

STATE OF COLORADO)
) SS. Resolution No. 2002 - 006
COUNTY OF OURAY)

At a regular meeting of the Board of County Commissioners for Ouray County, Colorado, held at the Ouray County Courthouse, on the 11th day of February 2002, there were present:

- Bill Ferguson, Chairman
- Don Batchelder, Commissioner
- Alan Staehle, Commissioner
- Connie Hunt, Administrator
- Judy Wolford, Deputy Clerk

when the following proceedings, among others, were had and done, to wit:

A RESOLUTION ADOPTING A POLICY FOR THE OURAY COUNTY ROAD AND BRIDGE DEPARTMENT EMPLOYEES FOR ALCOHOL, DRUGS AND CONTROLLED SUBSTANCES

WHEREAS, it is Ouray County's intent to maintain a safe, productive working environment for all employees; and,

WHEREAS, it is Ouray County's intent to ensure the safety and well being of the general public and County facilities; and,

WHEREAS, it is Ouray County's intent to establish, promote and maintain public confidence in the County and its employees; and,

WHEREAS, it is Ouray County's intent to reduce absenteeism, tardiness and unsatisfactory job performance,

NOW, THEREFORE BE IT RESOLVED, that the Ouray County Board of County Commissioners hereby adopts a policy which prohibits the use of alcohol, illegal drugs, or prescription drugs without a valid prescription by Ouray County Road and Bridge Department employees (hereinafter referred to as "employee") and prospective Safety Sensitive Function employees; and,

BE IT FURTHER RESOLVED, that the Ouray County Board of County Commissioners prohibits an employee from using or being under the influence of alcohol, illegal drugs, or prescription drugs without a valid prescription and/or having measurable quantities (defines in the policy) of these substances in the employee's system during regular and/or designated working hours; and,

BE IT FURTHER RESOLVED, that the Ouray County Board of County Commissioners intends to adopt a pre-employment screening to detect the current use of illegal drugs or prescription drugs without a valid prescription; and,

BE IT FURTHER RESOLVED, by the Ouray County Board of County Commissioners, that the **ALCOHOL, DRUGS AND CONTROLLED SUBSTANCES POLICY**, attached hereto, made a part

OURAY COUNTY ROAD & BRIDGE DEPARTMENT

ALCOHOL, DRUGS AND CONTROLLED SUBSTANCES POLICY (EXHIBIT A)

APPLICABILITY:

A copy of this policy must be provided to all drivers requiring a commercial drivers license and any employee serving in a safety-sensitive position, who shall then be subject to this policy and shall comply with all the conditions outlined below. References to tests in this policy/procedure shall include both Alcohol and Controlled Substances. The term drugs and controlled substances are interchangeable and have the same meaning. Drugs refer to marijuana, opiates, cocaine, phencyclidine (PCP) and amphetamines (including Methamphetamine).

INQUIRIES FROM PREVIOUS EMPLOYERS:

Ouray County shall inquire from previous employers, on all drivers requiring CDL license, hired after January 1, 1995, and all applicants offered a driver's position or employee transferred to a drivers position, pursuant to the drivers written authorization, for each individual and/or entity, inquiries about the following information, during the preceding two years from the date of the application:

- a. Alcohol tests with a result of 0.04 alcohol concentration or greater.
- b. Verified positive controlled substances test results.
- c. Refusals to be tested.
- d. Any information from a previous employer obtained from other previous employers.

This required information must be obtained prior to the first time a driver performs a safety-sensitive function or no later than 14 calendar days after the driver performs a safety-sensitive function.

EMPLOYEES SUBJECT TO TESTING:

- a. All drivers operating a vehicle requiring a commercial drivers license and/or any employee serving in a safety-sensitive position.
- b. All new drivers hired or persons transferred into a position requiring driving a commercial motor vehicle, which requires a commercial drivers license to operate.

THE PERFORMANCE OF A SAFETY-SENSITIVE FUNCTION IS DEFINED AS:

All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for work. Safety-Sensitive Function shall include:

- a. All time waiting to be dispatched, unless the driver has been relieved of duty by the employer.
- b. All time inspecting, servicing, or conditioning any Commercial Motor Vehicle at any time.
- c. All driving time. This includes all time spent at the controls of a Commercial Motor Vehicle in operation.
- d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth that conforms to the requirements of 393.76 of this subchapter.
- e. All time loading or unloading a vehicle, supervising, or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in a readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
- f. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

PROHIBITED CONDUCT:

Alcohol-Related Prohibited Conduct:

The following conduct involving alcohol use is prohibited and will result in the employee being referred for testing.

- a. Reporting to or remaining on-duty requiring the performance of a safety-sensitive function while having any evidence of the misuse of alcohol or an alcohol concentration of 0.04 or greater.
- b. Possession of alcohol while on duty or company property.
- c. Possessing any alcohol while on duty or performing any safety-sensitive function. This shall include medication, either prescribed or over the counter.
- d. Performing a safety-sensitive function, as defined above, within four hours after using alcohol.

- e. Using alcohol within eight hours following an accident, when such accident requires the driver to take a post-accident alcohol test, unless the driver has already completed the post-accident alcohol testing process.

Controlled Substance-Related Prohibited Conduct:

The following conduct involving controlled substances is prohibited and will result in the employee being referred for testing:

- a. Reporting to or remaining on duty when the driver uses any controlled substance, unless the "medical exception applies" i.e., any employee who uses a controlled substance pursuant to the instructions of a physician, either prescribed or over the counter and said employee has advised the employer in writing that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle or perform a safety-sensitive function.
- b. Reporting to or remaining on duty after the driver has tested positive for controlled substances.

Refusal to submit to a test:

It is prohibited conduct to refuse to submit to a controlled substance or alcohol test as required by this policy. A refusal to submit is defined as follows:

- a. Failure to provide adequate breath for alcohol testing without a valid medical explanation after the driver has received notice of the requirement of a breath test in accordance with policy.
- b. Failure to provide adequate urine sample for a controlled substance test without a valid medical explanation after the driver has received notification of the requirement for urine testing according to this policy.
- c. Refusal by the employer to sign the certification form shall be regarded as a refusal to take the test.
- d. Engaging in conduct that obstructs the testing process.

REPORTING BY EMPLOYEES:

The following procedure shall be used when an employee suspects controlled substance use or alcohol misuse by an employee subject to the requirements of this policy/procedure:

- a. The employee shall report the concern to the Road Superintendent. If the Road Superintendent is not available, the employee shall report the concern to the Board of County Commissioners. All such reports shall be held confidential.
- b. The employee shall not discuss the concern with other employees.
- c. The supervisor or other authorized person to whom the report has been made shall take the necessary steps to confront the employee suspected of having the controlled substance and/or alcohol problem and take necessary action pursuant to this policy/procedure.

ON CALL OR EMERGENCY CALL-IN EMPLOYEES:

On call and emergency call-in employees who are asked to report to work to perform safety-sensitive functions must notify his/her supervisor if they cannot perform safety-sensitive functions due to controlled substances or alcohol use.

CONDITIONS RELATED TO TERMINATION OF EMPLOYMENT:

- a. When a driver has an alcohol test result of greater than 0.02, but less than 0.04, the driver shall be removed from all safety-sensitive functions for a minimum of 24-hours. Repeated occurrences can lead to immediate termination.
- b. When a driver has a confirmed alcohol test result of 0.04 or greater, or has a verified positive test result for controlled substance use, the driver shall be removed from the safety-sensitive position immediately and this can lead to termination of employment.
- c. When a driver refuses to be tested for alcohol and/or controlled substances use as defined under "Prohibited Conduct" above, he/she may be terminated immediately.

WHEN TESTING SHALL BE CONDUCTED:

Pre-employment Testing:

Employees must submit to a controlled substance test and receive a negative drug test result prior to the first time a driver performs safety-sensitive functions. The tests will be required of an applicant only after he/she has been offered the position.

Post-Accident Testing:

Following an accident involving a commercial motor vehicle which requires a Commercial Drivers License to operate, the driver shall be tested for alcohol and/or controlled substances, when:

- a. The accident involves a fatality, or;
- b. The commercial vehicle driver receives a citation under state or local law for moving traffic violation arising from the accident and the accident resulted in:
 1. Bodily injury with immediate medical treatment away from the scene.
 2. Disabling damage to any motor vehicle involved in the accident requiring tow away.

The carrier shall provide all drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this policy.

It is policy of this carrier that any driver involved in an accident, meeting the above definition of an accident, shall strictly adhere to the following procedure and instructions:

Random Testing:

Unannounced controlled substance and alcohol tests will be conducted throughout each calendar year (at least quarterly). When selected the employee must proceed directly to the test site and not finish the current task. Drivers will be selected by a scientifically valid process, and each driver shall have an equal chance of being tested each time selections are made. The number of drivers selected for random testing shall be in accordance with federal regulations. A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. A controlled substance test must be administered each time an employee's name is selected from the pool.

Reasonable Suspicion Testing:

All drivers shall submit to an alcohol and/or controlled substance test when a properly trained supervisor, observes behavior or appearance which is known to be characteristic of alcohol misuse or controlled substance use, or otherwise has reasonable suspicion to believe that the driver has engaged in prohibited conduct as defined in this policy/procedure. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

Return-to-Duty Tests:

All drivers who have engaged in prohibited conduct related to alcohol as defined by this policy/procedure, must undergo a return to duty test and have results of less than 0.02

concentration. All drivers who have engaged in conduct related to controlled substances as defined in this policy/procedure must undergo a return-to-duty test with a verified negative result for controlled substances use prior to returning to duty requiring the performance of a safety-sensitive function.

Follow-up Testing:

If a Substance Abuse Professional determines that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or controlled substance use, the driver shall be subject to unannounced tests as directed by the Substance Abuse Provider in accordance with the provisions of 382.605(c)(2)(ii). Follow-up testing shall only be conducted when the driver is performing safety-sensitive functions, just before the driver is to perform safety sensitive functions or just after the driver has performed safety-sensitive functions. All follow-up testing shall be randomly conducted before the driver is returned to safety-sensitive duties, if at all, he/she must:

- a. Have been evaluated by a Substance Abuse Professional.
- b. Have complied with any and all recommended treatment.
- c. Have taken return-to-duty drug and alcohol tests with:
 1. Negative results for controlled substances.
 2. Alcohol test with an alcohol concentration of less than 0.02.
- d. Be submitted to unannounced follow-up drug and alcohol tests if recommended by a Substance Abuse Professional. The number and frequency of such follow-up tests will be directed by the Substance Abuse Professional.

TRAINING FOR DRIVERS:

Prior to performing any safety-sensitive functions each employee shall receive information concerning the effects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol and/or controlled substances problem (the drivers or co-worker's); and available methods of intervening when an alcohol and/or controlled substances problem is suspected, including confrontation, referral to an employee assistance program and or referral to management.

It is the policy of this carrier that prior to operating a commercial motor vehicle each driver shall receive information about alcohol misuse and controlled substance use in the form of the booklet entitled *Controlled Substances & Alcohol Use and Testing: Information for Employees*.

Any driver, or driver candidate, who refuses or fails to attend the above described training shall immediately be removed from performing any safety-sensitive function and may lead to termination of employment or loss of consideration of a driving position.

RECORDS:

All employee drug and alcohol tests results and records will be maintained under strict confidentiality. Confidential information contained in testing records may not be released except as required by law or as expressly authorized by the Federal Highway Administration Rule. Upon written request, a driver will receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug and/or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

The Road Superintendent has been designated by this carrier to answer any questions about these policies/procedures.

ATTACHMENT TESTING PROCEDURES

General:

When reporting to the collection site, each employee must have in his/her possession a valid CDL driver's license and a custody and control form for a drug test and/or a breath alcohol testing form for an alcohol test.

Prior to an employee being requested to go to a collection site or is escorted to a collection site, he/she will be advised as to his/her rights, procedures and expectations. A copy of these policies and procedures will be given to all employees who may be required to submit to a controlled substance and/or alcohol test and they are required to sign a certification form indicating he/she has received the information and will be required to provide a urine and/or breath sample for testing.

When advised to take a test, the employee must immediately proceed to the test site and cannot finish the task at hand, i.e. paperwork, loading or unloading, finish trip, etc. Any time a test is not performed immediately or within the prescribed time, a well-documented reason must be kept by a supervisor.

Employees will be advised of the dangers of drug abuse and/or alcohol misuse in the workplace and the carriers resolve to maintain a drug free environment. Employees will be advised of the availability of substance abuse and/or alcohol misuse counseling and rehabilitation through a Substance Abuse Professional.

As a condition of employment, an employee or prospective employee will be required to sign a statement that the individual will abide by the carriers controlled substance and alcohol policies and procedures and notify the carrier in writing of any drug or alcohol conviction before reporting on duty the next work day or no later than twenty-four hours after receiving notice of such conviction. Failure to notify the carrier of the above listed conviction in writing may result in immediate termination.

All samples will be collected and tested with due regard to the privacy of the individual being tested, and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.

Random selection for collection will be performed by Driver Compliance, Inc. A scientifically valid method will be used to select the employees to be tested (at least quarterly), with each employee having an equal change of being chosen during every selection period. The carrier will notify the employees selected to report for testing.

New hires names will be added to the random selection pool on the first day they report for duty. Terminated employees names will be removed from the random pool the same day as their termination.

Testing sites will be available 24-hours every day. Thus, testing for post-accident or reasonable suspicion will be possible anytime. If either of these occurs at the end of an employees shift, he/she will be required to travel to the collection site and follow all the collection procedures completely. The employee must remain available for testing until completed or it will be considered a refused test with all the stated consequences. For random selection, pre-employment, return to duty and follow-up drug and alcohol testing requirements, a map and printed instructions to the collection site will be provided. All random selections will be spread out over a calendar year (at least quarterly) and totally unannounced. For post-accident testing, as soon as practical after the accident, but no later than 32-hours for controlled substances and for alcohol within two hours but no later than eight hours after an accident. The policy requires the driver to be tested for alcohol and controlled substances under the following circumstances:

- a. The accident involves a fatality, or
- b. The commercial motor vehicle driver receives a citation for a moving traffic violation arising from the accident and the accident resulted in:
 1. An injury requiring immediate medical treatment away from the scene, or
 2. One or more of the vehicles involved received disabling damage that required it to be towed from the scene.

The medical review officer is the only one allowed to interpret positive test results and notify the employee. The medical review officer will obtain proper identification before releasing any test results. The medical review officer will review the medical history of any donor testing positive and consider alternate medical explanations and is required to give the donor an opportunity to discuss a positive result, unless the donor expressly declines the opportunity, or the donor fails to contact the medical review officer after a documented contact by the carrier instructing the donor to contact the medical review officer. Following a discussion with the positive donor, or documentation that the donor declined discussion, the medical review officer will issue a final report on the outcome of the test to the designated carrier contact person via mail.

The medical review officer shall be the sole custodian of a donor's controlled substance test result and will retain the records for five years for positive test results. All results maintained by the medical review officer shall not be released to anyone without the donor's written authorization. Medical review officer notification to the driver will include: driver's name, type of test, collection date, time and location, name of medical review officer, laboratory and collector, test results, and a statement that the procedures were in accordance with federal regulations parts 40 and 382.

Testing Procedures for Alcohol:

For all types of testing situations, a breath test will be used. Federal regulations provide minimum standards for evidential breath testing (EBT) machines and the required training, including calibration of the machine, by a breath alcohol technician (BAT). For post-accident or reasonable suspicion tests where a breath test is not available and time is a crucial factor, a blood test will be allowed.

For alcohol testing, an evidential breath-testing (EBT) device, which has printing capabilities, will be used for determination of the alcohol level. If the initial test indicates a level above 0.02, a confirmatory test will be given within a 20-minute period. These two combined tests are considered the first test.

If an employee tests positive to a breath alcohol test at 0.02 to 0.39 BAC level, he/she will be immediately removed from duty for a minimum of 24-hours. Repeated violations may result in termination. If an employee tests 0.04 or greater he/she will immediately be removed from duty and may be terminated from employment.

Testing Procedures for Controlled Substances:

A urine specimen will be collected in accordance with federal regulations. Setup of the site, room and container size, labeling and other controls on the handling of the specimen are regulated. Donors may not ask the collection agency to deviate from regulated procedures.

Collected urine specimens will be labeled with the donor's identification, appropriately secured, climate controlled, and transported to a laboratory certified by the National Institute for Drug Abuse.

The donor will be required to remain at the collection site until a urine sample (minimum amount of 45 ml) is collected. Collection will be in one container bottle. The specimen will then be subdivided into two bottles, labeled and sealed. For these split sample control measures, the first primary sample will be at least 30 ml and the second sample will be 15 ml. If the primary sample tests positive, the employee may request within 72-hours, the second split sample be tested at a second DHHS certified laboratory. This split sample test is at the employee's expense. This will be explained by the medical review officer during the medical interview. If the split sample analysis fails to reconfirm drug presence, the results of the test are canceled.

Documentation of collection will consist of a seven-part form. Distribution of the form will be:

1. NIDA laboratory copy.
2. NIDA laboratory copy.
3. NIDA laboratory copy (for split sample).
4. Medical Review Officer copy.

5. Donor copy.
6. Collector copy.
7. Carrier copy.

Laboratory test results are transmitted only to the medical review officer. Donor, collectors, and carrier copies will not contain the medical review officer findings or laboratory results. A second collection and subsequent testing may become necessary if:

1. Incorrect procedures are used.
2. Sample is lost or destroyed in transit.
3. Sample is not protected properly.
4. Time span between collection and transport to the laboratory was lengthy.

Positive test results will be communicated by the medical review officer directly to the individual tested via telephone conversation. The driver is required to contact the medical review officer within 24-hours if he/she is not immediately available. The medical review officer is the only one allowed to interpret the test results and notify the employee. The medical review officer will provide appropriate identification to the employee when contacting the employee. The medical review officer will obtain proper identification from the employee before releasing any results. The medical review officer will review the medical history of the donor testing positive and consider the possible alternate medical explanations, and is required to give the donor an opportunity to discuss a positive test result, unless the donor expressly declines the opportunity or the donor fails to contact the medical review officer after a documented contact by the carrier instructing the employee to contact the medical review officer. Following a discussion with a positive donor, or documentation that the donor declined discussion, the medical review officer will issue a final report on the outcome of the controlled substance abuse to the carriers designated person via mail.

The medical review officer is the sole custodian of a donor's controlled substance test results and will retain the records for five years for positive tests. All results maintained by the medical review officer shall not be released to anyone without the donor's written authorization. The medical review officer notification to the driver will include: driver's name, type of test, collection date, time, and location, name of medical review officer, laboratory, and collector, test results and a statement that the procedures were in accordance with federal regulations parts 40 and 382.

CERTIFICATE OF RECEIPT

I, _____, hereby certify that I have received and read a copy of the Controlled Substance and Alcohol testing procedures of Ouray County Road & Bridge Department, and agree to abide by all of the requirements therein.

Date: _____

Signature: _____