

ADMINISTRATIVE PROCEDURES

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County Administrator

SUBJECT: **DRUG AND ALCOHOL TESTING FOR CDL DRIVERS**

DEPARTMENT RESPONSIBLE: **FINANCE AND RISK MANAGEMENT**

1. **PURPOSE**

Congress passed the Omnibus Transportation Employee Testing Act of 1991 (OTETA) in order to enhance highway transportation safety. The Omnibus Transportation Employee Testing Act and Title 49 of the Code of Federal Regulations (CFR) Part 40 and Part 382, and following, require employers of drivers of commercial motor vehicles to test those drivers for the prohibited use of alcohol and controlled substances. The Federal Highway Administration (FHWA) is the federal agency that oversees the federal regulations that mandates alcohol and drug testing for employees requiring a Commercial Driver's License (CDL) and defined as safety sensitive.

2. **SCOPE**

As required by Title 49 CFR and FHWA, this Administrative Procedure explains Pima County's procedures governing drug and alcohol testing for employees who are required to hold a Commercial Driver's License and in a safety sensitive position. This procedure impacts any County department with an employee that is required to operate a commercial motor vehicle in accordance with their job position. This procedure does not cover a County employee who may possess a CDL, but the CDL is not related to the employee's Pima County job requirements.

This procedure outlines the procedures for the County's drug and alcohol testing program, assigns responsibility, and details the steps to be followed by managers, supervisors, and covered employees. It also identifies when disciplinary action may be appropriate for employees engaged in drug or alcohol related prohibited conduct.

3. **DEFINITIONS**

3.1. **Accident** - For all County employees an accident is defined as an event causing bodily injury or property damage triggered by an impact occurring between a vehicle and another vehicle, a person, animal, road debris, or fixed object. In this procedure, post-accident drug and alcohol testing is mandatory if the accident involves a County commercial motor vehicle in which there is either a (1) fatality or (2) the CDL driver receives a citation for a moving violation and there is either (a) an injury requiring treatment away from the scene or (b) a vehicle required to be towed from the scene.

3.2. **Commercial Driver's License (CDL)** - a driver's license required to operate any vehicle or combination of vehicles in excess of 26,001 lbs, (GVWR); a

vehicle that is designed to carry 16 or more passengers, (including driver); or any size vehicle which is used in transportation of placardable amounts of hazardous materials.

- 3.3. **CDL Drug/Alcohol Testing Program Manager** – The designated Risk Management employee who administers the CDL drug and alcohol testing program for the County and receives test results and coordinates drug and alcohol testing with the Designated Employer Representative. The CDL Drug/Alcohol Testing Program Manager acts as a single point of contact for questions regarding administration of the testing program and the regulations detailed in Title 49 CFR Part 40, Part 382 and Part 383.
- 3.4. **Controlled Substance** – as defined by FHWA, and for purposes of this procedure, means marijuana metabolites, cocaine metabolites, opiates (codeine, morphine and heroin), amphetamines, methamphetamine, phencyclidine (PCP), or other metabolites. The terms controlled substances and drugs include legal substances obtained illegally or used in an unauthorized manner, but do not refer to the proper use of controlled substances authorized by law which do not affect job safety or performance.
- 3.5. **County Physician** – A physician approved by Risk Management to provide occupational medical services to Pima County to include drug testing services. The County Physician is certified as a Medical Review Officer (“MRO”) that reviews laboratory confirmed positive drug tests to determine if there is a legitimate medical explanation for the result and reports the test results to the County.
- 3.6. **Designated Employer Representative (DER)** – is a departmental employee who has been authorized in writing by the department Director to receive communication and test results from the CDL Drug/Alcohol Testing Program Manager; and who is authorized to take immediate actions to have an employee removed from safety sensitive duties.
- 3.7. **Drug Test** – The National Institute on Drug Abuse (NIDA) Drug Screen is regulated by the Federal Government and the drug screen includes testing for marijuana, cocaine, phencyclidine, amphetamines and opiates. A NIDA drug screen is required for all CDL drivers as outlined in this procedure.
- 3.8. **Medical Certification** – Meeting minimum medical requirements in accordance with FHWA guidelines through a physical examination by the County Physician.
- 3.9. **Medical Review Officer (MRO)** – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results. The County Physician who provides occupational medical services to Pima County is licensed as an MRO.
- 3.10. **Reasonable Suspicion** – a manager’s or supervisor’s belief that the CDL driver has violated the alcohol or controlled substances prohibition, based on specific contemporaneous, articulable observations concerning the appearance,

behavior, speech or body odors of the driver. Only those supervisors, managers, or directors who have undergone training in accordance with Title 49 CFR shall determine reasonable suspicion.

- 3.11. **Safety Sensitive** – The County defines all positions requiring a CDL to be performing safety sensitive functions. Briefly, Title 49 CFR. § 382.107 defines safety sensitive functions to include driving, loading, repairing, or servicing, all time in or on a commercial motor vehicle, except resting time, supervising these activities, or getting ready to do these activities. The County considers all CDL holders to be performing safety sensitive functions, or about to be performing safety sensitive functions, any time they are on duty regardless of how often they use their CDL.
- 3.12. **Split Specimen Collection** – A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
- 3.13. **Substance Abuse Professional (SAP)** – A professional (doctor, certified psychologist, social worker, etc.) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance disorders. The professional must be certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (49 CFR §382.107). The SAP evaluates employees who have violated the drug and alcohol regulations and makes recommendations concerning education, treatment, follow-up testing, etc. The SAP also determines if the employee demonstrates successful compliance with the recommended education and treatment.
- 3.14. **Title 49 CFR** – Refers to the regulations under the Omnibus Transportation Employee Testing Act of 1991 (OTETA) in order to enhance highway transportation safety. The Omnibus Transportation Employee Testing Act and Title 49 of the Code of Federal Regulations (CFR) Part 40 and Part 382, and following, require employers of drivers of commercial motor vehicles to test those drivers for the prohibited use of alcohol and controlled substances

4. **DEPARTMENTAL RESPONSIBILITIES**

- 4.1 A drug and alcohol free workplace shall be maintained through the efforts and personal example of management.
- 4.2 Managers shall direct employees in designated safety sensitive positions to comply with the provisions for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing in accordance with the FHWA rules.
- 4.3 When an employee tests positive, or refuses a test, the department's DER will be contacted by Risk Management's Program Manager and the department must immediately remove the employee from any safety sensitive functions. A positive test occurs if an alcohol test result indicates a 0.02 or more alcohol concentration or a verified positive drug test result.

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- 4.4 The department shall not allow an employee who tested positive or refused a test to perform safety sensitive functions again until successfully completing the SAP return-to-duty process, described below.
 - 4.5 Managers and supervisors who supervise CDL drivers shall participate in the reasonable suspicion training provided by Risk Management.
 - 4.6 Supervisors are responsible for determining through direct observation whether an employee is capable of performing his or her assigned duties. Determinations shall be documented and based on specific, contemporaneous, articulable, reliable observations concerning the appearance, behavior, speech, or body odors of the employee (Appendix C).
 - 4.7 No supervisor having knowledge that a CDL driver in a safety sensitive position has used alcohol within four (4) hours shall permit that employee to perform the safety sensitive job functions.
 - 4.8 Managers and supervisors are encouraged to discuss with employees any behavior or job performance factors that may indicate the use of drugs, alcohol, or other violations of this procedure and to suggest, when appropriate, that employees seek assistance through the Employee Assistance Program (EAP).
 - 4.9 Departmental DERs shall report to Risk Management Program Manager within one business day any changes to the list of CDL drivers or CDL positions within the department. The department will notify Risk Management regarding new hires.
 - 4.10 Departmental DERs shall provide applicants hired into CDL positions with the Release of Information Form – 49 CFR Part 40 Drug and Alcohol Testing (Appendix A) and forward the signed release to both the employee's previous employer(s) within the last two years and also forward a copy of the form to Risk Management.
 - 4.11 Department DERs shall provide employees hired into CDL positions with a copy of this procedure and a Receipt and Certification Form (Appendix B). The Department DER shall forward a signed copy of this form to Risk Management.

5. RISK MANAGEMENT RESPONSIBILITIES

- 5.1 Manages the CDL Drug and Alcohol Testing Program to include providing reasonable suspicion training to supervisors and managers.
- 5.2 Provides driver educational materials to each CDL driver in the County CDL program to include materials that explain the regulations and corresponding procedures.
- 5.3 Maintains a list of all County positions and County drivers that require a CDL and maintains a list of all employees that are assigned the DERs responsibilities within the departments.

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- 5.4 Communicates with County Physician, SAP, departments and employees as outlined in this procedure.
 - 5.5 Provides a list of SAP evaluation services to an employee who has tested positive or refused a test.
 - 5.6 Communicates a positive test result to a department so the employee can be removed from any safety sensitive functions.
 - 5.7 Informs a department once an employee has received a SAP evaluation and the employee has successfully complied with the SAP's evaluation recommendation and thus has been cleared to perform safety sensitive functions.
 - 5.8 Ensures for pre-employment and return-to-duty testing, that the appropriate people have been informed of the specific date, time and location of the test.
 - 5.9 Ensure test results are attributed to the correct driver by requiring County Physician to confirm driver identity through review of a U.S. state issued driver's license.

6. CDL DRIVER RESPONSIBILITIES

- 6.1 All employees in, or applicants for CDL positions must participate in the drug and alcohol testing program as a condition of employment. Failure to participate and comply with program requirements may result in disciplinary action up to and including termination of employment as outlined in the County's Merit System Rules and Personnel Policies.
- 6.2 Employees shall make themselves be available and participate in the testing protocol in a timely manner.
- 6.3 When an employee is required to be tested for controlled substances or alcohol (or both), the employee must stop all safety sensitive duties and immediately proceed to the designated County occupational clinic.
- 6.4 An employee shall not refuse a test required under this procedure. See Section 9 for examples of refusals to submit to a test.
- 6.5 It is the responsibility of an employee on prescription medication or over-the-counter medication, which has the potential to impair performance, to consult with the employee's physician regarding its effects on the ability to perform the job functions. An employee may be required to have the employee's physician certify to the CDL Drug/Alcohol Testing Program Manager or the County's MRO that the controlled substance does/does not adversely affect the employee's fitness for duty.
- 6.6 It is the employee's responsibility to read and ask questions regarding this and any related procedures.

7. EMPLOYEE PROHIBITED CONDUCT

As required under the FHWA, this section of the procedure outlines the alcohol and controlled substance-related activities that are prohibited under this County procedure and the FHWA drug use and alcohol misuse rules for drivers of commercial motor vehicles (CMV):

- 7.1 Employees shall not use, sell, distribute, dispense, possess, or manufacture any alcoholic beverages or illegal drugs or any other intoxicating substance on a job site or County property while on duty, or while in a County vehicle, a vehicle leased for County business, or a privately owned vehicle being used for County business.
- 7.2 Employees shall not report for duty or remain on duty when the driver has used any controlled substance, except when instructed by a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV.
- 7.3 Employees shall not report to work unfit for duty at the beginning of a shift or upon returning from any break, lunch or rest period, as a result of consuming alcohol, illegal drugs, or other intoxicant. Further, no employee notified of being in a safety sensitive position as defined in this procedure shall report to work in a condition that violates the 1991 Omnibus Transportation Act and FHWA corresponding rules.
- 7.4 Employees shall not refuse to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, return-to-duty or follow-up testing.
- 7.5 Employees are not to perform safety sensitive functions after an alcohol test result indicating a 0.02 or higher alcohol concentration or a positive drug test result.
- 7.6 When subject to post accident testing, employees shall not consume alcohol before testing is completed or for 8 hours following an accident, whichever is first.
- 7.7 Employees shall not use alcohol within four (4) hours prior to performing safety sensitive functions.

8. OVERVIEW OF REQUIRED DRUG AND ALCOHOL TESTS

Title 49 of the Federal regulations requires six types of testing: (1) pre-employment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return-to-duty, and (6) follow-up testing of drivers for the use of alcohol or controlled substances.

In order for employees to recognize the circumstances which may initiate these tests, the following list and short overview of the tests are provided. Risk Management will provide additional information on the testing procedures to persons new to the program or upon inquiry.

- 8.1 **Pre-employment Testing** - The FHWA rules require that all applicants for employment in positions requiring a CDL or individuals being transferred into such positions must be given a pre-employment drug test. Applicants may not be hired or assigned to a safety sensitive function unless they complete and pass the test. Prior to conducting the test, departments must inform the applicant or employee of the testing requirements. Further, applicants may be required to sign a document acknowledging that they know they are subject to testing. A post-offer candidate shall complete the Release of Information Form 49 CFR for processing by the County (Appendix A).
- 8.2 **Reasonable Suspicion Testing** - The FHWA rules require that an employee in a safety sensitive position must be directed to undergo alcohol and/or drug testing when the trained manager or supervisor has reasonable suspicion to believe that the employee has used a prohibited drug or has misused alcohol in violation of OTETA and FHWA regulations. The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable, reliable observations concerning the appearance, behavior, speech, or body odors of the employee. See Appendix C for the County form that must be completed by the manager or supervisor to document the employee's referral for testing.
- 8.3. **Post-Accident Testing** - The FHWA rules provide that as soon as practicable following an accident, tests for alcohol and controlled substances shall be administered to employees performing safety sensitive functions if the accident involved either a (1) fatality or (2) the CDL driver receives a citation for a moving violation and there is either (a) an injury requiring treatment away from the scene or (b) a vehicle required to be towed from the scene. See accident envelope in County glove compartment for additional post-accident instructions.

Drug and alcohol tests shall be performed as soon as possible following the accident, but, for drug tests, no later than thirty-two (32) hours following the accident, and for alcohol tests, no later than eight (8) hours. If an alcohol test is not administered within two (2) hours following the accident, the department must still attempt to administer the test, and must also prepare and maintain a record stating the reason(s) the test was not promptly administered. If an alcohol test is still not administered within eight (8) hours following the accident, the department shall cease attempts to administer an alcohol test and shall forward to the Risk Management Program Manager the record of the reasons the testing was not completed.

A safety sensitive employee shall not use alcohol for eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first.

The requirement to test for alcohol and drugs following an accident shall in no way delay necessary medical attention for injured people or prohibit a safety sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.

- 8.4. **Random Testing** - The FHWA rules require that safety sensitive employees be subject to random drug and alcohol testing. The selection of employees for random alcohol and drug testing shall be made by a scientifically valid random number selection method. The selection process shall assure that each employee shall have an equal chance of being tested each time selections are made. The test dates shall be spread reasonably throughout the year with no established pattern. Testing will be unannounced as well as random.

The Risk Management Program Manager will contact the department's DER with the name(s) of the employee(s) to be tested that day. Once the employee has been notified that he or she has been selected for random testing, the employee shall report immediately to the collection site (Occupational Clinic). Employees shall be individually and discretely notified by the department's DER to report to the collection site and they shall be assured that they have been selected for a routine test.

- 8.5. **Return-to-Duty Testing** - Before any employee is allowed to return-to-duty to perform a safety sensitive function following a verified positive drug test result, an alcohol result of 0.04 or greater, or a refusal to submit to a test, the employee must undergo a return-to-duty test. The return-to-duty alcohol test result must indicate an alcohol concentration of less than 0.02. The return-to-duty drug test result must indicate a negative result for controlled substance.

Before a return-to-duty test is performed, the employee must be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee may need and shall determine whether the employee has followed recommendations by a substance abuse professional (SAP) including participation in any rehabilitation program. FHWA rules require that all return-to-duty tests be conducted under direct observation.

- 8.6. **Follow-up Testing** - Once allowed to return-to-duty, an employee shall be subject to unannounced follow-up testing for at least twelve (12), but not more than sixty (60), months. The frequency and duration of the follow-up testing will be recommended by a substance abuse professional (SAP) as long as a minimum of six (6) tests are performed during the first twelve (12) months after the employee has returned to duty. Employees subject to follow-up testing must also remain in the standard random pool. FHWA rules require that all follow-up tests be conducted under direct observation.

9. REFUSAL TO SUBMIT TO A TEST

9.1 The actions or behaviors discussed below shall constitute a refusal to submit to a required test.

9.1.1 Failure to remain readily available for post-accident testing for eight (8) hours or until the employee undergoes testing, whichever occurs first.

9.1.2 The table below lists other examples of events considered to be refusals by the federal regulations. More examples of refusals can be found in Title 49 CFR.

Employee Refusal Event	Regulation Instructions
Fail to appear for a drug or alcohol test when directed to report.	If the employee did not get to the site or spent too much time getting there, it is a refusal.
Fail to remain at the site to have drug or alcohol test done.	If it is reported by the collection site that the employee left the site before the testing process was complete, it is a refusal.
Fail to provide a urine sample or, for an alcohol test, adequate amount of saliva or breath.	If it is reported by the collection site that the employee left the collection site before providing a required sample, it is a refusal.
Fail to provide a sufficient amount of urine or, for an alcohol test, adequate amount of saliva or breath.	If the MRO finds that there was no medical reason for the employee to provide an insufficient amount of urine or for breath for an alcohol test, it is a refusal.
Fail to undergo a medical examination or evaluation as MRO or County has directed.	If the employee does not go in for a medical evaluation or does not permit it to occur, it is a refusal.

9.2 Consequences of a Refusal

9.2.1 Refusal or failure to submit to a required alcohol or drug test, as defined in this procedure, constitutes a failed test. It is not considered a positive test.

9.2.2 A failed test results in immediate removal of the employee from safety sensitive duties and appropriate disciplinary action for the refusal up to and including termination as outlined in Merit Rule 12.1.C Disciplinary and Other Personnel Actions and Personnel Procedure 8-119 (Violation of the Rules of Conduct).

9.2.3 An employee who is not terminated by the department shall follow Section 18 in this procedure

10. CDL DRIVERS RETURNING TO FULL DUTY

- 10.1 If for any reason, an employee has been unable to perform CDL duties because of impairment related to a physical or mental injury or disease, the employee will be required by the County to complete medical certification. Once the employee is medically released to full duty by the treating physician, the department DER will refer the employee to Risk Management for scheduling of the physical with the County Physician.
- 10.2 If for any reason, the CDL driver has not participated in the County's random controlled substance testing program for 30 days, the employee will be required to undergo pre-employment testing for controlled substances (FMCSA §382.301).
- 10.3 Risk Management Program Manager will contact the County Physician to schedule the physical and, when required, pre-employment testing. The physician will notify Risk Management of the results of the testing and whether there are any issues arising from the recertification process.

11. PRESCRIPTION DRUGS

- 11.1 Taking prescribed medications and performing the DOT safety sensitive functions is not prohibited by FMCSA drug and alcohol regulations but review of prescribed drugs is part of the CDL physical. CFR 49 §382.213.
- 11.2 The employee must meet the following minimum standards:
- 11.2.1 An employee taking multiple medications will need to report the use of prescription drugs that may impact safety sensitive job performance.
- 11.2.2 The medicine is prescribed to the employee by a licensed physician, such as the employee's personal doctor. The substance is used at the dosage prescribed or authorized.
- 11.2.3 The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties. To assist the doctor, the employee can provide his or her Physical Description Questionnaire (PDQ) form describing, in detail, the physical requirements of the job to the doctor.
- 11.2.4 The employee may be allowed to perform job duties while using prescribed medications if the employee's health care provider advises, in writing to Risk Management or the MRO, that the substance will not adversely affect the employee's ability to operate a vehicle requiring a CDL. Final approval may be subject to review by the MRO.
- 11.2.5 If the employee is being treated by more than one physician, the employee must show that at least one of the treating physicians has been informed of all the prescribed and authorized medications and has

determined that the use of the medications is consistent with the safe performance of the employee's duties.

12. CONSEQUENCES OF PROHIBITED CONDUCT

- 12.1 In the case of applicants, if the post-offer candidate has a positive test, the offer of employment shall be withdrawn. The applicant may reapply after one year and must provide evidence of successfully completing a treatment program and pass the pre-employment drug test.
- 12.2 An employee who has a verified positive drug test result or who has engaged in prohibited alcohol conduct must be immediately removed from safety sensitive functions. If the employee continues employment with Pima County, the employee shall not be allowed to perform safety sensitive functions until the employee has been evaluated by a substance abuse professional as outlined in Section 18.
- 12.3 Section 18 of this procedure outlines the **process** for an employee to continue to work for the County during either evaluation or treatment or both. Any subsequent verified positive drug test or alcohol prohibited conduct will result in disciplinary action up to and including termination of employment.
- 12.4 Federal rules governing safety sensitive positions determine the provisions of drug and alcohol testing related to accidents. Any work-related accident or injury involving County vehicles, equipment or property where it can be demonstrated that the use of alcohol, drugs, or other intoxicants was a contributing factor, may result in disciplinary action up to and including termination of employment.

13. DRUG TEST RESULTS

- 13.1 Test Results Reported by MRO
 - 13.1.1 Pima County Risk Management shall secure the services of a County Physician to act as the County's Medical Review Officer (MRO) who shall provide reporting in accordance with Title 49 CFR.
 - 13.1.2 When the MRO is doing a controlled substance test, it will include split specimen collection and analysis.
 - 13.1.3 Prior to providing Risk Management with a "positive" result, the MRO will make every reasonable effort to first confidentially contact the employee. If unable to confidentially contact the employee, the MRO shall contact the Risk Management Program Manager who will have the driver immediately contact the MRO. The driver must contact the MRO within 24 hours of being notified by the Risk Management Program Manager.
 - 13.1.4 The employee has 72 hours after being notified of a positive test result to have the second sample tested in accordance with the split sample collection procedure in place. The employee must make this request to the MRO at the time the employee has been informed of the initial

positive result. The employee is responsible for the cost associated with split sample testing; however, in no way shall the testing of the split sample be delayed by the employee's inability to pay.

13.1.5 Risk Management will provide written notification of any positive results to the employing department.

13.2 Confidentiality of Test Results

13.2.1 Employee alcohol and drug testing results and records are maintained under strict confidentiality by Pima County Risk Management, the drug testing laboratory, the alcohol testing facility, and the MRO. The results cannot be released to any other party except to a substance abuse professional without the written consent of the employee.

13.2.2 Exceptions to these confidentiality provisions are limited to a decision maker in arbitration, litigation, or administrative proceedings arising from a positive drug test or other violation of these rules.

14. LICENSE RENEWALS

Medical examinations required for the renewal of a current employee's CDL shall be performed by the County Physician designated as the MRO. The employing department must schedule this examination through Risk Management.

During the scheduled examination with the County Physician, the employee will be required to provide health history information by completing the D.O.T. Medical Examination Report and certify the information by attesting to the following: *"I certify the above information is complete and accurate. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Exam Certificate."* Employees found to have violated the attested statement shall have their certificate invalidated.

If the employee does not successfully pass the examination, or has the certificate invalidated, the employee shall not continue in a safety sensitive position until cleared to do so by the County Physician. The fee related to the renewal examination is paid for by the County. Any fees associated with getting a CDL reinstated will be the sole responsibility of the employee.

15. TRAINING AND RECORD RETENTION

15.1 Supervisors who make reasonable suspicion determinations must receive training on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse. Supervisors shall be instructed on the principle of the "reasonable prudent individual" in reasonable suspicion decisions. The training and the related training records are the responsibility of Risk Management.

15.2 Title 49 CFR Part 40 outlines the controlled substance and alcohol test records that must be completed and maintained, where they must be maintained and the duration they must be kept by the County. All records must be maintained in a

secure location with controlled access. Only employees with an official 'need to know' have access to these records. By law, all records must be accessible by officials of the FHWA within 2 days of a request. Those records which are not in Risk Management's possession are accessible by Risk Management within 2 days of a request.

16. EMPLOYEE VOLUNTARY SELF-IDENTIFICATION

16.1 **Self-Referral:** An employee who admits to alcohol misuse or drug abuse to a substance abuse counselor through an EAP or other program or to an immediate supervisor, and who has not violated the testing requirements of this procedure, is not subject to adverse action provided:

16.1.1 the admission is in accordance with this procedure,

16.1.2 the employee does not self-identify in order to avoid testing under the requirements of this procedure,

16.1.3 the employee does not perform a safety sensitive function until the administrator or designee is satisfied the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program,

16.1.4 the employee does not self-identify in order to avoid discipline for violation of other County policies (e.g. HR Procedure 8-119 Rules of Conduct),

16.1.5 the employee receives a referral to counseling or a drug rehabilitation program in accordance with this procedure.

16.2 The employee must be released by a Substance Abuse Professional (SAP), a licensed mental health professional or a health care provider before returning to work.

17. SUPERVISOR OR MANAGER REFERRAL

17.1 A supervisor or manager may refer an employee to the EAP Program when the employee is exhibiting risky behavior but it does not rise to reasonable suspicion. The County EAP program will refer an employee who requests assistance to counseling or when needed an alcohol or drug rehabilitation program.

17.2 An employee will be allowed reasonable opportunity to seek evaluation, education or treatment to establish control over the alcohol or drug problem.

17.3 Refer to Section 18 for additional information for an employee undergoing evaluation or treatment.

17.4 The employee must be released by a Substance Abuse Professional (SAP), a licensed mental health professional or a health care provider before returning to a safety sensitive position.

18. EMPLOYEE UNDERGOING EVALUATION OR TREATMENT

- 18.1 If the discipline is less than termination, an employee who violated this procedure shall be referred to an SAP and participate in rehabilitation as prescribed by the SAP and eventually return to work in a safety sensitive position.
- 18.1.1 The employee must be evaluated by the SAP within two weeks of receipt of the SAP referral letter from Risk Management or make other arrangements with Risk Management. (Appendix D)
- 18.1.2 If the employee chooses not to participate in a rehabilitation program, the employee is subject to disciplinary action up to and including termination.
- 18.1.3 The employee must successfully complete the rehabilitation program in a timely manner, as prescribed by the SAP, or be subject to disciplinary action up to and including termination.
- 18.1.4 An employee undergoing evaluation and treatment may be temporarily reassigned to alternate duties, excluding safety sensitive functions. The employee must be qualified for the temporary position and a position must be available.
- 18.1.5 Employees who are offered the opportunity to continue employment with Pima County after a positive test must sign a Return to Work Agreement and adhere to procedures set out in 18.2.

18.2 Return to Work

- 18.2.1 To eventually return to a CDL position after a positive test, the employee must sign and agree to conditions as set forth in the Return to Work Form. Risk Management can provide to the Department a sample Return to Work Form that outlines the provisions in this section.
- 18.2.2 An employee in a rehabilitation program will be subject to continuing care that includes ongoing, unannounced, follow-up testing as defined by the SAP for a period of one to five years. The employee will be subject to immediate termination if he/she tests positive a second time, violates the Return to Work Form, or violates any portion of this procedure.
- 18.2.3 Prior to the employee returning to safety sensitive functions, the employee will undergo a return to duty alcohol and/or drug test. The drug test must be a verified negative test result. The alcohol test result must be 0.02 or less. Alcohol and/or drug testing must be administered under direct observation.
- 18.2.4 Following the return-to-duty test, the employee is subject to follow-up testing pursuant to the recommendation of a SAP. The follow-up testing must also be administered under direct observation.

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- 18.2.5 The employee must be tested for alcohol and/or drugs a minimum of six times in the next 12 months or as many as thirty times in a total of 60 months pursuant to the recommendation of a SAP. During the period of follow-up testing, the employee is also in the random program.
 - 18.2.6 Employees who fail to successfully complete this program may be subject to discipline, up to and including termination.
 - 18.2.7 An employee seeking evaluation or treatment may apply for leave under the Family and Medical Leave (FML) procedure and should contact Human Resources for more information.
 - 18.2.8 The financial obligation of the SAP evaluation and the treatment recommended by the SAP is the employee's responsibility. The EAP or the employee's health coverage may be utilized.

19. AVAILABILITY OF PROCEDURE AND RESOURCES

- 19.1 A copy of this Administrative Procedure and appendices must be available at each work site where there is a CDL driver. All employees in a CDL position are to be provided a copy of this procedure by the DER upon hire into a CDL position.
- 19.2 At the time the employee is provided a copy of the procedure and related information, the employee is to sign a statement certifying that the employee has received a copy of this procedure and related procedures. The DER shall provide a copy of the signed statement to Risk Management and Risk Management will maintain the documentation. (Appendix B)
- 19.3 The employee has the responsibility to read and be familiar with this procedure.
- 19.4 Any questions that may arise from employees, supervisors or managers concerning the requirements of this procedure and the related Federal Regulations should be directed to the Risk Management CDL Program Manager, who can be reached at 520-724-4477.
- 19.5 Risk Management will provide updated material on the Risk Management intranet website under "CDL Program" and will provide periodic training whenever there are significant changes in the program.
- 19.6 Additional information about the effects of alcohol misuse and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; and available methods of intervening when an alcohol and/or controlled substance problem is suspected can be found on the Risk Management intranet.

Appendix B

**PIMA COUNTY
DEPARTMENT OF FINANCE & RISK MANAGEMENT**

RISK MANAGEMENT DIVISION
130 W. CONGRESS ST., 9TH FLOOR
TUCSON, ARIZONA 85701-1317
(520) 724-4478

DEPARTMENT HR REP: PLEASE PROVIDE THE ATTACHED PACKET TO NEW HIRE CDL DRIVERS
RETURN SIGNED FORM TO RISK MANAGEMENT.

Please email completed form to OccMed@pima.gov or fax to (520) 791-6516. This is a secure fax line.

Receipt & Certification

You have accepted a position with Pima County which requires you obtain and/or maintain a Commercial Driver’s License (CDL). As a CDL driver you will be performing safety-sensitive functions. As such, you are required to complete a drug and alcohol course before performing any safety-sensitive duties in accordance with 49 CFR Part 382.601(b)(1-1).

You will receive notification once you have been enrolled in the on-line training. You must successfully complete the training. If you do not have access to a computer in your workplace you may complete the training in the computer lab at Mission Road.

I, _____, in accordance with 49 CFR Part 382.601 (b)(1-10), have received materials relating to Pima County’s adherence and implementation of 49 CFR Part 382, Subparts A-F.

I further certify that I have read and agree to the following (check all):

_____ I will complete the *Skillport* Online Drug and Alcohol Training Course prior to performing any safety-sensitive duties.

_____ I have been provided with Pima County Administrative Procedure 30-9 – Commercial Driver’s License Drug Testing Program.

_____ I have been provided with Notification of a Reportable Event Form, on which I shall self-report any traffic violation I received, regardless of the type of vehicle driven during the violation.

_____ I have been informed of the name of the person designated by Pima County to answer questions about 49 CFR Part 382, Subparts A-F.

Employee Signature

Signature – CDL Program Manager

Date signed

Program Manager
Pima County - Risk Management

Employee EIN

Appendix C: Pima County Reasonable Suspicion Record

Reasonable Suspicion Record

Employee Name EIN Number

From: am/pm To: am/pm Location Observation Time Observation Date

Reasonable suspicion of current use or impairment by: Alcohol Drugs Both

Cause for Suspicion

Appearance

- Normal Flushed Puncture Marks Disheveled Bloodshot Eyes Tremors Dilated/Constricted Pupils Profuse Sweating Dry-Mouth Runny Nose/Sores/Frequent Sniffing Inappropriate Wearing of Sunglasses Odor of: Other:

Behavior: Speech

- Normal Incoherent Slurred Silent Confused Slow Loud Whispering/Soft Inappropriate Comments Other:

Behavior: Awareness

- Normal Confused Euphoria Lethargic Disoriented Other:

Behavior: Other

- Mood Swings Poor Memory Secretive Aggressive/Violent Paranoid/Distrustful Disruptive Unsafe Acts Excessive Fatigue Poor Comprehension Poor Performance Presence of drug paraphernalia Other:

Motor Skills: Balance and Walking

- Normal Swaying Stagger/Stumbling Head Bobbing Falling Arms Raised For Balance Reaching For Support Wide Based Gait Other:

Motor Skills: Other

- Dropping Objects Lack of Coordination Slowed Reaction Time Over Reaction Other:

Other Observable Actions of Behavior (Specify):

Check if the following conditions are met:

- Observations are specific, current, and describable and based on the appearance, behavior, speech, or body odors of the individual. Testing observations are made during, just preceding, or just after the individual is required to be in compliance with DOT regulations or County policies.

If unable to conduct an alcohol test within 2 hours of reasonable suspicion determination, state reasons:

If unable to conduct an alcohol test within 8 hours of determination to test, cease attempts to test and state reasons:

Supervisor's Name Signature Date

Comments and/or corroboration by Administrator or designee:

Administrator or Designee Signature Date

Steps to Performing a Reasonable Suspicion Test

- Identify problem and observe.
- Document your findings as soon as possible.
- Confirm your findings with Administrator or designee.
- Administrator/designee and supervisor discuss findings with employee.

(From this point on the employee is not to be left unattended.)

- Meet with employee in private.
 - Tell employee what was observed and observed to be abnormal.
 - Ask employee, why he/she appears abnormal.
 - Act on medical concerns immediately.
 - Tell employee, supervisors are required to act when there is reasonable suspicion to believe the County's &/or DOT's drug &/or alcohol prohibitions have been violated.
 - Inform employee that County policy requires testing.
 - Inform employee of the consequences of a non-negative or refusal to test.
 - Maintain confidentiality.
- Testing (drug and/or alcohol)**
 - Arrange escort/transport of employee to collection site.
 - Arrange escort/transport of employee to home.
 - Employee remains off duty until test results back.

Remember to remove employee from work area as soon as is necessary to maintain safety of employee and others.

Final Supervisor Comments: _____

Contact one of the following to arrange for testing:

1. Risk Management: During working hours (Weekdays: 7:30 am – 5pm) 724-4477
2. After hours or Weekends: Risk Management Emergency number: 724-3000

**Appendix D: Pima County
SAP Evaluation Letter**



Date

Employee Name
Employee Address (or Hand Deliver)
Employee City, State, Zip

RE: SAP Evaluation

Dear Mr./Mrs XXXX,

Federal Law requires that any CDL driver testing positive for a drugs and/or alcohol be evaluated by a Substance Abuse Professional (SAP) and complete any treatment programs recommended by the SAP before returning to safety sensitive functions.

Your Department is giving you the opportunity to retain your position with Pima County, however, you must comply with all requirements outlined in A.P. 30-9, Drug and Alcohol Testing for CDL Drivers, and the Federal Motor Carrier Rules and Regulations. |

Following are the SAPs in the Tucson area who are certified to perform CDL evaluations. You must schedule and be seen by the SAP of your choice within two weeks from receipt of this letter. Failure to do so could result in disciplinary action up to and including termination.

Libby Timmons, LISAC, CEAP, SAP 1661 N. Swan Rd. – Suite 234 Tucson, AZ 85712 Phone: (520) 975-7925	Rebecca Smith, MEd, PCC, CDP, SAP, BRI III Intervention Recovery Coaching 738 N 5 th Ave. Suite 135 Tucson, AZ 85705 Phone: 800-522-5382
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(Names of additional DOT certified SAP's can be provided upon request; however, may be located outside the Tucson area.)

It is your responsibility to cover the costs for the SAP evaluation and any program recommended. Once Risk Management receives confirmation from the SAP that you have successfully completed the rehabilitation program, a return to duty drug and/or alcohol test will be performed. Once the program is complete and the return to duty drug and/or alcohol test is negative, you may return to safety sensitive CDL job functions. The SAP may also require follow up drug and/or alcohol tests for up to 5 years. These will be unannounced tests and are in addition to the random selection process.

If you have any questions, please feel free to contact me at XXX-XXX-XXXX.

Sincerely,

[Name]
[Title]

c: