means an agency of the United States Department of Transportation administering regulations related to drug or alcohol testing, including the Federal Aviation Administration, the Federal Railroad

Administration, the Federal Motor Carrier Safety Administration, the Federal Transit Administration, the Research and Special Program Administration, and the Office of the Secretary.

**Drug and Alcohol Program Inspector (DAPI)** (MARINE DIVISION) means a Coast Guard representative who is specifically trained to check for compliance with the U.S. Coast Guard drug and alcohol program regulations and is assigned to a local Coast Guard Sector Office. Marine Inspectors also check for compliance with the regulations during vessel inspections.

**Drug Metabolite** means the specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted in urine.

**Drug Test** means the laboratory analysis of a urine specimen collected in accordance with 49 CFR part 40 and analyzed in a DHHS-approved laboratory.

**EBT or Evidential Breath Testing Device** means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's 'Conforming Products List of Evidential Breath Measurement Devices' (CPL).

**Employee Assistance Program (EAP)** means a program provided directly by the county, or through a contracted service provider, to assist employees in dealing with drug or alcohol dependency and other personal problems. Rehabilitation and reentry to the work force are usually arranged through EAP.

**FTA** means the Federal Transit Administration, an agency of the United States Department of Transportation.

**FMCSA** means the Federal Motor Carrier Safety Administration, an agency of the United States Department of Transportation.

**Initial Test or Screening Test** drug testing, means an immunoassay screen to eliminate 'negative' urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

**Licensed Medical Practitioner** means a person who is licensed, certified and/or registered, in accordance with applicable Federal, State, local or foreign laws and regulations, to prescribe controlled substances and other drugs.

**Medical Review Officer (MRO)** means a medical doctor who not only has knowledge of substance abuse disorders, but who also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. A medical review officer verifies a positive test result by reviewing a laboratory report and an employee's unique medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

**Non-safety sensitive position** means all King County executive branch positions that do not require performance of safety-sensitive functions as set forth in the Omnibus Employee Testing Act of 1991, and as defined below.

**Operation of a Vessel** (MARINE DIVISION) means to navigate, steer, direct, manage, or sail a vessel, or to control, monitor, or maintain the vessel's main or auxiliary equipment or systems. Operation includes:

1) Determining the vessel's position, piloting, directing the vessel along a desired trackline, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position, or speed, and maintaining a lookout;
2) Controlling, operating, monitoring, maintaining, or testing: the vessel's propulsion and steering systems; electric power generators; bilge, ballast, fire, and cargo pumps; deck machinery including winches, windlasses, and lifting equipment; lifesaving equipment and appliances; firefighting systems and equipment; and navigation and communication equipment; and
3) Mooring, anchoring, and line handling; loading or discharging of cargo or fuel; assembling or disassembling of tows; and maintaining the vessel's stability and watertight integrity.

**Performing (a safety-sensitive function)** means am employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**Prohibited Drug** Means that the Controlled Substances Act has determined the following drugs to be a risk to public safety: marijuana, opiates, amphetamines, cocaine, or phencyclidine (PCP).

**Prohibited Drug Use and Alcohol Misuse Education and Testing Program Policy Handbook** (the Policy Handbook) means the King County detailed handbook utilized for the purposes of carrying out the provisions of this policy, the regulations issued pursuant to the Omnibus Transportation Employee Testing Act of 1991, and to provide for such additional procedures as may be necessary to ensure King County's compliance with state and federal law affecting drug and alcohol matters.

**Qualified Laboratory** means a laboratory certified by the DHHS to conduct urine drug testing and which permits unannounced inspections by the recipient, operator, or FTA Administrator.

**Refuse to Submit (to an alcohol test)** means that a covered employee is considered to have refused to take an alcohol test if he or she:

1) fails 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); or
2) fails 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); or
3) fails 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; or
4) fails 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; or
5) fails to undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures outlined in 40.265; or
6) fails to sign the certification at Step 2 of the Alcohol Testing Form (ATF); or
7) fails 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.

**Refuse to Submit (to a drug test)** means that a covered employee is considered to have refused to take a drug test if he or she:

1) fails 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); or
2) fails 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); or
3) fails to attempt to provide a urine specimen for any test required by 49 CFR Parts 382 or 655 or 46 CFR Parts 4 or 16; or
4) in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the specimen; or
5) fails 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; or
6) fails or declines to take a second test King County or collector has directed him/her to take; or
7) fails 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; or
8) fails 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) Admits 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 who refuses to take a drug test violates DOT agency regulations and incurs the consequences specified under those regulations.

**Return to Work Letter** (MARINE DIVISION) means a letter, issued by an **MRO**, that verifies that an individual, who had previously tested positive for drugs, is now considered "drug-free" and that the risk of subsequent drug use by the individual is sufficiently low enough to warrant the return to work of that individual in a "**safety sensitive position.**" Only the **MRO** has the authority to issue this type of letter. The **return to work letter** must be presented to the marine employer before allowing a mariner that had a non-negative test result, to return to work in a **safety sensitive position.**

**Safety Sensitive Function** (FTA – Transit) means any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle, when required to be operated by a holder of a CDL;
- Controlling dispatch or movement of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives section 18 funding and contracts out such services;
- Carrying a firearm for security purposes.

**Safety Sensitive Function** (FMCSA – NON-TRANSIT) means all time from the time a driver begins 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. Safety sensitive function shall include:

- All time at an employer shipper, plant, facility or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment as required by 49 CFR Part 392.7 and 49 CFR Part 392.8 or otherwise inspecting, servicing, or conditioning any motor vehicle at any time, all time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR Part 393.76);
- 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 or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Safety Sensitive Functions** (USCG - MARINE) means and includes but is not limited to:

- Directing and mustering passengers in emergencies
- Passing out lifejackets
- Controlling and operating lifesaving equipment
- Controlling and operating firefighting equipment

**Safety Sensitive Position** (USCG – MARINE) means any position (billet) 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. Examples of this type of crewmember may include card dealers, bartenders, game operators and service personnel aboard excursion or gaming vessels. Any person filling a safety

sensitive position is subject to U.S. Coast Guard drug and alcohol testing. All crewmembers, that are responsible for the safe handling of passengers, are considered to be filling safety sensitive positions as well.

**Screening Test or Initial Test** in drug testing means, an immunoassay screen to eliminate 'negative' urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

**Serious Marine Incident** (MARINE DIVISION) means 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:

1) one or more fatalities; or
2) 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; or
3) damage to property, as defined in 46 CFR 4.05-1, in excess of $100,000; or
4) the actual or constructive total loss of any vessel subject to Coast Guard Inspection; or
5) 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; or
6) a discharge of oil of 10,000 gallons or more, into a navigable waterway; or
7) 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.

**Shy Bladder** means the inability to produce a sufficient (45 ml) urine specimen.

**Shy Lung** means the inability to produce a sufficient breath sample.

**Simple Random Sampling (SRS) with replacement** means the random selection sampling method required by DOT. With replacement means that even after an employee is selected, he or she is returned to the Pool for possible selection in the next random testing cycle.

**Split Specimen** means an additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy); or a licensed or certified psychologist, social worker, or employee assistance professional; or a state-licensed or certified marriage and family therapist; or an drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC, or by the National Board for Certified Counselors, Inc. and Affiliates/Master Additions Counselor (NBCC)). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**Substituted Specimen** means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

**USCG** means the United States Coast Guard, an agency of the United States Department of Homeland Security (DHS) and the Department of Transportation (DOT).

**Vehicle** means a rubber-tired bus, van, automobile or non-revenue commercial motor vehicle; or a fixed guideway rail car, streetcar or trolley car; or a vessel. A mass transit vehicle is a vehicle used for mass transportation or for ancillary purposes.

**Verified Negative Drug Test Result** means a drug test result reviewed by a Medical Review Officer and determined to have no evidence of prohibited drug use.

**Verified Positive Drug Test Result** means a drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use.