RESOLUTION NO. 96-20
BOARD OF SUPERVISORS, COUNTY OF MONO

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS ADOPTING AMENDMENT NUMBER ONE TO THE DEPARTMENT OF TRANSPORTATION MANDATED DRUG AND ALCOHOL POLICY

WHEREAS, effective January 1, 1996, the County of Mono must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991; and

WHEREAS, the County must specifically comply with the regulations of the Federal Highway Administration; and

WHEREAS, adoption of a policy to implement a program of testing for alcohol misuse and controlled substance use by employees with commercial driver's licenses is one of the County's obligations under these regulations; and

WHEREAS, such program is intended to help prevent accidents and injuries resulting from such misuse and use, as well as to reduce the County's liabilities for such accidents and injuries; and

WHEREAS, this policy was adopted by the Mono County Board of Supervisors on January 9, 1996 subject to the meet and confer process with the affected employee association, i.e., the Mono County Public Employees' Association; and

WHEREAS, staff met with the Association on January 29, 1996 and tentatively agreed to the changes outlined on Exhibit "A" effecting minor word changes and clarifications.

NOW, THEREFORE, the Mono County Board of Supervisors does hereby resolve as follows:

1. The Amendment Number One to the Department of Transportation mandated Drug and Alcohol Policy attached hereto as Exhibit "A" and incorporated herein is hereby adopted.

PASSED AND ADOPTED this 19th day of March, 1996 by the following vote:

AYES : Supervisors Alpers, Farnetti, Lawrence, Reid and Rowan.
NOES : None.
ABSTAIN : None.
ABSENT : None.

ATTEST: Gebrita Reed Deputy

NANCY WELLS
Clerk of the Board

BILL REID
Chair
Board of Supervisors

APPROVED AS TO FORM:

Neil McCarroll

COUNTY COUNSEL

MONO COUNTY DRUG AND ALCOHOL TESTING POLICY AND PROGRAM

Effective January 1, 1996

I. INTRODUCTION

This document contains the Mono County policy relating to the Drug and Alcohol Testing Program for certain "safety sensitive" classifications, as required by the United States Department of Transportation Omnibus Transportation Employee Testing Act of 1991.

II. POLICY STATEMENT

Mono County is committed to providing a safe and healthy work environment for all employees, and is dedicated to ensuring dependable and efficient services to the community. To this end, it is the policy of Mono County to:

- Provide a workplace free from the adverse effects of drug and alcohol abuse or misuse;

- Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;

- Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace; and

- Encourage employees to seek professional assistance if drug and/or alcohol abuse or dependency adversely affect their ability to perform assigned duties.

III. SAFETY-SENSITIVE FUNCTIONS

Employees covered by this policy may not be under the influence or in possession of controlled substances or alcohol during on-duty time. "On-duty time" includes any period of time in which the employee is actually performing, ready to perform, or immediately available to perform (on standby or on-call) any safety-sensitive functions. Employees covered by this policy include those individuals who are required to possess a commercial driver's license (Class A or Class B) and drive one of the vehicles described below:

- A vehicle with a gross vehicle weight rating of at least 26,001 pounds or a towed unit with a gross vehicle weight rating of more than 10,000 pounds, towed by a commercial vehicle of any weight rating;

- A vehicle with a gross vehicle weight rating of at least 26,001 pounds;

- A vehicle designed to transport 16 or more passengers, including the driver; or

- A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

The following are safety-sensitive functions performed by safety-sensitive employees:

1) All time at a road yard, facility, or other property, waiting to be dispatched or assigned work, unless the driver has been relieved from duty by the employer.

2) All time inspecting equipment, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

3) All time spent at the driving controls of a commercial motor vehicle in operation.

4) All time, other than driving time, spent on or in a commercial motor vehicle.

5) All time loading or unloading a commercial motor 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.

6) All time spent performing the driver requirements following an accident or after striking an unattended vehicle.

7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

8) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with random, reasonable suspicion, follow-up or post-accident testing.

Appendix A lists the classifications subject to this policy. An employee in one of these classifications may be given a written exemption from this policy signed by the Risk Manager if the employee's job duties do not include performing the "safety-sensitive functions" as described above.

IV. PROHIBITED CONDUCT

Safety-sensitive employees are prohibited from using, possessing, being under the influence of, or offering for sale or distribution any alcohol, controlled substances (illegal drugs and legal drugs without a prescription) while on County premises or on County work time.

A. Controlled Substances

No employee shall be under the influence or in possession of illegal drugs or legal drugs without a prescription when reporting for duty, while on duty performing safety-sensitive functions, while on standby or on-call, or when driving a County vehicle or operating equipment.

An employee using any physician-prescribed drug or medication must notify his/her supervisor before beginning work if the drug or medication could interfere with the safety and effective performance of duties or operation of County equipment or vehicles. The supervisor may request a valid statement from the employee's attending physician regarding the employee's ability to perform work duties or operate vehicles or equipment while taking the prescribed drug or medication. The employee may be required to provide written proof that the prescription is current and in the employee's name.

Violation of these provisions will subject the employee to disciplinary action, up to and including termination from employment.

B. Alcohol Use

No employee may report to duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her blood alcohol concentration is 0.04 or greater.

No employee who has been tested and has been found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions, including operating a vehicle, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

No employee shall use alcohol while on duty, on County premises, in County vehicles, or while performing safety-sensitive functions.

No employee shall use alcohol within four hours of reporting for duty nor during the hours that he/she is on-call or on standby.

No employee shall use alcohol up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.

Violation of these provisions will subject the employee to disciplinary action, up to and including termination from employment.

C. Fitness for Duty

Any employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or unfit for duty as a result of the use of prohibited substances, shall be removed from job duties pending an investigation, to include a drug and/or alcohol test. A drug or alcohol test is considered positive (failed) if the employee is found to exceed the minimum threshold as defined in 49 CFR Part 40.

V. COMPLIANCE WITH TESTING REQUIREMENTS

Participation in the testing program is a condition of employment. Employees who refuse to participate may be subject to termination of employment. Any employee subject to testing and who refuses to comply with a directive for testing, or who provides false information in connection with a test, or who

attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and may be subject to termination of employment. Refusal can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal refusal, obstructive behavior, or physical absence resulting in the inability to conduct a valid test, or leaving the scene of an accident without a valid reason before the test has been conducted.

VI. TESTING REQUIREMENTS

A. Pre-Employment Testing

Applicants who receive a conditional offer of employment for safety-sensitive positions as defined in this policy shall undergo urine drug testing. Applicants who refuse to submit to testing or who do not have a verified negative test will not be hired and are not entitled to a second test or re-test of the specimen. (Pre-employment alcohol testing, currently suspended from implementation by the Department of Transportation, will be implemented in accordance with future federal regulations).

At the discretion of the hiring department, applicants who refuse to submit to testing or who do not have a verified negative test may (1) be removed from the eligibility list, or (2) may be reconsidered for appointment after 90 days have elapsed since the original test was ordered or conducted. Testing or retesting will be required if a new conditional offer of employment is made.

Employees who request to transfer from classifications which are not covered by this policy to classifications which are covered will be required to submit to pre-employment/pre-duty drug and/or alcohol testing. Transferring employees who test positive may, upon request, invoke their rights for confirmation testing as per this policy. However, such request shall not delay the selection process; the employee's eligibility for appointment will be suspended until the confirmation testing process is completed.

B. Random Testing

All employees in safety-sensitive classifications as defined by this policy are subject to random, unannounced testing for alcohol and controlled substances. A random alcohol test will be administered just prior to performing, during the time performing or just after the employee has stopped performing a safety sensitive function.

The County will subject at least 25% of the total number of covered employees to random alcohol testing per year. A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employees may be tested more than once in a year, while others may not be tested at all, depending on the random selection.

The County may conduct its testing program through a consortium with other employers. In that case, the random selection of covered employees to be tested will be based on the total number of employees covered by the consortium membership.

C. Reasonable Suspicion Testing

Covered employees (including supervisors) are required to submit to an alcohol and/or drug test when a trained supervisor or manager has reasonable suspicion to believe the employee or supervisor is under the influence of alcohol or control substances. The observation must be based on short-term indicators, such as blurry eyes, slurred speech, alcohol on the breath, indications of chronic effect of withdrawal of controlled substances, fighting (physical contact), assaults, or flagrant disregard or violation of established safety or security procedures. The supervisor may not rely on long-term signs alone, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

The reasonable suspicion alcohol test must be administered within two hours of the observation. If not, the supervisor or department representative must provide written documentation as to why the test was not promptly conducted. If the test is not administered within eight hours, attempts to administer an alcohol test shall cease and a report prepared and maintained on file.

The employee shall be transported to the test/collection site by a supervisor or manager. Under no circumstances shall an employee requiring reasonable suspicion testing be permitted to drive any vehicle. County personnel shall transport the employee to his/her residence or other appropriate destination after the test.

No employee shall be permitted to perform or continue to perform safety-sensitive functions until: (1) an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or (2) 24 hours have elapsed following the determination that there is reasonable suspicion that the employee has violated Section IV(B) concerning the use of alcohol.

An employee shall submit to a controlled substances test when a trained supervisor or manager has reasonable suspicion to believe that the employee has violated Section IV(A) concerning the use of controlled substances. The determination that reasonable suspicion exists must be based on specific, objective, current, describable facts and observations concerning the appearance, behavior, speech or body odors of the employee, and the observations may include indications of the chronic and withdrawal effects of controlled substances.

A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or manager who made the observations within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Supervisors, employees and department managers with the authority to demand a reasonable suspicion drug and/or alcohol test will be required to attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances use/abuse. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

D. Post Accident Testing

Employees involved in an on-duty accident involving either a fatality or citation for a moving violation arising from an accident shall be required to submit to drug and alcohol testing. This provision applies not only to the operator of the vehicle, but any other covered employees whose performance could have contributed to the accident. In the case of a fatal accident where no citation is issued, each surviving County employee who was performing safety sensitive functions with respect to the vehicle involved will be subject to testing.

An alcohol breath test shall be completed as soon as possible after the accident, but no later than eight hours after the event. An employee must refrain from alcohol use for eight hours following the accident or until he/she undergoes testing.

A urine test for controlled substances shall be completed as soon as possible but no later than thirty-two hours after an event.

The results of a breath or other approved test for the use of alcohol or a urine test for the use of controlled substances which is conducted by State or local law enforcement officials may be substituted for required County post-accident testing, provided such tests conform to applicable laws regarding those tests. However, neither the employee nor the supervisor/manager should assume that such test results will be available, and should ensure that the required tests are obtained under this policy.

The employee shall be transported to the test/collection site whenever possible by a supervisor or manager. Under no circumstances shall an employee requiring post-accident testing be permitted to drive any vehicle. County personnel shall transport the employee to his/her residence or other appropriate destination after the test.

An employee who leaves the scene of the accident without appropriate authorization or a valid reason and prior to submission to drug and alcohol testing shall be deemed to have refused testing and will be subject to disciplinary action, up to and including termination.

Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident, nor prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

Employee accidents that do not involve a fatality or citation may result in reasonable suspicion testing if the criteria for such testing is met.

E. Return-To-duty/Follow-Up Testing

An employee who previously tested positive on drug and/or alcohol tests must test negative and be evaluated and released for duty by the Substance Abuse Professional (SAP) prior to returning to work. Employees will be subject to frequent, unannounced follow-up testing for at least one year (at least six times during the first twelve months) and up to five years, subject to the recommendation of the SAP. Follow-up testing is separate from and in addition to the regular random testing program.

VII. REMOVAL FROM DUTY

No employee shall perform safety-sensitive functions, including driving a commercial vehicle, if the employee has engaged in prohibited conduct as defined by this policy. No supervisor or manager shall permit any employee to perform safety-sensitive functions, including operating a commercial vehicle, if he/she has determined that the employee has engaged in or is reasonably suspected of having engaged in prohibited conduct as defined by this policy.

An employee removed from a safety-sensitive position may use accrued paid leave (i.e. comp time, vacation, sick leave) in accordance with provisions of the personnel rules and the applicable Memorandum of Understanding for the employee's bargaining unit. An employee who is removed from a safety-sensitive position may request leave of absence without pay if no paid leave time is available.

When an employee is removed from a safety-sensitive position as a result of a positive screening test, and the confirmation tests yields a negative test result, the employee may request: (1) restoration of any paid leave used by the employee for the period the employee was removed from the safety-sensitive position; and/or (2) pay at his/her hourly earning rate for any regularly scheduled work hours missed during a period of leave of absence without pay. The rate of pay will be the same paid to the employee as if he/she was on duty.

Nothing in this provision shall preclude the County from proceeding with any disciplinary action regarding the employee, up to and including dismissal.

VIII. TESTING PROCEDURES

A. Sampling Procedures

Analytical urine drug testing and breath testing for alcohol will be conducted as required by Federal regulations. Testing shall be conducted in a manner that assures a high degree of accuracy and reliability, and using techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services. All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40. Appendix B contains information about current threshold limits and testing guidelines.

B. Drugs Tested

Drugs to be tested for are marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP). An initial drug screen will be conducted on each specimen (EMIT), and specimens testing positive may be confirmed using a Gas Chromatography/Mass Spectrometry (GC/MS) procedures. Minimum thresholds for a positive test shall be those established in 49 CFR Part 40.

C. Alcohol Test

Tests for alcohol concentration will be conducted using a National Highway Traffic Safety Administration-approved evidential breath testing (EBT) device operated by a trained breath alcohol technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results. An employee with a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least 24 hours following the administration of the test. An alcohol concentration of 0.04 or greater shall be considered positive and in violation of this policy.

D. Substance Abuse Professional

Any employee who has a confirmed positive drug and/or alcohol test shall be removed from his/her position, informed of available educational and rehabilitation programs, and evaluated by a Substance Abuse Professional (SAP). A SAP is a licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge and clinical experience in the diagnosis and treatment of substance abuse disorders. The SAP will evaluate the employee to determine what assistance, if any, the employee needs to resolve problems associated with prohibited alcohol or substance abuse or misuse.

E. Returning To Duty

If an employee returns to duty following rehabilitation, he/she must pass return-to-duty drug and/or alcohol testing prior to beginning work, and will be subject to unannounced follow-up tests for a period of one year (at least six times during the first twelve months) up to five years, as determined by the SAP. The cost of any treatment or rehabilitation shall be paid by the employee. Employees may use accumulated sick leave, vacation or comp time, if any, to participate in the prescribed rehabilitation program, or request leave of absence without pay. An employee who fails to or refuses to complete the treatment program prescribed by the SAP may be subject to dismissal.

An employee who has a verified positive return-to-work or follow-up controlled substance test or a verified return-to-work or follow-up alcohol test with a result indicating an alcohol concentration of 0.04 or greater may be subject to disciplinary action, up to and including termination.

IX. EMPLOYEE ASSISTANCE PROGRAM

Rehabilitation is the personal responsibility of the employee. Covered employees with drug or alcohol abuse problems are encouraged to seek help to avoid engaging in conduct that would be in violation of this policy. The County has established an Employee Assistance Program (EAP) to provide initial counseling services free of charge for employees and their immediate family members. If the additional professional help is warranted, the employee or family member may be referred to a community agency or other professional for further assistance. Employees should contact their supervisors or the Personnel Department for a brochure which gives additional information about the EAP and telephone numbers of counseling professionals who can be contacted for an appointment.

X. APPLICATION OF THIS POLICY

The County shall assure fair and equitable application of this drug and alcohol program and policy. Therefore, supervisors and managers are required to administer all aspects of this policy in an unbiased and impartial manner. The County of Mono affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

XI. RECORDKEEPING

The Risk Manager will keep the following records for the periods specified. These records will be under the control of the Risk Manager or his/her designee:

A. Results of an employee's alcohol test which indicates an alcohol concentration level of 0.02 or higher; results of an employee's controlled substance test which is positive; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by Substance Abuse Professionals. Retention period: 5 years.

B. Records documenting the collection process for the alcohol and controlled substances test and training of supervisors. Retention period: 2 years.

C. Results of any alcohol test which is less than 0.02; documentation of any negative or canceled drug test. Retention period: 1 year.

XII. COUNTY CONTROL AND ACCESS TO PROPERTY

The County retains the right to enter and inspect all County owned, leased and/or controlled property, including vehicles, even though it has assigned the use of such property to a particular employee.

All County owned, leased and/or controlled property, including but not limited to its vehicles, offices, desks, and lockers, are subject to search without the consent of the employee and without a search warrant for business necessity and/or reasonable suspicion purposes.

XIII. CONTACT PERSON

Any questions regarding this policy should be direct to the Risk Manager:

Risk Manager
P.O. Box 497
Bridgeport, CA 93517
Telephone: (619) 932-5220

APPENDIX A - County Classifications Subject to Testing*

Public Works Maintenance Worker I, II, III

Public Works Maintenance Supervisor

Equipment Shop Leadworker

Equipment Mechanic I, II

Equipment Shop and Purchasing Supervisor

* Includes full-time, part-time and extra-help employees.

APPENDIX B

Controlled Substances Testing Thresholds

When drug screening is required under the provisions of the County's Drug and Alcohol Testing Policy, a urinalysis test will be given to detect the presence of the following drugs:

Drug	Screening Cutoff	Confirmation Cutoff
Cannabinoids as Carboxy-(THC)	100 ng/ml	15 ng/ml
Cocaine Metabolites as Benzoylecgonine	300 ng/ml	150 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Opiates (codeine/morphine)	300 ng/ml	300 ng/ml
Amphetamines (amphetamine-methamphetamine)	1000 ng/ml	500 ng/ml

The threshold levels that are used to determine when a drug screen is positive are shown above, and have not been established as levels above which a person is considered under the influence. The procedure for screening specimens are immunoassay (EMIT). If the screening test is positive for one or more drugs, a confirmation test will be performed using the gas chromatography/mass spectrometry (GC/MS) procedure. Both procedures are the industry standard of the Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratories (formerly NIDA). Panel 5 drug screen will be used for all testing.

If the primary screening test indicates the presence of a controlled substance(s), the employee has 72 hours to request that the split specimen be analyzed by a different certified lab. If the result of the test of the split specimen fails to reconfirm the presence of the controlled substance(s), the test will be canceled, meaning the final result of testing is neither positive nor negative.

ALCOHOL TESTING THRESHOLDS

The rules require breath testing using evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The employee and the individual conducting the breath test, a Breath Alcohol Technician (BAT), complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if .PA

required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. In the event the screening and confirmation test results are not identical, the confirmation test result is considered to be the final result upon which any action will be based.