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POLICY 500

COOPERATIVE EMPLOYMENT POLICY

I. OBJECTIVE:

To establish employment and personnel policies which help to attract and retain well qualified personnel and stimulate their improved performance, growth and development. To provide a safe and productive work environment for all employees. To provide fair and competitive wage and salary and fringe benefits.

II. CONTENT:

(index attached, following pages)

III. APPLICABILITY:

The applicability of these policies to employees is as set forth in Policy 501.

IV. RESPONSIBILITY:

The Board of Directors, the General Manager, all levels of Management and supervision and every individual employee has a crucial role in accomplishing the goals of these policies.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest:

Secretary

POLICY 501

GENERAL PROVISIONS

SECTION 1: PURPOSE

The purpose of the Cooperative Employment Policy (hereafter EP) is to establish Cooperative policies applicable to the employment relationship with its employees and to serve as a guideline to administrative actions covering most personnel actions that will arise. The final interpretation and application of the EP is reserved exclusively to the Cooperative, or its designees. The Cooperative reserves the right to amend, alter, modify, delete or add to the EP as it deems appropriate to serve the best interest of the Membership, subject only to applicable law.

SECTION 2: POSITIONS COVERED

- A. Unless otherwise required by applicable law or unless otherwise specified in a particular policy, the provisions of the EP shall be applicable to all employees except:
 - 1. Persons hired or employed as independent contractors, or on a contractual fee or retainer basis.
 - 2. Individuals hired by a temporary service.
- B. Unless otherwise provided by a contract signed by the General Manager of the Cooperative and approved by the Board of Directors, all employees are employed at the will and pleasure of the Cooperative under such terms and conditions as are determined by the Cooperative's Board of Directors.

SECTION 3: ADMINISTRATION

- A. The General Manager, and his/her designees, shall be responsible for the administration of the EP. Among the responsibilities of the General Manager are:
 - 1. To administer, interpret and enforce the EP and any applicable collective bargaining agreements (hereafter CBA) and to recommend modifications of same to the Board of Directors.
 - 2. To recruit, train, hire, promote, demote, supervise, direct, assign and discipline (up to and including discharge) all employees consistent with the law, the EP and any applicable CBA.

3. To select, direct and supervise the managerial and supervisory staff and delegate them, or certain of them, responsibilities and duties for the application and enforcement of this EP and any applicable CBA.
 4. To provide custody, maintenance and disposition of the official personnel files and record to include employment, fringe benefits, training and other forms and records as required by law.
 5. To foster and develop programs for the improvement of employee relations, morale and effectiveness.
 6. To represent the Cooperative in all negotiations, litigation and administrative proceedings involving employment-related matters subject to such directions as the Board of Directors may from time to time give him/her.
 7. To approve departmental rules and regulations consistent with the law, the EP or applicable CBAs.
 8. To insure that employees of the Cooperative are formally evaluated in a timely fashion no less than once during each year of their employment.
- B. The Manager of Safety, Training, Loss Control, and Human Resources shall be responsible to the General Manager to assist him/her in all matters relating to the morale, discipline, supervision and efficient performance of the workforce.
- C. Managerial and supervisory employees are responsible for the efficient and effective administration and enforcement of the EP and all applicable CBAs.

SECTION 4: DEPARTMENTAL POLICIES

Department heads may recommend departmental rules and regulations consistent with the law, this EP and applicable CBA. Such departmental rules and regulations must be approved in advance by the General Manager.

SECTION 5: OVERALL EMPLOYMENT POLICY

The overall EP of the Cooperative shall include:

- A. There shall be no illegal discrimination, harassment, or retaliation in employment opportunities or job actions on the basis of race, color, religion, age, sex, gender identity, sexual orientation, pregnancy, national origin, political affiliation, disability, veteran status, genetic characteristic, or marital status in accordance

with state and federal law. No job applicant or present employee will be illegally discriminated against because of any of the above characteristics.

- B. Disabled persons will be given consideration for the employment in all departments and jobs. The Cooperative shall comply with applicable law with respect to reasonable accommodation of disabled persons with respect to all employment opportunities. The Cooperative will also reasonably accommodate religious requests for accommodations in accordance with applicable law.
- C. The Cooperative is an affirmative action employer in accordance with federal law.

SECTION 6: COLLECTIVE BARGAINING AGREEMENT

- A. These policies and departmental policies shall apply to bargaining unit employees. Where the EP or departmental rules and regulations are in conflict with the express provisions of a CBA, the terms of the CBA shall take precedent.
- B. Grievances by bargaining unit employees shall be handled as provided in Policies 515 and 516.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 502

DEFINITIONS

POLICY 503

STANDARDS OF CONDUCT

SECTION 1: POLICY

- A. One of the primary objectives of the Cooperative is to establish and administer a system of personnel management consistent with the goal of providing superior service to the community by employing and retaining individuals of the highest qualifications who display pride and dignity in the performance of their duties.

To an unusual extent and in a special way, employees of the Cooperative are “Good Will Ambassadors”. Such status involves a higher degree of duty and obligation regarding conduct while on the job. The highest degree of professionalism must be maintained by Cooperative employees at all times while performing work for the Cooperative.

- B. It is the policy of the Cooperative to expect each employee’s compliance with the EP, state statutes and federal laws and regulations in the performance of their duties, as well as compliance with all Cooperative safety rules and standards.

SECTION 2: CONFLICT OF INTEREST

- A. Employees shall not accept loans, advances, gifts, gratuities, or favors from a supplier, bidder, customer, or other person doing business with the Cooperative.
- B. An employee shall not use his/her position with the Cooperative to obtain or attempt to obtain any special preferences, favors, privileges or exemptions for him/herself or for any other reason.
- C. No employee shall disclose confidential information gained by reason of his/her employment or position with the Cooperative except in and as a part of his/her normal duties as a Cooperative employee; nor shall such employee use such confidential information for personal gain or benefit.
- D. When an employee has or anticipates creating a business relationship with another person, partnership, firm, corporation or other business entity which does or seeks to do business with the Cooperative, or any division thereof, the employee shall advise the General Manager in writing as soon as that relationship is known.

SECTION 3: POLITICAL ACTIVITY

- A. Employees may engage in political activities during their non-duty time so long as their activities do not interfere with the operation of Cooperative business.

- B. Employees shall not wear or display political badges, buttons or stickers when on duty.
- C. Employees may run for political office or be appointed to non-elective office so long as in the opinion of the Board the position in no way interferes or conflicts with their work as a Cooperative employee.

SECTION 4: OUTSIDE EMPLOYMENT

- A. Subject to paragraphs B-E below, employees are discouraged but not prohibited from engaging in other employment during their off-duty hours. However, Cooperative employment shall be considered the primary employment and no employee may engage in outside employment which interferes or tends to interfere with the interest of the Cooperative of the duties for which the employee is responsible as a Cooperative employee.
- B. Employees who have other jobs or who seek to have other jobs, must immediately notify their immediate supervisor.
- C. If the employee's other employment causes absences, tardiness, or otherwise interferes with the operations of the Cooperative, including but not limited to availability for scheduled and unscheduled overtime and/or call-ins, the employee may be required to quit the other job, and if he/she refuses, he/she will be terminated.
- D. If the permission to engage in other employment is granted, it may be withdrawn at any time if in the opinion of the General Manager the responsibilities of other employment conflict with employment by the Cooperative. The determination of the General Manager shall be final.
- E. Equipment, facilities, vehicles or property of the Cooperative shall not be used by employees for their outside employment. Violation of this will result in termination.

SECTION 5: RELEASE OF INFORMATION

- A. Employees shall at all times be courteous, friendly and helpful to those members of the public who seek information.
- B. All employee personnel records are the property of the Cooperative. Employees may request to review their personnel records by making an appointment with Human Resources Department. Personnel records will be released in accordance with state and federal law through appropriate legal course.

SECTION 6: SOLICITATION AND DISTRIBUTION

Everyone has probably found himself/herself in a difficult situation when he/she is asked to make a purchase or donation to support some sort of fund-raising drive or cause. Even though most of these projects are worthwhile causes, they can disrupt normal operations of the Cooperative as well as put unnecessary pressure on employees to participate. Also, if non-employees are involved, this activity can involve trespassing. Our policy is simple:

- A. Solicitation and distribution of literature by non-employees on Cooperative property are prohibited.
- B. Solicitation by employees on Cooperative property is prohibited when the person soliciting or the person being solicited is on working time. Working time is the time employees are expected to be working and does not include meal or other authorized breaks.
- C. Distribution of literature by employees on Cooperative property in non-working areas during the working time of such employees, as defined above, is prohibited.
- D. Distribution of literature by employees on Cooperative property in working areas is prohibited at all times.
- E. Use of any of the Cooperative's electronic communications systems (e-mail, voice mail, fax) by any employee to propose any type of commercial or personal transaction, including sales or trades (such as "want ads"), chain letters, betting pools, gambling, political announcements or solicitations, or non-Cooperative-sponsored charitable solicitations or distributions, is prohibited.

If you have any further questions, please see your supervisor or human resources department.

SECTION 7: USE OF COOPERATIVE PROPERTY

Employees shall not use Cooperative property, equipment or vehicles except in the performance of official duty unless they have been authorized to do so in advance by the General Manager or his/her designee, nor shall they permit their use by an unauthorized person, either on or off duty.

SECTION 8: DRESS AND APPEARANCE

- A. Employees are expected to report to work in clean clothes and in full uniform if required by the Cooperative for the position held.
- B. Employees are expected to observe normal and reasonable standards of personal hygiene. Failure to do so may result in the employee being sent home to correct

the situation for the day without pay. Repetition of such conduct shall subject the employee to discipline.

- C. Beards and mustaches will be allowed, except as otherwise required by law or where in the opinion of the General Manager they interfere or tend to interfere with the safe and efficient performance of the job. All hair, beards and mustaches must be of a length so as not to create operational or possible safety hazard and must be maintained in a clean, neat and orderly fashion.

SECTION 9: BULLETIN BOARDS

Official Cooperative bulletin board(s) are for use of management of official Cooperative business. Announcements of special events, change in policies, transfer/promotional opportunities and other items relating to official Cooperative business will be posted there. No other information is to be posted on such bulletin boards.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 504

PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION

SECTION 1: PURPOSE

The Cooperative is an Equal Employment Opportunity workplace and is firmly committed to a workplace free of discrimination, harassment, and retaliation, based on race, color, religion, age, sex, national origin, genetic characteristic, marital status, sexual orientation, gender identity, pregnancy, disability, U.S. citizenship, veteran status, or any other legally-protected status. Discriminatory, retaliatory, offensive or harassing behavior will not be tolerated, no matter what employee is guilty of the inappropriate behavior. This policy applies to vendors, customers, temporary employees, contractors, or others who enter the Cooperative's workplace as well as to all employees. No employee of this Cooperative is exempt from this policy.

SECTION 2: STATEMENT OF POLICY

All forms of discrimination and harassment based on the above protected characteristics are strictly prohibited. This also includes sexual harassment under Title VII of the Civil Rights Act of 1964.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical acts of a sexual or sex-based nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or (3) such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive environment. Examples of sexually harassing behavior may include, but are not limited to the following:

- a. unwanted sexual advances or requests for sexual favors;
- b. sexual jokes and innuendo;
- c. verbal abuse of a sexual nature;
- d. commentary about an individual's body, sexual prowess or sexual deficiencies;
- e. leering, whistling, or watching;
- f. insulting or obscene comments or gestures;
- g. display in the workplace of sexually suggestive objects or pictures (pornography or other inappropriate material sent or obtained by e-mail or sent or sought through the Internet also is covered by this policy.)
- h. other physical, verbal, or visual conduct of a sexual nature; and
- i. retaliatory action against an individual for making a sexual harassment complaint.

Sexual harassment need not be specifically sexual; it also may be sexist or sex-oriented. Sexual harassment also is not limited to behaviors taken by a man against a woman. A woman can sexually harass a man and sexual harassment can occur between members of the same sex. If you feel that you may have been sexually harassed in any manner, you should seek assistance, in the manner specified below.

Other forms of harassment in addition to sexual harassment are illegal and prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, national origin, age, disability, citizenship, sex, marital status, genetic characteristic, sexual orientation, gender identity, pregnancy, or veteran's status, and that: (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an individual's work or workplace; or (3) otherwise adversely affects an individual's employment opportunities. Examples of such harassment may include, but are not limited to the following:

- a. epithets, slurs, derogatory comments, or negative stereotyping;
- b. threatening, intimidating, or hostile acts;
- c. denigrating jokes or statements; and
- d. written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or placed elsewhere on the Cooperative's premises or is circulated in the workplace. Pornography or other inappropriate material sent or obtained by e-mail or sent or sought through the Internet is covered by this policy.

In addition, the Cooperative will not allow any retaliation against any employee who raises a concern about improper or illegal discrimination or harassment or participates in an investigation involving improper or illegal harassment and tells the truth to the best of his/her knowledge and belief.

SECTION 3: MAKING COMPLAINTS OF DISCRIMINATION, HARASSMENT OR RETALIATION

A formalized method of investigating and resolving such complaints has been established to: (a) assure thorough and prompt investigation; (b) eliminate illegal sexual and other illegal or improper harassment, discrimination, and retaliation, as well as bad faith claims of such harassment as defined in Section 4 below; (c) assure confidentiality to the extent allowed by state and federal law; (d) assure against alleged retaliation; (e) ensure an ultimate resolution of each claim that is fair to all, and (f) effectuate the policies of the Title VII and the laws of Georgia and Florida.

- a. Anyone who has suffered sexual or other illegal or improper harassment, discrimination, or retaliation or who has observed such conduct should report it to his/her immediate Supervisor, the General Manager, another member of management, or any member of the Board.

- b. All complaints will be investigated expeditiously. Upon completion and a determination that a complaint is valid, the Cooperative will take appropriate prompt remedial action, including discipline up to termination of employment. If the complaint is found to be without merit, no disciplinary action will be taken against the employee against whom the complaint was made.

SECTION 4: BAD FAITH CLAIMS

Bad faith claims of discrimination, harassment, and retaliation are claims made when the person making the claim knows the claim is false but makes it anyway. Persons who make bad faith claims under this subsection will be subject to disciplinary action up to and including termination.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 505

HIRING PROCEDURES

SECTION 1: VACANCIES

- A. When a vacancy has not been filled through the promotional process, the Department Head shall advise the Human Resources Department of the vacancy. The Department Head shall advise as to the job classification and other pertinent information as may be needed to locate qualified applicants. Requests for personnel should be made as far in advance as possible.
- B. The Human Resources Department shall be responsible for appropriate publication of vacancies not filled pursuant to Policy 513. (Promotion and Job Bidding) Postings will be posted with the Department of Labor, company bulletin boards, office lobbies and the Cooperative's website.
- C. All persons inquiring about employment should be directed to the Human Resources Department where they will be required to complete the standard application form. Assistance will be provided with completing applications upon request.
- D. Applications shall only be accepted for the job(s) being offered.

SECTION 2: BASIS FOR SELECTION

Employment with the Cooperative shall be based on skills, experience, training, education, ability, physical and mental ability (with or without accommodation) to do the available work and other factors which are related to the performance of the job in question.

SECTION 3: TESTING

At its option, the Cooperative may use valid written or oral examination and performance testing from time to time to assist it in the selection process.

SECTION 4: DRUG TESTING

The Cooperative shall require submission to and successful passing of testing for the use of illegal controlled substances as a condition of consideration for employment and at any other times and for any reason it deems appropriate subject only to applicable law. Refusal to take a test when and as directed by the Cooperative will result in termination. Also, tampering with samples is grounds for termination or non-selection.

SECTION 5: MEDICAL EXAMINATIONS

- A. After an applicant has been offered a job, he/she shall be advised that his/her employment will be conditioned upon taking and passing a medical examination.

The Cooperative will fulfill its duty, if any, to reasonably accommodate the applicant before it considers or takes any adverse job action, including withdrawing the job offer, due to the medical examination.

- B. Employees may be required to take a medical examination by the Cooperative for reasons job-related and consistent with business necessity. All such examinations shall include testing to determine the presence or absence of illegal controlled substances in their systems.
- C. Employees may be required by the Cooperative to take a medical examination when the Cooperative has a reasonable belief, based on objective evidence, that: (1) an employee's ability to perform essential job functions will be impaired by a medical condition; or (2) an employee will pose a direct threat due to a medical condition. Disability-related inquiries and medical examinations that follow up on a request for reasonable accommodation when the disability or need for accommodation is not known or obvious also may be job-related and consistent with business necessity. If the results of such examination reveal that the employee is physically or mentally incapable of performing the essential functions of his/her job, the Cooperative will fulfill its duty to reasonably accommodate the employee.
- D. Medical examinations will be required as part of the fitness for duty when returning from leave under the Family Medical Leave Act.

SECTION 6: BACKGROUND SCREENING

- A. After an applicant has been offered a job, he shall be advised that his employment will be conditioned upon satisfactory background screening which will consist of:

Reference checks including education, employment and credential verification
National Criminal Background Check
Driving Record Check
- B. Employees may be subject to Background Screening by the Cooperative for reasons connected with their job (e.g. CDL License Requirement). If the check reveals an unsatisfactory status, the Cooperative will fulfill its duty, if any, to reasonably help the employee achieve satisfactory status before it considers or takes any adverse job action, including discharge.

Date Adopted: 3/26/2020

Supersedes: 4/28/2009

Attest: _____

POLICY 506

SEPARATIONS

SECTION 1: EXIT INTERVIEWS

All employees separated from Cooperative employment are encouraged to participate in the Cooperative exit interview program. Exit interviews are conducted by the Human Resources Department, and an employee who is not requested by his/her Department Head to participate in an exit interview is invited to contact Human Resources directly to arrange for same.

SECTION 2: RETURN OF PROPERTY AND FINANCIAL OBLIGATIONS

- A. At the time of separation from employment, the employee shall return all records, books, assets, uniforms, keys, tools and other items of Cooperative property to his/her department. Failure to return same in usable condition shall result in the maximum deduction allowed by law from the employee's paycheck, and may be collected by the Cooperative through appropriate legal action.
- B. All outstanding voluntary debts to the Cooperative incurred by the employee will be deducted from the employee's final paycheck.
- C. All deductions under paragraphs A and B above shall be subject to the applicable state and federal law.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 507

ATTENDANCE – TARDINESS

SECTION 1: PRESENT AND ON TIME

All employees are expected to report for duty at the scheduled time and remain there until the scheduled leaving time. Each Department Head shall be responsible for the attendance of all persons within his/her department.

SECTION 2: CALL – IN

Employees are required to call in before they are scheduled to report to work when they are going to be absent or late. Failure to call in before the employee’s shift begins will subject the employee to discipline, unless the Department Head is satisfied that the failure to call in was for a reason beyond the employee’s control.

SECTION 3: VERIFICATION

The Cooperative may require an employee to prove to its satisfaction that an absence or tardiness was for a legitimate reason. Such proof, in the case of sickness or injury, may include the presentation of a medical doctor’s excuse.

SECTION 4: CONTINUING ABSENCE

In the case of continuing absences, the employee must call in each day unless otherwise instructed by his/her Department Head or supervisor.

SECTION 5: PERSON TO CALL

Call – ins are to be directed to the employee’s immediate supervisor; however, in the event the immediate supervisor is not available, and only in that event, the employee must speak with another supervisor or his/her Department Head.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 508

DISCIPLINE AND DISCHARGE

SECTION 1: TYPES OF DISCIPLINE

The Cooperative recognizes the following types of disciplinary actions:

1. Verbal warning
2. Written reprimand
3. Suspension without pay
4. Probation
5. Demotion
6. Combination of the above
7. Discharge

SECTION 2: PROGRESSIVE DISCIPLINE

Section 4 provides recommended, but not mandatory penalties to apply to specific offenses; however, the penalty utilized shall be discretionary with management and nothing herein shall require that a particular form of discipline be utilized in any case prior to the utilization of another form of discipline. While a more severe penalty than in Section 4 may be utilized for the offense, the managerial employee who does not utilize the recommended penalty for a Group I or Group II offense shall note in writing the reason for such action and consult with the General Manager before such action is taken.

SECTION 3: NOTICE OF DISCIPLINARY ACTION

- A. In all cases of written reprimand, suspension without pay, demotion, probation or any combination of the same, the employee shall be notified in writing of the action taken and a copy of such notice shall be retained in the employee's personnel file.
- B. Employees shall sign for the receipt of a disciplinary notice but may note their disagreement with the action if they wish on a separate sheet, which will be attached to the notice.

SECTION 4: TYPES OF OFFENSES

The three (3) groups of offenses and the guide for recommended penalties are set forth below:

GROUP I OFFENSES

First Offense: Verbal warning.

Second Offense: Written reprimand.

Third Offense: Suspension without pay.

Fourth Offense: Disciplinary action, up to and including discharge.

1. Operating, using or possessing tools, equipment or machines, which the employee has not been assigned.
2. Taking more than the specified time for meals or rest periods.
3. Violation of a legal Cooperative no-solicitation and no-distribution policy.
4. Failure to keep the Cooperative notified of your current address and telephone number (if any).
5. Failure to report a complaint by a Cooperative member about the services provided by the Cooperative, or a matter concerning safety to his/her immediate supervisor.
6. Failure to turn in time sheets and other required reports in a timely fashion.
7. Failure to wear prescribed uniform when on Cooperative business.

GROUP II OFFENSES

First Offense: Written reprimand.

Second Offense: Suspension without pay.

Third Offense: Disciplinary action, up to discharge.

1. Failure to work overtime, special hours, or special shifts after being scheduled.
2. Reporting to work or working while unfit for duty, either medically, mentally, or physically, unless the unfitness is as a result of a violation of a Group III offense.

3. Horseplay, fighting, or other misconduct while on duty or on Cooperative property.
4. Neglecting work during working hours.
5. Posting or removing any material on the official departmental bulletin boards or on Cooperative property without authorization.
6. Violating a safety rule or a safety practice.
7. Creating or contributing to unsafe, unsanitary or poor housekeeping conditions.
8. Failure to report receipt of a subpoena to the General Manager regarding any matter relating to Cooperative business.
9. Engaging in gambling, lottery or other games of chance on Cooperative property or anywhere during working hours.
10. Sleeping during duty hours, unless previously authorized to do so.
11. Incompetence or inefficiency in the performance of duties.
12. Political campaigning in writing, orally or telephonically on the job or during duty hours or the duty hours of other employees whether the campaigning employee is on or off duty.
13. Absent or tardy without an acceptable excuse.
14. Violation of a posted or otherwise known Cooperative rule, procedure, order, regulation or any law or regulation which is related to the employee's employment or the Cooperative's business.

GROUP III OFFENSES

First Offense: Disciplinary action, up to discharge.

1. Insubordination
2. Possession, use, sale, attempt to sell, or procure illegal controlled substances either on or off duty, or alcoholic beverages while on duty, on Cooperative property, or operating or riding in or on Cooperative equipment.
3. Refusal to fully and truthfully cooperate in an investigation related to the operation of the Cooperative conducted by or at the direction of the Cooperative.

4. Interfering with the work of other employees or refusal to perform assigned work.
5. Excessive absenteeism or excessive tardiness regardless of the reason.
6. Carelessness or negligence in the handling or control of Cooperative property, or the misappropriation of Cooperative property.
7. Discourteous, insulting, abusive, or inflammatory language or conduct related to the performance of the employee's job toward the public, an employee, a member of management or a member of the Board.
8. Refusal to report to duty at any time as directed.
9. Acceptance of a gift under circumstances from which it could reasonable be inferred that the giver expected or hoped for preferred or favored treatment in regard to Cooperative business.
10. On or off the job conduct which adversely affects the ability of the employee to perform his duties and/or the duties of other employees and/or adversely affects the efficient operation of the Cooperative or any department, division or area of the Cooperative.
11. Lying or falsification of any document, or any other dishonesty connected with the employee's employment or in any way related to the operation of the Cooperative or any department, division, or area of the Cooperative.
12. Any fraudulent, criminal or dishonest act(s) committed acting alone or in collusion with others, including but not limited to stealing, embezzlement, extortion, assault or vandalism, whether committed on or off the job.
13. Improper racial or sexual comments, harassment or acts.
14. Conviction of any crime where the conduct involved could reasonably be expected to impact the performance of the employee or the efficient operation of the Cooperative, or conviction of any felony.
15. Loss of a state or federal license or certificate required or essential to the performance of an employee's job.
16. Unacceptable driving record where a driver's license is a requirement for the employee's job.
17. Accumulated disciplinary actions, no one of which standing alone would warrant discharge.

18. Violation of a drug and/or alcohol policy adopted by the Cooperative, or refusal to submit to a drug or other test adopted by the Cooperative to determine the presence of drugs or alcohol in the employee's system to the extent such policies or test are allowed or required by law.
19. Unauthorized use or display of firearms, explosives, or weapons on Cooperative property.
20. Using or attempting to use employment with the Cooperative to secure an advantage or benefit not available to the public in general.
21. Refusal to work overtime hours assigned.
22. Failure to report an accident or personal injury in which the employee or a fellow employee was involved while on the job.
23. Leaving the job while on duty or during working times.
24. Making or publishing false or derogatory statements to the public or fellow employees concerning any employee, member or management, member of the Board or of the Cooperative and its operations.
25. Knowingly harboring a serious communicable disease, which may endanger other employees without advising the Cooperative.
26. Refusal to sign the receipt of a Notice of Disciplinary Action.

SECTION 5: CRIMINAL CHARGES (SUSPENSION)

- A. An employee charged with (1) any felony or (2) a misdemeanor which, if true, in the opinion of the Cooperative could adversely affect the efficient operation of the Cooperative may be suspended without pay pending a final resolution of the charges against him.
- B. The Cooperative may conduct its own investigation into the situation which gave rise to the charges and take whatever action deemed appropriate pursuant to this Agreement without regard to the resolution of the criminal charges.
- C. If the Cooperative does not take action under subparagraph B above, and the employee is acquitted, the employee shall be reinstated with back pay and benefits to the date of his suspension without pay.

SECTION 6: SUSPENSION PENDING INVESTIGATION

Management may temporarily suspend employees without pay while investigating a situation that could lead to demotion or discharge. In the event the employee is not demoted, discharged, or suspended without pay, he or she shall be reimbursed for any wage loss during the temporary suspension less any wages earned elsewhere or other compensation in lieu of wages received from other sources (e.g., workers' compensation, LTD, unemployment compensation, etc.).

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 509

WORK HOURS AND OVERTIME

SECTION 1: NORMAL WORK WEEK AND DAY

- A. The normal day for non-exempt outside and inside employees shall be eight (8) hours or ten (10) hours work exclusive of meal times.
- B. The normal work week shall be five (5) work days – Monday through Friday except where operations require otherwise.
- C. Nothing herein shall be construed as a guarantee of any certain hours of work per day or week unless elsewhere specifically otherwise provided in the EP or an applicable CBA.

SECTION 2: OFFICE HOURS

The Cooperative office hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday, but are subject to change by the Board. Employees will be notified of any change in office hours, days or hours of work as soon as practically possible.

SECTION 3: OVERTIME

All work by non-exempt employees in excess of eight (8) or ten (10) hours in a work day, depending on the employee's regular workday, or forty (40) hours in a work week shall be paid at the rate of time and one-half the employee's regular rate; provided, if an employee on a ten (10) hour schedule works beyond his schedule for the work week in which a Holiday falls, he will not be paid overtime until he has completed forty (40) hours of work or his absence is covered under Section 4. While the Cooperative attempts to schedule employees to minimize overtime, nothing in the EP shall be construed to limit the rights of the Cooperative to reassign and fix the number of hours of work required in any work period.

SECTION 4: TIME COUNTED

Unworked whole hours which are compensated directly by the Cooperative will be counted as time worked only for the purposes of determining whether the non-exempt employee has worked over eight (8), ten (10) or forty (40) hours, whichever is applicable, in a work week. No other time except hours of actual work will be counted for the purpose of determining entitlement to overtime pay unless specifically provided elsewhere in this EP or an applicable CBA.

SECTION 5: REST PERIODS

Except for employees covered by a CBA, the Cooperative provides two (2), 15 minutes paid rest periods each working day to be scheduled by the employee's immediate supervisor to minimize interruption of work.

SECTION 6: LUNCH

Lunch breaks shall be not less than thirty (30) minutes and no more than one (1) hour including travel time as determined by the Department Head and approved by the General Manager.

SECTION 7: WORK ON HOLIDAYS

Work on actual holidays shall be paid at the rate of double time irrespective of whether the employee has worked forty (40) hours in that work week. Work on substitute holidays shall be paid at the applicable rate.

SECTION 8: PYRAMIDING

There will be no pyramiding of overtime or premium pay under the terms of the EP, and under no circumstances will more than one (1) basis of calculating overtime or premium pay be used for the same or similar hours.

SECTION 9: CALL-OUTS

Non-exempt employees when called back to work after they have been released from work and left Cooperative property will be paid a minimum of two (2) hours at the applicable rate provided they perform the work assigned.

SECTION 10: ELECTIONS

An employee who is properly registered to vote, but is unable to vote during non-working hours for some legitimate reason (legitimacy will be determined by the General Manager), may be allowed time off without pay to vote in any municipal, school, county, state or national election; subject to the operational needs of the Cooperative.

SECTION 11: WORK OUT OF OREMC TERRITORY

The Cooperative agrees to pay the employee his regular hourly rate plus overtime in accordance with this Policy for all work performed at the direction of the Cooperative outside the jurisdictional area covered by OREMC; provided, if any employee works under an Operational or other Agreement with another Cooperative, utility, or entity to which the Cooperative is an entity that provides better wages and the other Cooperative, utility, or other entity agrees to and does in fact pay the Cooperative for said higher wages, the Cooperative will pass on to the employee the difference between his wages under this Section and the amount received from the other Cooperative, utility or other entity after receipt of same, subject to normal statutory deductions. Absent such reimbursement, in determining which hours are considered as hours worked, the Cooperative's past practice shall be utilized, including but not limited to the practice of not considering sleeping time and other hours when the employee is not required to perform work as hours worked.

SECTION 12: TRAVEL TIME

Travel time required by the Cooperative to attend mandatory training will be considered working time and compensated accordingly as required under applicable law.

Date Adopted: 3/26/2020

Supersedes: 12/27/2006

Attest: _____

POLICY 510

LEAVES OF ABSENCES

SECTION 1: GENERAL LEAVE

Leaves of absence without pay are discouraged; however, at the Cooperative's discretion, an employee who has used all accumulated unused vacation leave may be granted a leave of absence for an approved reason without pay, which in no event shall exceed thirty (30) days, unless voluntarily extended by the Cooperative. Leaves of absence for personal reasons will be granted only when the absence of the employee will not cause an undue hardship on the Cooperative.

SECTION 2: ACTIVITIES DURING LEAVES

Leaves of absence will not be granted for the purposes of allowing employees to take another position temporarily, try out new work, or venture into business for himself. Engaging in any of these activities during a leave of absence will result in termination for the employee.

SECTION 3: RETURN FROM LEAVE OF ABSENCE

Upon returning to work from an authorized leave of absence under this Policy, Section 4 I, an employee shall be entitled to the job he or she left, or a job similar to the one he or she left, unless such job or jobs have been eliminated or another employee has been permanently transferred to take over such job or jobs in which case the Cooperative shall have the right to place the returning employee in any job that it deems him/her capable of performing.

SECTION 4: FAMILY MEDICAL LEAVE

A. General

We recognize that there are times when an employee may need to be absent from work due to qualifying events under the Family and Medical Leave Act (FMLA). Accordingly, we will provide Eligible Employees up to a combined total of twelve (12) weeks of unpaid FMLA leave per Leave Year for the following reasons:

- **Parental Leave:** For the birth or placement of an adopted or foster child;
- **Personal Medical Leave:** When an employee is unable to work due to his/her own Serious Health Condition;
- **Family Care Leave:** To care for a spouse, child, or parent with a Serious Health Condition;

- **Military Exigency Leave:** When an employee's spouse, parent, son or daughter (of any age) experiences a Qualifying Exigency resulting from military service (applies to active service members deployed to a foreign country, National Guard and Reservists); and,
- **Military Care Leave:** To care for an employee's spouse, parent, son, daughter (of any age) or next of kin who requires care due to an Injury or Illness incurred while on active duty or that was exacerbated while on active duty. **NOTE:** A leave of up to 26 weeks of leave per twelve-month period may be taken to care for the injured/ill service member.

B. Key Policy Definitions

- “Eligible Employees” under this policy are those who have been employed by our Cooperative for at least twelve months (need not be consecutive months and under certain circumstances hours missed from work due to military call-up will also be counted) and have performed at least 1,250 hours of service in the twelve month period immediately preceding the date leave is to begin. Employees who work in small locations with fewer than 50 employees within 75 miles are not eligible for leave. However, employees should contact Human Resources to discuss other types of leave that might be available for the reasons listed in this policy.
- “Leave Year” for the purposes of this policy shall be a rolling 12-month period measured backward from the date an employee uses any FMLA leave.
- A “Spouse” means a husband or wife as recognized under state law for the purposes of marriage in the State where the employee resides.
- A “Son or Daughter” for the purposes of Parental or Family Leave is defined as a biological, adopted, foster child, step-child, legal ward or a child for whom the employee stood in loco parentis to, who is (1) under eighteen years of age or, (2) eighteen years of age or older and unable to care for him/herself because of physical or mental disability. A “Son or Daughter” for the purposes of Military Exigency or Military Care leave can be of any age.
- A “Parent” means a biological, adoptive, step or foster parent or any other individual who stood in loco parentis to the employee when the employee was a son or daughter.
- “Next of Kin” for the purposes of Military Care leave is a blood relative other than a spouse, parent or child in the following order: brothers and sisters, grandparents, aunts and uncles, and first cousins. If a military service member designates in writing another blood relative as his/her caregiver, that individual

shall be the only next of kin. In appropriate circumstances, employees may be required to provide documentation of next of kin status.

- A “Serious Health Condition” is an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a Health Care Provider. Ordinarily, unless complications arise, cosmetic treatments and minor conditions such as the cold, flu, ear aches, upset stomach, minor ulcers, headaches (other than migraines), routine dental problems are examples of conditions that are not serious health conditions under this policy. If you have any questions about the types of conditions which may qualify, contact Human Resources.

- A “Health Care Provider” is a medical doctor or doctor of osteopathy, physician’s assistant, podiatrists, dentists, clinical psychologist, optometrists, nurse practitioner, nurse-midwife, clinical social worker or Christian Science practitioner licensed by the First Church of Christ. Under limited circumstances, a chiropractor or other provider recognized by our group health plan for the purposes of certifying a claim for benefits may also be considered a HCP.

- “Qualifying Exigencies” for Military Exigency leave include:
 - Short-notice call-ups/deployments of seven days or less (**NOTE**: leave for this exigency is available for up to seven days beginning the date of call-up notice);
 - Attending official ceremonies, programs or military events;
 - Special childcare needs created by a military call-up including making alternative child-care arrangements, handling urgent and non-routine childcare situations, arranging for school transfers or attending school or daycare meetings;
 - Making financial and legal arrangements;
 - Attending counseling sessions for the military service member, the employee, or the military service members son or daughter who is under 18 years of age or 18 or older but is incapable of self-care because a mental or physical disability
 - Rest and Recuperation (**NOTE**: fifteen (15) days of leave is available for this exigency per R&R event);
 - Post-deployment activities such as arrival ceremonies, reintegration briefings and other official ceremonies sponsored by the military (Note: leave for these events is available during a period of 90-days following the termination of active duty status). This type of leave may also be taken to address circumstances arising from the death of a covered military member while on active duty;
 - Parental care when the military family member is needed to care for a parent who is incapable of self-care (e.g. arranging for alternative care or transfer to a care facility); and,
 - Other exigencies that arise that are agreed to by both the Cooperative and employee.

- A “Serious Injury/Illness” incurred by a service member in the line of active duty or that is exacerbated by active duty is any injury or illness that renders the service member unfit to perform the duties of his/her office, grade, rank or rating.

C. Notice and Leave Request Process

Foreseeable Need for Leave: If the need for leave is foreseeable because of an expected birth/adoption or planned medical treatment, employees must give at least thirty (30) days’ notice. If 30 days’ notice is not practicable notice must be given as soon as possible. Employees are expected to complete and return a leave request form prior to the beginning of leave. ***Failure to provide appropriate notice and/or complete and return the necessary paperwork will result in the delay or denial of leave.***

Unforeseeable Need for Leave: If the need for leave is unforeseeable, notice must be provided as soon as practicable and possible under the facts of the particular case. Normal call-in procedures apply to all absences from work including those for which leave under this policy may be requested. Employees are expected to complete and return the necessary leave request form as soon as possible to obtain the leave. ***Failure to provide appropriate notice and/or complete and return the necessary paperwork on a timely basis will result in the delay or denial of leave.***

Leave Request Process: To request leave under this policy, employees must obtain and complete a leave request form from their supervisor or Human Resources and return the completed form to Human Resources. If the need for leave is unforeseeable and employees will be absent more than 3 days, employees should contact Human Resources by telephone and request that a leave form be mailed to their home. If the need for leave will be fewer than 3 days, employees must complete and return the leave request form upon returning to work.

Call-in Procedures: In all instances where an employee will be absent, the call-in procedures and standards established in Policy 507 for giving notice of absence from work must be followed.

D. Leave Increments

Parental Leave: Leave for the birth or placement of a child must be taken in a single block and cannot be taken on an intermittent or reduced schedule basis. Parental Leave must be completed within twelve (12) months of the birth or placement of the child; however, employees may use Parental Leave before the placement of an adopted or foster child to consult with attorneys, appear in court, attend counseling sessions, etc.

Family Care, Personal Medical Leave, Military Exigency and Military Care Leave: Leave taken for these reasons may be taken in a block or blocks of time. In addition, if a Health Care Provider deems it necessary or if the nature of a Qualifying Exigency requires, leave for these reasons can be taken on an intermittent or reduced schedule basis.

E. Paid Leave Utilization During FMLA Leave

Employees taking Parental, Family Care, Military Exigency and/or Military Care leave must utilize available annual leave during this leave. Employees on Personal Medical leave must utilize available annual leave during this leave. Employees receiving short or long term disability or workers compensation benefits during a Personal Medical Leave will not be required to utilize these benefits. However, employees may elect to utilize accrued benefits to supplement these benefits.

F. Certification and Fitness for Duty Requirements

Employees requesting Family Care, Personal Medical or Military Care leave must provide certification from a health care provider to qualify for leave. Such certification must be provided within fifteen days of the request for leave unless it is not practicable under the circumstances despite the employee's diligent efforts. Failure to timely provide certification may result in leave being delayed, denied or revoked. In the Cooperative's discretion, employees may also be required to obtain a second and third certification from another health care provider at Cooperative expense (except for Military Care leave). Re-certification of the continuance of a serious health condition or an injury/illness of a military service member will also be required at appropriate intervals.

Employees requesting a Military Exigency leave may also be required to provide appropriate active duty orders and subsequent information concerning particular Qualifying Exigencies involved.

Employees requesting Personal Medical leave will also be required to provide a fitness for duty certification from their Health Care Provider prior to returning to work.

G. Scheduling Leave and Temporary Transfers

Where possible, employees should attempt to schedule leave so as not to unduly disrupt operations. Employees requesting leave on an intermittent or reduced schedule basis that is foreseeable based on planned medical treatment may be temporarily transferred to another job with equivalent pay and benefits that better accommodates recurring periods of leave.

H. Health Insurance

The Cooperative will maintain an employee's health insurance coverage during leave on the same basis as if he/she were still working. Employees must continue to make timely payments of their share of the premiums for such coverage. Failure to pay premiums within thirty (30) days of when they are due may result in a lapse of coverage. In this event, the Cooperative will notify the employee fifteen (15) days before the date coverage will lapse that coverage will terminate unless payments are promptly made. Alternatively, at the Cooperative's option, the Cooperative may pay the employee's share of the premiums during the leave and recover the costs of this insurance upon the employee's return to work. Coverage that lapses due to non-payment of premiums will be reinstated immediately upon return to work without a waiting

period. Under most circumstances, if an employee does not return to work at the end of leave, the Cooperative may require the employee to reimburse the Cooperative for the health insurance premiums paid during the leave.

I. Return to Work

Employees returning to work at the end of leave will be placed in their original job or an equivalent job with equivalent pay and benefits. Employees will not lose any benefits that accrued before leave was taken. Employees may not, however, be entitled to discretionary raises, promotions, bonus payments or other benefits that become available during the period of leave.

J. Spouse Aggregation

In the case where an employee and his/her spouse are both employed by the Cooperative, the total number of weeks to which both are entitled in the aggregate because of the birth or placement of a child or to care for a parent with a serious health condition will be limited to twelve (12) weeks per Leave Year. Similarly, a husband and wife employed by the Cooperative will be limited to a combined total of 26-weeks of leave to care for a military service member. This 26-week leave period will be reduced, however by the amount of leave taken for other qualifying FMLA events. This type of leave aggregation does not apply to leave needed because of an employee's own serious health condition, to care for a spouse or child with a serious health condition or because of a Qualifying Exigency.

K. General Provisions

Failure to Return: Employees failing to return to work or failing to make a request for an extension of their leave prior to the expiration of the leave will be deemed to have voluntarily terminated their employment.

Alternative Employment: No employee, while on leave of absence, shall work or be gainfully employed either for himself/herself or others unless express, written permission to perform such outside work has been granted by the Cooperative. Any employee on a leave of absence who is found to be working elsewhere without permission will be automatically terminated.

False Reason for Leave: Termination will occur if an employee gives a false reason for a leave.

Date Adopted: 3/26/2010

Supersedes: 6/26/2001

Attest: _____
Secretary

POLICY 510.5

MILITARY DUTY LEAVE

SECTION 1: OVERVIEW

- A. This policy has been developed to comply with the Uniform Services Employment and Reemployment Rights Act of 1994, as amended (“USERRA”), and other applicable federal and state laws. This policy is broken into two basic parts. The first (Section 2) provides supplemental income and certain benefits for a limited period of time for full-time employees with more than two (2) years of continuous service with the Cooperative who are called to, or volunteer for, active duty in a branch of the United States Armed Services for more than thirty (30) continuous days. The second basic part of this policy (Section 3) relates to annual or temporary active duty of less than thirty (30) days for summer camp and other short-term active duty assignments.
- B. Some of the compensation or benefits set forth in Section 2 below are not required by federal or state law but are policies of the Cooperative to honor and encourage employees willing to sacrifice to serve our Country in a branch of the United States Armed Services for limited periods of more than thirty (30) days.
- C. Section 2 of this policy may be changed or eliminated at any time by the Cooperative and the interpretation of said Section 2 shall be the sole and exclusive prerogative of the Board of Directors of the Cooperative, or its designee.
- D. Section 3 of this policy is subject to revision from time to time in accordance with applicable law and its interpretation and application shall be the exclusive prerogative of the Board of Directors of the Cooperative, or its designee.

SECTION 2: SERVICE ON ACTIVE DUTY OF MORE THAN THIRTY (30) DAYS

A. Eligibility

This policy applies to all full-time active employees with two (2) or more continuous years of service as a full-time employee of the Cooperative who temporarily leave employment with the Cooperative to serve on active duty in a branch of the United States Armed Services.

B. Limitations

This policy is not intended to set forth all of the provisions of all applicable federal or state law, therefore, employees should refer to the U. S. Department of Labor’s VETS website for additional information regarding the rights and obligations of the employee who enter military service while employed and seek to return to the Cooperative after the service is completed.

C. Notification

1. An employee who meets the eligibility requirements of subsection A above must provide the General Manager (GM) with a copy of the employee's Military Orders as soon as possible but in no event less than thirty (30) days from the date the employee is to report for duty.
2. Failure to provide a copy of the Military Orders as provided in subsection C(1) above shall render the employee ineligible for the supplemental compensation of benefits under this policy, unless said benefits are required by applicable federal or state law.

D. Return to Work and Seniority

Provided the employee applies to and in fact returns to work in accordance with applicable laws, the employee's seniority will not be lost and will continue to accumulate during the period of the employee's military duty leave.

E. Supplemental Pay

1. During the period of the military duty leave of more than thirty (30) continuous days, but not to exceed two (2) years, the Cooperative will make up the difference in the base salary of the employee while on military duty leave and the employee's base salary (not including overtime) the employee would have received from the Cooperative during the leave but for the fact the employee was on military duty leave.
2. In order to receive said supplemental pay, the employee must complete a Request for Supplemental Military Differential Pay form and provide it to the GM prior to the employee's last day of work. Upon receipt of a copy of the employee's Military Pay Voucher showing the employee's base military pay, the Cooperative will process the Request for supplemental pay for the period covered by the pay voucher.
3. The employee should email or mail each military pay voucher to:

Benefits Administrator
OREMC
PO Box 602, Nahunta, GA 31553
benefits@oremc.com
4. Supplemental pay shall be subject to withholding and Social Security and other deductions required by law or authorized by the employee.

F. Other Benefits

During the period the employee receives supplemental pay:

1. The employee will be eligible to continue to participate in the Cooperative's Medical, Dental, Vision, and Retirement Plans on the same basis and under the same

conditions as full-time employees in the employee's job classification who are actively employed by the Cooperative.

2. The employee's military duty leave shall be counted in determining eligibility for annual leave and years of service under the Cooperative's Pension Plan upon the employee's return to Cooperative employment following completion of the military duty leave so long as the employee returns in accordance within the time limits set by applicable law.
3. The employee shall not earn annual leave or holiday pay while on military duty leave.

G. Return from Military Duty Leave

1. The employee is **required** to meet the "reemployment" requirements set forth in USERRA. Generally, this means that, if military duty leave is for more than one hundred eighty (180) days, the employee must provide notice (either orally or in writing) of return to active employment from military duty leave within ninety (90) days after release from military service. The notice and return to work deadlines are significantly shorter for military duty leaves lasting less than one hundred eighty-one (181) days. The employee must also have a certain type of military discharge (generally, a military discharge other than under dishonorable conditions) and the duration of the military service must not have exceeded the maximum military service period protected by USERRA (generally, no more than five (5) years). For more information regarding the USERRA requirements, please visit the Department of Labor's VETS website.
2. The employee is required to submit a copy of his or her military discharge papers or other official documents satisfactory to the GM to establish the date of the end of military duty leave to the GM, or designee.

3. Provided the requirements of USERRA are met, the Cooperative shall employ a returning employee in the position he or she would have attained had he or she not gone on military duty leave, one with similar seniority, status and pay to the one he or she would have attained or, under certain circumstances, his or her former position. If the employee's former position has been eliminated and the employee would not have had a position had the employee not gone on military duty leave, the Cooperative is not required to reemploy the employee in any position and the employee may not have the employment and seniority protections provided under USERRA and described in this Policy.
4. Upon the employee's return from military duty leave, an employee's benefits will be automatically effective from the date of his return to work

SECTION 3: SERVICE ON ACTIVE DUTY OF LESS THAN THIRTY (30) DAYS

- A. The Cooperative will grant a temporary leave of absence to employees placed on active duty for less than 30 days. Not to exceed two (2) weeks each calendar year, employees will be granted a temporary leave of absence with pay for periods of active duty. Temporary leaves of absence for periods of active duty of more than fourteen (14) days, but less than thirty (30) days shall be unpaid.
- B. Such temporary military leaves of absence, whether paid or unpaid, shall be governed by applicable federal and state law and shall be subject to the following terms and conditions:
 1. The employee shall provide the GM with a copy of any military orders directing the employee to report for military purposes as soon as they are received, but generally not less than fifteen (15) days prior to the date the employee is to report for duty absent extenuating circumstances.
 2. While the employee is on such military duty, seniority and time of service with the Cooperative shall continue to accrue for all purposes.
 3. In accordance with applicable law, the employee shall return to work immediately following the cessation of temporary duty assignment unless the law requires otherwise.

Date Adopted: 3/26/2020

Attest: _____

POLICY 511

JURY DUTY AND COURT PAY

SECTION 1: JURY PAY

Any employee who is called to and reports for jury duty shall be paid by the Cooperative for each day partially or wholly spent in performing jury duty, if the employee otherwise would have been scheduled to work for the Cooperative that day; provided however, that the Cooperative's payment shall not exceed the difference between eight (8) hours pay at the employee's straight time hourly base rate and the daily jury duty fee paid by the court. In order to receive payment under this paragraph, an employee must give the Cooperative prior notice that he or she has been summoned for jury duty and must furnish satisfactory evidence that jury duty was performed on the days for which he or she claims such payment. Employees who, without being summoned, volunteer for jury duty shall receive no pay from the Cooperative if, at the discretion of the Cooperative, they are allowed to serve such voluntary duty. Upon being released from jury duty during the employee's normal working hours, employees shall call the Cooperative to see if their services are needed for the remainder of the shift and report to work if instructed to do so.

SECTION 2: APPEARING ON BEHALF OF THE COOPERATIVE

Employees called or subpoenaed by the Cooperative, or its designee, for any reason shall lose no pay for time spent appearing and/or testifying in court or in any other judicial or administrative proceeding and in preparation for his/her testimony with Cooperative representatives, and if such activities occur during employee's off duty hours, then time shall be considered hours worked for all purposes.

SECTION 3: OTHER APPEARANCE

If the employee is subpoenaed to testify in a court case by any person or entity other than the Cooperative and the case involves (1) the Cooperative, (2) testifying before or serving on a grand jury or (3) testifying in a criminal case (in which the employee is not a defendant) the employee shall lose no pay for up to thirty (30) working days for time spent appearing and testifying but shall receive no pay for preparation time; provided the employee (1) gives a copy of the subpoena to the General Manager, or his/her designee, the next working day after he or she has served, and (2) returns to work as soon as he or she is released, unless he or she is given permission by the Cooperative not to so report.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 512

SENIORITY/LAYOFF

SECTION 1: PROBATIONARY PERIOD

A newly hired or rehired employee will be considered a probationary employee for the first one hundred eighty (180) calendar days of employment. During and after the probationary period, the Cooperative retains the right to layoff, terminate, transfer or discipline such employee for any reason or no reason subject only to the law. After successful completion of the probationary period, the employee shall be placed on the seniority list as of his or her date of hire. Annual leave shall accrue during probation and may be taken as earned under the same conditions applicable to non-probationary employee. No benefits whether accrued or not will be paid to employees who do not complete probation.

SECTION 2: COOPERATIVE SENIORITY

Cooperative seniority shall be the time of cumulative service as an employee of the Cooperative.

SECTION 3: JOB CLASSIFICATION SENIORITY

Job classification seniority shall be the time of continuous service on the active payroll of the Cooperative or on approved leave of absence in a particular job classification.

SECTION 4: PRIORITY

Where two or more employees have the same seniority date or dates, under Sections 2 and 3, the seniority dates shall be determined by the employee's birthday.

SECTION 5: REGAINING SENIORITY

If a former employee is rehired, he or she will regain the Cooperative and Job Classification seniority he or she had when he or she left employment after he or she successfully completes the one hundred eighty (180) days probationary period. Credit for Medical Insurance, Pension and Section 401(K) Plan participation shall not be restored unless allowed by the particular Plan.

SECTION 6: LAYOFF

In the event of a layoff, employees will be selected for layoff on the basis of the following factors:

- A. Qualifications;
- B. Ability to perform the work;
- C. Physical capability to do the work with or without accommodation; and
- D. Job classification seniority.

When, in the opinion of the General Manager, or his/her designee, factors (A), (B) and (C) are relatively equal, job classification seniority shall be determinative.

SECTION 7: RECALL

Employees temporarily laid off for less than twelve (12) continuous months will be recalled in inverse order of layoff by job classification unless operational convenience requires otherwise.

SECTION 8: PROMOTION

When an employee is promoted to a different position whether in or out of a collective bargaining unit, he or she shall be on a trial period for thirty (30) days during which time he or she may elect to return to the position from which he or she was promoted if it is vacant and if not he or she will be placed in another position but with no reductions in the rate of pay he or she was receiving when he or she was promoted. Upon successful completion of the trial period, job classification seniority shall accumulate from the date of promotion. If prior to the end of said 30-day period the employee is removed and returned to his former position, he or she shall be given job seniority credit for the time spent in the job to which he or she was promoted.

Date Adopted: 7/28/2022

Supersedes: 3/26/2020

Attest: _____

POLICY 513

PROMOTION AND JOB BIDDING

In the event a permanent vacancy in any job classification in the Cooperative arises, which the Cooperative decides to fill, the following procedure shall apply unless as to a particular vacancy the General Manager or the Board of Directors decides otherwise for operational reasons.

- A. The Cooperative will post the job, the minimum qualifications and pay range for five (5) working days on Cooperative bulletin board and otherwise announce the vacancy consistent with the Cooperative's past practice, including allowing non-bargaining unit employees to bid on bargaining unit jobs and vice versa.
- B. Employees who wish to be considered must apply in writing during the posting period to the Human Resources Department.
- C. If the General Manager decides to fill the position while the permanent assignment is being made, he or she may do so with any qualified employee.
- D. All permanent vacancies shall be filled on the basis of merit. The General Manager or designee will consider all timely applications from employees he or she considers qualified, if any, and fill the vacancy based on:
 - 1. Qualifications; and
 - 2. Ability to perform the work,
 - 3. Past performance records, and/or
 - 4. Job classification seniority.

When factors 1, 2 and 3 are relatively equal, job classification seniority shall be given primary consideration.

- E. If the General Manager does not consider any employee applicant sufficiently qualified, he or she may fill the job via transfer or from the outside; however, when in the opinion of the General Manager there are employees qualified for the position who have not applied, he or she will consider them first before going outside.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 514

EMPLOYEE COMMUNICATIONS

SECTION 1: GROUP MEETINGS

The General Manager shall conduct periodic meetings with small groups of non-bargaining unit employees not less than twice a calendar year to discuss Cooperative operations and matters of mutual concern. All non-bargaining unit employees shall attend such meetings during working hours and the time spent at such meetings shall be considered as hours worked for compensation purposes. The General Manager shall report to the Board after each series of small group meetings has been completed.

SECTION 2: SUGGESTIONS

The Cooperative recognizes the ability of its employees to supply many valuable suggestions regarding operation and management of the Cooperative which may tend to improve working conditions or promote the overall efficiency of the Cooperative.

A suggestion box is provided in which employees may insert written suggestions with reference to the operation of the Cooperative. Such suggestions will be considered from time to time by the Cooperative and suitable prizes may be awarded for any suggestions adopted.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 515

REVIEW OF DISCIPLINARY ACTION

- A. Non-exempt full-time non-bargaining unit employees who have been disciplined more severely than by a verbal or written warning may request in writing a meeting with the General Manager to review the discipline so long as the request is made within five (5) working days after the employee is made aware of the discipline.
- B. Upon receipt of a timely request, the General Manager, or his designee, will meet with the employee and give the employee an opportunity to explain his version of the facts and why he or she believes the disciplinary action is inappropriate.
- C. If the meeting is held with the General Manager, he or she shall make the final decision. If the meeting is with the General Manager's designee, the designee shall make a recommendation to the General Manager, and the General Manager's decision with regard to the discipline shall be final.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 516

REVIEW OF NON-DISCIPLINARY PROBLEMS

SECTION 1: POLICY

It is the purpose of this procedure to assure non-exempt employees that their non-disciplinary complaints will be considered fairly, rapidly and without reprisal. It is expected that the procedures set forth below will encourage employees to discuss with their supervisor's matters pertaining to conditions of employment as they affect individual employees. In addition, free discussion between employees and supervisors will lead to better understanding by both, of practices, policies, and procedures which may cause misunderstandings and complaints.

SECTION 2: DEFINITION OF A COMPLAINT

This procedure applies to non-disciplinary complaints about the misapplication or misinterpretation of the EP or applicable departmental rules and regulations. Disciplinary matters shall not be considered under this policy but only under Policy 515 or an applicable CBA.

SECTION 3: ELECTION BY BARGAINING UNIT EMPLOYEES

An employee covered by an applicable CBA may file a non-disciplinary complaint which does not constitute a grievance under an applicable CBA only under this policy, not the applicable CBA. If non-disciplinary complaint also meets the definition of a grievance under a CBA, the employee may file a complaint under this Policy or under the CBA; provided, he or she may not proceed under both and upon filing under one procedure the employee shall waive his or her right to have his or her grievance or complaint reviewed under the other. The first written filing shall determine the procedure to be followed.

SECTION 4: PROCEDURE

- A. Step One: An employee shall present his or her complaint or grievance to his or her immediate supervisor within five (5) working days from the time of occurrence of the problem. The supervisor will respond within three (3) working days after the complaint is made to him or her.

- B. Step Two: If the employee has not received an answer from the immediate supervisor within the three (3) working days, or if the employee feels the answer received is not satisfactory, the employee must reduce to writing the facts and circumstances of his complaint or grievance and present the written statement to his or her department head within five (5) working days after the supervisor's answer or the deadlines provided in Step One, whichever occurs first. Assistance will be provided by Human Resources if requested, including for those employees who cannot read or write or have a language problem. The department head will investigate the grievance and meet with the employee to discuss the complaint or grievance within five (5) working days. The department head will notify the employee of his decision within five (5) days following the meeting date.
- C. Step Three: If the complaint or grievance is not resolved to his satisfaction by the department head, the employee may submit it in writing to the General Manager within five (5) working days after the department head's deadline or answer in Step Two, whichever occurs first.
- D. Step Four: If the complaint or grievance is timely filed under Step Three, the General Manager may consider the complaint or grievance or he or she may designate another managerial employee to do so. In either event, the employee, upon request, will be given an opportunity to explain his position to the General Manager, or his or her designee. After considering all the information before him or her, including the recommendation of his or her designee, if any, the General Manager shall make his or her decision which shall be final and binding.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 517
ANNUAL LEAVE

SECTION 1: ENTITLEMENT

Bargaining unit employees are covered under the union CBA (Collective Bargaining Agreement). All non-bargaining employees accrue annual leave entitlement based on the following schedule:

<u>YEARS</u>	<u>NUMBER OF DAYS</u>
YEARS 1 – 10	21
YEARS 11 – 20	23
YEARS 21 OR OVER	27

SECTION 2: CARRYOVER

Annual leave shall be allowed to accumulate from one year to another.

SECTION 3: PAYMENT UPON TERMINATION

Employees who are discharged or leave the employment of the Cooperative on their own volition and give the Cooperative at least two (2) weeks notice will be paid at the time in cash at their regular hourly rate for any annual leave accrued but not taken which shall include any pro-rata annual leave for the anniversary year in which their employment ceases; otherwise, except as provided in this Policy there shall be no payment for annual leave accrued but not taken, except employees who are laid-off due to lack of work will be paid in cash at the time for any proportional annual leave rights they have earned.

SECTION 4: ANNUAL LEAVE PAY

- A. The amount of pay for each day of annual leave shall be the number of hours in the employee's regular scheduled workday (not to exceed eight (8) times the employee's straight-time hourly rate).
- B. In the event that a designated holiday provided for in Policy 518 falls within an employee's approved annual leave, the employee will take the holiday and use his or her annual leave day at another time mutually agreeable between the employee and the Cooperative.

SECTION 5: SCHEDULING

The Cooperative shall have the right to schedule annual leave to ensure orderly operation of its business and assure continuous availability of employees to perform the services necessary. The use of annual leave requires the advance approval of the General

Manager in writing at least two (2) weeks in advance. Subject to operational needs, the Cooperative will attempt to accommodate the employee's request. Annual leave in excess of two (2) continuous weeks shall require the General Manager's approval.

SECTION 6: LIMITATIONS

- A. Annual leave time shall not accrue during any period of an unpaid leave of absence during a strike, disciplinary suspension, or indefinite layoff.
- B. Annual leave shall not accrue for an unpaid leave of absence beyond 13 weeks.

SECTION 7: ADVANCEMENT

Annual leave may not be taken in advance of being earned.

SECTION 8: MINIMUM AMOUNT

With prior permission from their supervisor, employees may take annual leave in one-hour increments.

SECTION 9: ORDER

Annual leave days are to be taken in consecutive order unless the Cooperative and the employee agree otherwise.

SECTION 10: PAY IN LIEU OF TIME

- A. Once a year an employee may sell back forty (40) hours of accrued but unused annual leave provided:
 - 1. The employee has at least eighty (80) hours of accrued but unused annual leave on the books on the date he wishes to make the sell back.
 - 2. The Cooperative will pay the employee twice his regular hourly rate for the forty (40) hours sold back.
- B. Once a year an employee who has over four hundred (400) hours of accrued but unused annual leave, may sell back the excess hours over four hundred (400) hours at the employee's regular hourly rate.

SECTION 11: ABSENCES DUE TO ON-THE-JOB ACCIDENTS, INJURY OR ILLNESS

Absences due to on-the-job accidents, injury or job related illnesses will not be charged against an employee's accumulated annual leave nor will they be paid for by the Cooperative; however, when an employee is on long-term or short-term disability or workers' compensation, he or she may* utilize accumulated but unused annual leave to make up the difference between his or her regular hourly rate X 40 hours a week and the amount he or she received from long-term disability, short-term disability, workers' compensation and/or social security; provided, the employee has no other employment; and provided further, that the total amount received by the employee from LTD, STD, workers' compensation, social security and annual leave in combination cannot exceed 100% of 40 X the employees' hourly rate at the time of disability or work related injury or illness occurred.

***See Also Policy 510, Section 4.E.**

Date Adopted: 3/26/2020

Supersedes: 7/22/2014

Attest: _____

POLICY 518
HOLIDAYS

SECTION 1: ENTITLEMENT

The following shall be paid holidays for full-time regular employees:

- New Year's Day
- Memorial Day
- Fourth of July
- Labor Day
- Thanksgiving Day
- Day After Thanksgiving Day
- Christmas Eve
- Christmas Day

SECTION 2: HOLIDAY PAY

Holiday pay for non-exempt employees shall be the number of hours in the employee's regularly schedule work day (not to exceed eight (8) hours times the employee's straight-time hourly rate).

SECTION 3: SUBSTITUTE HOLIDAYS

When a holiday falls on a Saturday, the preceding Friday shall be observed. When a holiday falls on a Sunday, the following Monday shall be observed.

SECTION 4: ELIGIBILITY

Employees will not be paid for holidays that fall during an approved unpaid leave of absence that exceeds thirteen (13) weeks or any period of layoff or suspension without pay.

Date Adopted: 3/26/2020

Supersedes: 12/27/2006

Attest: _____

POLICY 519

GROUP MEDICAL, VISION AND DENTAL INSURANCE

SECTION 1: ACTIVE EMPLOYEES

The Cooperative offers group medical, dental, and vision insurance for active, full time employees. For non-bargaining employees, the Cooperative offers the NRECA High Deductible PPO and PPO Medical Plan, Met Life Dental Plan, VSP, and EYE Med Vision Plans under the following conditions:

- A. New employees must sign up for individual coverage on the first day of employment and must apply for dependent coverage in writing by completing an election and premium deduction authorization form and filing it with the Benefits Administrator
- B. Eligibility and coverage are based on the terms of the plan or any modified plan adopted by the Board, a copy of which is available to each employee through the Human Resources Department.
- C. If the employee does not elect coverage and authorized deduction of his share of the premium or, in the event he is absent for any reason, pay his or her premium by the time the deduction is made, or would normally be made, the Cooperative will not be obligated to pay any premium for the employee, and the coverage for the period will be based solely on the terms of the policy.
- D. If the employee properly elects coverage and pays his or her part of the premium, the Cooperative will pay its contribution towards the premiums. The current respective contribution rates are as follows:

	Employee Pays	Cooperative Pays
Medical Employee Only Coverage	0%	100%
Medical Dependent Coverage	40%	60%
Dental Employee Only Coverage	0%	100%
Dental Dependent Coverage	100%	0%
Vision Employee Only Coverage	0%	100%
Vision Dependent Coverage	100%	0%

- E. Subject to subparagraph F below, in the event any of the insurance carriers adds to, eliminates from, or modifies any portion of the plans, the Employee/Cooperative percentage contribution rates shall not be affected.
- F. The Cooperative reserves the right to modify the plans and the respective contribution rates of the Cooperative and the employee as necessary to meet the needs of the employees and the membership. All employees will be notified in advance of any changes.

- G. Employees who are eligible to retire under the Cooperative Defined Benefit Plan but elect not to do so and continue to work shall participate in Group Medical, Dental and Vision Insurance plans on the same basis as all active employees.

SECTION 2: RETIREES

- A. Employees who were less than age 55 on June 1, 1995, and employees hired after June 1, 1995, regardless of their age:
 - 1. Upon actual retirement, the employee and subject to paragraph 6, the employee's spouse and dependents may continue to participate in accordance with this Section; provided, the employee's spouse or eligible dependent(s) shall be responsible for 100% of the premium.
 - 2. Said premiums are to be paid in cash or other means acceptable to the Cooperative by the 10th of each month thereafter. Failure to make timely premium payments may result in the permanent termination of the retiree's right to participate in the Cooperative's group medical insurance plan.
 - 3. The retiree will no longer be eligible to participate in the Cooperative's group medical insurance plan if the retiree obtains a job with an employer who offers group medical insurance regardless of the terms and conditions or cost of participation in said insurance.
 - 4. Subject to paragraph 3 above, when the retiree becomes eligible for Medicare, the retiree may continue to participate in the Cooperative's group medical insurance plan but at the Medicare rate premiums. The retiree must pay 100% of the premiums.
 - 5. Upon death of the retiree, the retiree's spouse and dependents may continue to participate in the Cooperative's group medical insurance plan so long as the spouse doesn't remarry subject to the same conditions and restrictions with respect to participation as applied to the retiree as set forth in subparagraphs 1 – 5 above.

B. Employees on the Cooperative's active payroll as of June 1, 1995 who are age 55 or older as of June 1, 1995, may participate in the Cooperative's group medical insurance plan as follows:

1. The retiree and the Cooperative shall each pay the following percentage of the premiums for the retiree, and if the retiree elects, the retiree's dependents, based upon the retiree's date of retirement as follows:

DATE OF RETIREMENT	RETIREE PAYS	COOPERATIVE PAYS
6/1/95 – 1/31/96	20%	80%
2/1/96 – 1/31/97	30%	70%
2/1/97 – 1/31/98	35%	65%
2/1/98 – 1/31/99	40%	60%
2/1/99 – 1/31/00	45%	55%
2/1/00 and thereafter	50%	50%

2. Said premiums are to be paid in cash or other means acceptable to the Cooperative by the 10th of the month after the month in which the retirement becomes effective and by the 10th of each month thereafter. Failure to make timely premium payments may result in the permanent termination of the retiree's right to participate in the Cooperative's group medical insurance plan.
3. The retiree will no longer be eligible to participate in the Cooperative's group medical insurance plan if the retiree obtains a job with an employer who offers group medical insurance regardless of the terms and conditions or cost of participation in said insurance.
4. Subject to paragraph 3 above, when the retiree becomes eligible for Medicare, the Cooperative will pay the same share of the Medicare rate premium as before the employee became eligible for Medicare based upon the retiree's date of retirement as provided in subsection B(1) above.
5. If the retiree continues to work for the Cooperative after the retiree becomes eligible for Medicare, the retiree may continue to participate in the Cooperative's group medical insurance plan at the rates established by the insurance carrier based on the formula set forth in subsection B(1) above.
6. Upon the death of the retiree, the retiree's spouse and dependents may continue to participate in the Cooperative's group medical insurance plan at the regular rates or Medicare rates, whichever applies, but shall be responsible for 100% of the premium so long as the spouse does not remarry and said participation as applied to the retiree as set forth in paragraphs 1 – 4 above.

7. If an employee is eligible for normal retirement under the Cooperative Defined Benefit Plan but elects not to do so, but has Quasi-retired when they leave the active employment of the Cooperative the retiree/Cooperative premium contributions shall be the rate set forth in Section 2(B)(1) above on the date they were eligible to retire but elected not to do so.

Date Adopted: 3/26/2020

Supersedes: 7/25/2006

Attest: _____

POLICY 520
TOOLS

SECTION 1: TOOLS

Employees shall furnish a set of tools and equipment as required by Cooperative Procedure 520.1 to perform the responsibilities of their jobs. Otherwise the Cooperative shall provide its employees with the tools and equipment the Cooperative determines are necessary to perform the assigned work.

SECTION 2: REPLACEMENT

If the tools furnished by the employee under Section 1 above are damaged or broken in the course of the employee's employment, not as a result of employee negligence, the Cooperative will replace the tool(s) with a tool(s) of comparable quality or the same brand at no cost to the employee. If a tool(s) required by the Cooperative are stolen or mysteriously disappear from a locked locker on Cooperative property assigned to the employee by the Cooperative or from a Cooperative vehicle assigned to the employee, the Cooperative will replace same as provided above at no cost to the employee; provided, the locker or vehicle was locked and was broken into.

SECTION 3: USE OF TOOLS

Employees are not to use tool(s) covered by this policy for personal reasons unless otherwise authorized by the General Manager.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest: _____

POLICY 521

(open)

POLICY 522

(open)

POLICY 523
PENSION AND 401(k) PLANS

SECTION 1: RETIREMENT

- A. For employees hired prior to October 1, 2018: The Cooperative shall keep in effect a “Retirement and Security Program” of the National Rural Electric Cooperative Association and its member systems as amended by the Cooperative on January 1, 2010, (referred to as “D.B. Plan”) provided the multiplier shall be one and 5/10^{ths} percent (1.5%).
- B. For employees hired October 1, 2018, and later: The Cooperative shall keep in effect a “Retirement and Security Program” of the National Rural Electric Cooperative Association and its member systems as adopted by the Cooperative on December 1, 2018; provided the multiplier shall be one percent (1%).

SECTION 2: 401(k) PLAN

The Cooperative on a per pay check basis will make the following contributions to its Section 401(k) Plan (hereafter referred to as “Plan”) for eligible employees subject to the provisions of the Plan as follows:

- A. For employees hired prior to October 1, 2018: for eligible employees who make a contribution of 1-3% of their base pay into the Plan, the Cooperative will contribute a matching amount equal to the employee contribution. No Cooperative contribution will be made for eligible employees who contribute less than 1% of their base pay. No Cooperative contribution will be made in excess of 3% of base pay.
- B. For employees hired October 1, 2018, and later: for eligible employees who make a contribution of 1-5% of their base pay into the Plan, the Cooperative will contribute a matching amount equal to the employee contribution. No Cooperative contribution will be made for eligible employees who contribute less than 1% of their base pay. No Cooperative contribution will be made in excess of 5% of base pay.

SECTION 3: COPIES

Participants will be supplied a Summary Plan Description for both the D.B. Plan and the 401(k) Plan. Complete copies of the D.B. Plan (Section 1) and the 401(k) Plan (Section 2) are available from the Human Resources Department.

SECTION 4: RETIREMENT

Employees desiring retirement, under any options available, should counsel with their supervisor and/or the Director of Human Resources regarding anticipated benefits, and

notify the Cooperative as soon as possible of their intent to retire under the provisions of the retirement programs.

SECTION 5: CHANGES

The Cooperative retains the right to and shall be responsible for elimination, change, or revision of these plans including but not limited to Cooperative contribution and benefit formulas as it deems appropriate subject only to applicable law. Employees will be notified of any such actions.

SECTION 6: LOANS

Employees may be eligible to take out loans from the 401(k) Plan under the restrictions and rules applicable to the Plan. Information relative to employee loans is available from the Human Resources Department.

Date Adopted: 3/26/2020

Supersedes: 9/23/2015

Attest: _____
Secretary

POLICY 524

LONG-TERM DISABILITY AND WORKER COMPENSATION

The Cooperative will provide Long-Term Disability (“LTD”) for employees, provided:

- A. The Cooperative will no longer supplement either workers’ compensation or long-term disability for employees. This includes but is not limited to on-the-job injury or a sickness related to the employee’s work, or for any other sickness, injury or disability or absences from work.
- B. Employees on long-term disability may be eligible to participate in the Cooperative’s group medical insurance plan for two (2) years after they are approved for LTD, their disability ceases, or they become qualified for Medicare, whichever first occurs. To participate in the Cooperative’s group medical insurance plan while on LTD, the employee shall submit to periodic medical examinations as required and paid for by the Cooperative, follow the instructions of their medical doctor, and not be employed by another employer who offers group medical insurance regardless of the terms and conditions under which said insurance is offered or the cost thereof.
- C. When an employee is on LTD or workers’ compensation, he or she may* utilize accumulated but unused annual leave to make up the difference between his or her regular hourly rate X 40 hours a week and the amount he or she receives from LTD, workers’ compensation and/or social security; provided the employee has no other employment; and provided further that the total amount received by the employee from LTD, workers’ compensation, social security, and annual leave in combination cannot exceed 100% of 40 X the employee’s hourly rate at the time the disability or work related injury or illness occurred.
- D. Eligibility rules are available in the Human Resources Department.
- E. Employees will not earn holidays or accrue annual leave when on LTD.

*See Also Policy 510, Section 4.E.

Date Approved: 3/26/2020

Supersedes: 7/22/2014

Attest: _____
Secretary

POLICY 524.5

SHORT-TERM DISABILITY

The Cooperative will provide Short-Term Disability (“STD”) for employees provided:

- A. The Cooperative will not supplement short-term disability for employees.
- B. When an employee is on short-term disability, he or she may* utilize accumulated but unused annual leave to make up the difference between his or her regular hourly rate X 40 hours a week and the amount he or she receives from short-term disability, and/or social security; provided the employee has no other employment; and provided further that the total annual leave received by the employee from STD, social security and annual leave in combination cannot exceed 100% of 40 X the employee’s hourly rate at the time the disability or illness occurred.
- C. Eligibility rules are available in the Human Resources Department.
- D. Employees will not earn holidays or accrue annual leave after thirteen (13) weeks on STD.

*See Also Policy 510, Section 4.E.

Date Adopted: 3/26/2020

Supersedes: 7/22/2014

Attest: _____
Secretary

POLICY 525

WAGE AND SALARY ADMINISTRATION

SECTION 1: OBJECTIVE

- A. To establish and maintain wages and salaries that are adequate to maintain a group of qualified personnel, which will provide efficient service to the member/consumers.
- B. To provide each employee with an awareness that his or her compensation compares fairly with other positions having similar duties and responsibilities in this service area.
- C. To assure both management and employees that performance will be appraised systematically, fairly and consistently and that employees will be provided with the counsel and training to assist them in meeting standards of performance and encourage them to equip themselves for greater responsibility.
- D. To enable management to meet these objectives on a controlled basis to avoid unnecessary salary expense and permit the Board of Directors and management to more accurately determine budget requirements and long-range planning.

SECTION 2: CONTENT

In accordance with the above objectives, the following Wage and Salary policy is established for non-bargaining unit employee groups, with the exception of individuals hired by a temporary service, whose wages shall be determined by the General Manager. The Wage and Salary Plan for bargaining unit employees is as set forth in an appropriate collective bargaining agreement.

- A. Basic Wage and Salary Plan
 - 1. A position description will be prepared for each job within the organization. The description will state the minimum qualifications required for the position and outline the responsibilities assigned to the particular job. The position description sets forth the essential functions and will illustrate other requirements, but does not attempt to constitute a complete description of all its duties and functions. Furthermore, employees are expected to perform all work assigned regardless of whether it is referred to in the position description.
 - 2. Each non-bargaining unit position below that of the General Manager shall be assigned to an appropriate Grade level in the Grade and Step Plan. Each position is assigned to a Grade level by comparing the

responsibilities, knowledge, skill, and effort required to that of other positions within the Cooperative and similar positions within the labor market.

3. When the duties of a position are substantially changed, it is the responsibility of the immediate supervisor to request a re-evaluation of the position upon approval of the department head. A revised position description will be prepared by the Manager of Safety, Training, Loss Control, and Human Resources and referred to the General Manager for re-evaluation by the General Manager and the department heads. Likewise, all vacant positions will be evaluated by the General Manager and the department heads. In September of each year, the immediate supervisors will review each position description for the employees under their direction. If a determination is made that the description should be re-evaluated; the provisions as outlined above shall prevail.
4. All vacancies shall be filled on the basis set forth in Policy number 505 and 513. Consistent with said policies, opportunity shall be provided to present Cooperative employees for promotions to position of higher levels.
5. All new employees and those promoted or transferred are considered probationary for the first three months of employment. At the end of this period, their performance shall be appraised. If services are satisfactory, new employees will be retained in the position. If services are not satisfactory, the employee may be terminated. Retention of promoted or transferred employees will be at management's discretion and wage/salary adjustment will be in accordance with provisions of this policy.

B. Wage and Salary Adjustment

1. New, Transferred, Promoted, or Demoted Employees

Each Grade level in the Grade and Step Plan is comprised of a range of Steps from Base to Maximum. Department Heads, with the General Manager's approval, may use their discretion in hiring within this range, taking into consideration the labor market, educational background, and experience of the job applicant, the length of training required for the position, and other pertinent information.

Employees promoted to a new position will be placed into the Base Step of the Grade for the new position; or if present rate of pay exceeds the Base Step, a Step providing a minimum of a 3% increase over the employee's present rate of pay shall be selected.

In case of transfer, a demotion, or a substantial change in job duties of an employee, a Grade and Step adjustment may be made at the discretion of

the General Manager, commensurate with the requirements of the position.

2. All Other Adjustments

COLA: An annual cost of living adjustment will be considered by the board each year to be made effective January 1 of each year. The same percentage (COLA) adjustment, if any, will be applied to each Grade and Step within the Plan.

Step Increases: Each supervisor will conduct a Performance Appraisal and Counseling Interview with each employee under his immediate supervision: three months after the date of employment, an Annual Performance Appraisal (“APA”) during the fourth quarter of the year, and in addition in all instances of transfers, promotions, and demotions. Each employee receiving a positive Performance Appraisal shall be eligible for Step Increases. Each Step increase will be granted in accordance with the Grade and Step Plan.

Two consecutive negative Performance Appraisals will constitute grounds for disciplinary action up to and including termination. Step increases will become effective on January 1 of each year.

3. Downward Reassignment: If, as a result of downward reassignment of a position(s) due to a change in the labor market, i.e. an employee is being paid at a rate higher than the Maximum of the new Grade level, such employee shall not suffer a reduction in pay. In such cases, the employee shall not be eligible for Step increases until the Grade level has been adjusted upward so long as he is above the Maximum of the Grade level for his position. This subparagraph will not apply to demotions for disciplinary reasons. The Grade and Step level for an employee who is demoted for disciplinary reasons shall be determined by the General Manager.

C. General Provisions

Each year prior to the November Board Meeting, the General Manager will review and make necessary recommendations to the Board of Directors concerning the following matters:

1. A review of the adequacy and efficiency of the Wage and Salary Policy, and the recommended cost of living adjustment.
2. A comprehensive review of the employee benefits package.

After review of the above information, the General Manager shall make the appropriate recommendations to the Board of Directors for consideration and action at the November Board Meeting.

Not less than every three years, a thorough review of the Grade and Step Plan will be undertaken. Each position will be re-evaluated to determine whether the Cooperative is providing fair and appropriate compensation as compared to other positions having similar responsibilities, and as compared to other positions within the organization.

All position descriptions, Performance Appraisals, evaluations, and wage and salary adjustments will be coordinated by the Manager of Safety, Training, Loss Control, and Human Resources.

All wages and salaries will be administered in accordance with Federal law, regulations, and guidelines which will take priority over any provisions in this policy which may be in conflict.

Should economic factors exist which would adversely affect the financial condition of the Cooperative, provisions of this policy may be voided and superseded by directive of the Board of Directors.

SECTION 3: APPLICABILITY

This policy applies to all full-time employees of the Cooperative not covered by a Collective Bargaining Agreement.

SECTION 4: RESPONSIBILITY

A. General Manager

The General Manager shall be responsible for the administration of this plan including the approval of the type and form of performance appraisal methods. The General Manager will be responsible for making recommendations to the Board Committee on any changes required in this policy. Certain provisions of this policy delegate responsibility to supervisor and the Manager of Safety, Training, Loss Control, and Human Resources. These functions will be conducted under the direction of the General Manager.

SECTION 5: INCENTIVE PLAN

A. Safety Accreditation Incentive

Subject to approval by the Board, in any calendar year during which the Cooperative maintains the safety accreditation of NRECA for the entire calendar year, the Cooperative will pay each Cooperative employee One Hundred Dollars

(\$100.00), net of FICA and Medicare, provided the employee is on the active payroll on the day the pay out is made.

B. No Lost Time Incentive

Subject to approval by the Board each contract year, commencing January 1, 1999:

1. If there is no lost time accident, as determined by the General Manager after consultation with the Safety Committee, the Cooperative will pay the amounts per employee set forth below net of FICA and Medicare:

Days Without Loss Time Accident	Per Employee Contribution
90	\$50.00
180	\$100.00
270	\$100.00
365	\$150.00

2. After a 365 period with no loss time accidents, the contribution rates by the Cooperative as set forth in the Chart above will be repeated as long as there is no lost time accident absence but for the first ninety (90) days will be \$100.00. In the event of a lost time accident, the incentive will start over.
3. The pay out will be made after each ninety (90) day period in equal shares net of FICA and Medicare to all Cooperative employees, who are on the active payroll when the pay out is made.

Date Adopted: 3/26/2020

Supersedes: 12/30/2008

Attest: _____
Secretary

POLICY NO. 525.1

GENERAL MANAGER COMPENSATION

I. OBJECTIVES

- A. To establish general guidelines for the Board of Directors of the Cooperative to follow in determining the compensation of the General Manager of the Cooperative.
- B. To provide for compensation arrangements with the General Manager to be approved in advance by an authorized body composed entirely of individuals who do not have a conflict of interest with respect to the arrangement, with the body obtaining and relying on appropriate comparability data prior to making its determination, and the body adequately documenting its basis for its determination concurrently with such determination.

II. CONTENT

- A. Determinations regarding the compensation of the General Manager shall be made by the Board of Directors, provided only those Directors who do not have a conflict of interest with respect to the compensation arrangement may be present during discussions, participate in discussions and vote. See, Conflict of Interest Policy.
- B. In determining the compensation (base, bonus and incentive, as applicable) for the General Manager of the Cooperative, the Board of Directors shall consider, as it deems appropriate, any of the following factors: compensation for like services paid by utilities, cooperatives and similar organizations; job duties and responsibilities; aggregate benefits provided to the individual (excluding de minimis fringe benefits); any deferred compensation; the size, revenues and organizational structure of the Cooperative; and any other factor the Board of Directors may reasonably deem relevant. The Board of Directors may, as it deems appropriate, utilize independent surveys of comparability data.
 - 1. In considering like services, factors may include: type of work; level of involvement; number of employees managed; budget or assets managed; management of multiple functions, departments, facilities or entities; full-time or part-time; and multiple capacities in the same or related organizations.

2. In considering like enterprises, factors may include: size by budget, revenues, employees and customers; same business type (whether non-profit, cooperative or for-profit); and entities that may be competing for the same pool of talent.
- C. Compensation for the General Manager shall be reasonable and set in advance.
- D. No individual with a financial interest in the determination may be present or participate in the discussion or voting on compensation of the General Manager.
- E. The Board of Directors shall contemporaneously document its deliberations and decisions regarding compensation of the General Manager in the Board minutes.

III. RESPONSIBILITY

- A. It is the responsibility of the Board of Directors to administer and enforce this Policy. The Board shall maintain appropriate oversight of the General Manager compensation. The Board shall be responsible for periodic review of this Policy and any modifications to it.

Date Adopted: 3/26/2020

Supersedes: 12/30/2008

Attest: _____
Secretary

REFERENCES: 2008 IRS Form 990, Part VI (15)

POLICY 526

MISCELLANEOUS ECONOMIC ITEMS

SECTION 1: MOVING EXPENSES

If the Cooperative involuntarily assigns an employee or an employee successfully bids to a job for which the Cooperative requires an employee to move, the Cooperative will pay actual, out of pocket moving expenses of up to \$3,500.00.

SECTION 2: WORKERS' COMPENSATION

The Cooperative provides Workers' Compensation benefits to cover all employees as required by applicable law.

SECTION 3: SECTION 125 PLAN

The Cooperative has in effect a Section 125 Plan under which employees may elect to have their portion of the Cooperative group medical and life insurance premiums taken out of their paychecks and to achieve certain tax advantages. Employees should contact Human Resources to fill out the authorization form necessary for participation.

SECTION 4: WEATHER CONDITIONS – FORTY HOUR GUARANTEE

In the event that it is determined by the General Manager that weather conditions prevent full-time construction or maintenance personnel who have successfully completed their initial probationary period from completing at least 40 hours in a work week, the following conditions will prevail:

- A. Lost time due to such weather conditions will be made up by working on Saturday, before the guarantee in subparagraph B will be paid if the General Manager, or his or her designee so directs.
- B. The employee will be paid the difference between his or her straight time rate multiplied (x) by forty (40) hours and the hours he or she actually worked, provided he or she is available to and does perform whatever work is assigned during the weather conditions.
- C. Employees will not normally be required to work just on Sunday to make up the lost time to keep the guaranteed from becoming effective; however, if they are required to work on a Sunday, for example, in case of an emergency, to maintain or restore service or protect Cooperative property or when on special weekend duty, the hours worked shall be counted towards the forty (40) hours.

- D. In the event that an employee completes more than 40 hours of work during a week when time is lost due to weather conditions during that week, he or she will be paid for those hours over 40 at the rate of time and one half.
- E. In any event the employee will be paid the greater amount, that is, for 40 hours of guaranteed work or for the actual hours worked during the work week, whichever sum is the larger.
- F. It is mutually understood by the employees and the Cooperative that emergencies may necessitate work that must be performed regardless of weather conditions.

Date Adopted: 3/26/2020

Supersedes: 1/26/2010

Attest: _____
Secretary

POLICY 527

EMPLOYEE TRAVEL AND OUT-OF-POCKET EXPENSES

SECTION 1: OBJECTIVE

To establish a policy governing the payment of travel and out-of-pocket expenses incurred by employees while involved in official duties or while in attendance at authorized meetings.

SECTION 2: REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES

- A. Employees in the performance of official duties or for attendance at authorized meetings shall be reimbursed for all legitimate expenses incurred upon submission of a detailed expense account, with receipts attached as appropriate, and approval by the employee's department head or, in the case of the department head, the General Manager. Expense accounts of the General Manager shall be approved by the Secretary-Treasurer of the Cooperative.
- B. The Cooperative will not reimburse the expenses of the employee's spouse when accompanying the employee.
- C. Employees may be issued permanent or temporary cash advances to cover expenses incurred in the performance of official duties. Expenses exceeding the temporary advance will be reimbursed upon approval of the employee's expense account. If the advance exceeds actual expenses, the employee will reimburse the Cooperative the difference upon submission of the expense account. Employees with a permanent travel advance will be reimbursed for all legitimate costs upon approval of an expense account and shall reimburse the Cooperative in full for the permanent travel advance upon termination of employment.

SECTION 3: EMPLOYEE TRAVEL

- A. The Cooperative owned or leased vehicles can only be used for trips which are primarily official business.
- B. Charter planes should only be used if cost and time efficient and if commercial service is not available or would be more costly.
- C. Employees who use personal cars for official business shall be reimbursed for mileage at the IRS allowable rate.

- D. Under no condition are personal expenses to be charged directly to the Cooperative. Such expenses must be paid directly by the employee.
- E. Travel time required by the Cooperative to attend mandatory training, safety, or recertification classes shall be counted as hours worked. Any hours beyond 8, 10 or 40 shall be paid at the rate of time and one half (1.5).

SECTION 4: RESPONSIBILITY

- A. The Board of Directors is responsible for any change or revision of this policy.
- B. The General Manager is responsible for seeing that detailed procedures are developed to implement this policy and provide effective control.

Date Adopted: 3/26/2020

Supersedes: 12/27/2006

Attest:

Secretary

POLICY 528

MISCELLANEOUS – NON-ECONOMIC ITEMS

SECTION 1: WORK ASSIGNMENTS

Managerial and non-managerial employees will be expected to work together to perform whatever work is assigned.

SECTION 2: PAY PERIODS AND PAY DAYS

Employees will be paid on a bi-weekly basis.

SECTION 3: DISCLOSURE

When the Cooperative eliminates, adds or modifies the EP, it will notify all employees.

SECTION 4: USE OF COOPERATIVE EQUIPMENT

The policy of the Cooperative regarding use of Cooperative equipment by employees, Board Members, or others shall be as follows:

- A. Any personal use of large Cooperative equipment (all vehicles, tractors, digging equipment, power operated equipment, etc.) is prohibited, with the exception of vehicles designated by the General Manager to appropriate employees for the purpose of maintaining efficiency of operations on a daily basis.
- B. Temporary use of small incidental tools and manually portable equipment employee may be allowed on a check-out basis from the appropriate department manager under arrangements acceptable to the General Manager. Such temporary use will in no way be allowed to restrict the normal work routine. The replacement costs or repair of property issued and not returned in good working order will be by the borrower at his or her expense.
- C. The borrower is expected to exercise due care in the use of company property at all times, and to utilize such property only for authorized purposes. Unauthorized removal of company property from the premises will be considered cause for suspension and/or discharge.

SECTION 5: EMPLOYEE EDUCATION

- A. Employees will be reimbursed in full for actual out-of-pocket cost of tuition and books, for job-related courses approved in advance by the General Manager, upon successful completion of the course of study with a grade of “C” or better, or “Pass”, whichever is applicable, or any separable part thereof determined by the General Manager, in approved schools or correspondence courses. Generally, approved schools shall be those comprising the public university systems of the States of Georgia and Florida, as well as any technical schools that are administered by the States of Georgia and Florida. Approval of reimbursement for enrollment in other schools shall be determined on a case-by-case basis taking into account course availability, cost, and Cooperative needs.
- B. Employees shall apply for any financial assistance for which they may be eligible. Reimbursement of out-of-pocket cost shall take into consideration any financial assistance received.

SECTION 6: EMPLOYEE PERSONNEL RECORDS

- A. The Cooperative shall maintain personnel records for each employee, which shall contain all relevant employment data, including, but not limited to, jobs held, rates of pay, disciplinary actions, commendations, job performance reviews, training records and promotions.
- B. A separate file dealing with each employee’s medical history shall be maintained.
- C. The file identified in A and B above are confidential except to management and Human Resources, the employee and as otherwise required by applicable law.

Date Adopted: 3/26/2020

Supersedes: 7/25/2006

Attest: _____
Secretary

POLICY 529

EMPLOYMENT OF RELATIVES

SECTION 1: OBJECTIVE

To establish policy concerning the employment of relatives of the Board of Directors and employees of the Cooperative.

SECTION 2: CONTENT

- A. The term close relative means a Person who is related by consanguinity or affinity to the principal within the third degree. Notwithstanding the foregoing, each relationship by affinity will add one degree to the degrees of relationship (i.e., a principal will be related to her husband's sister's children in the fourth degree).
- B. Subject to paragraph C below, a close relative of an employee or Director shall not be hired or retained by the Cooperative. Notwithstanding the foregoing, however, no employee shall become unqualified to remain employed by the Cooperative, if he or she first became a close relative while already employed, due to a marriage or adoption to which he or she was not a party.
- C. Spouses of employees shall not be hired or employed under the direct supervision of one another, in a position where a spouse is required to evaluate his/her spouse or in any other situation where the relationship has an actual adverse effect on or the Board determines there is a substantial likelihood the relationship will have an adverse effect on the efficient and harmonious operations of the Cooperative.
- D. If the employees become or intend to become close relatives by marriage or adoption each will immediately advise his/her immediate supervisor, who shall immediately notify the General Manager.
 - 1. If the employees become or intend to become close relatives due to a marriage or adoption to which they were not a party, and one of the employees affected is under the direct supervision of another, or in any other situation where the relationship has an actual adverse effect on or the Board determines there is a substantial likelihood the relationship will have an adverse effect on the efficient and harmonious operations of the Cooperative, a transfer may be offered or one of the affected employees. If a transfer is offered but not accepted, the employee so offered will be asked to resign and failing to do so, will be terminated. When termination is deemed necessary, except when legitimate business reasons require otherwise, the Cooperative will allow the affected employees to select which one of them will be terminated. If the affected employees cannot decide which one of them will be terminated, the employee who was

offered the transfer shall be terminated. If more than one affected employee was offered a transfer, the employee with the least seniority at the Cooperative shall be terminated unless the General Manager determines that the Cooperative business needs require otherwise.

2. If the Cooperative determines that a spousal relationship is inconsistent with paragraph C above, a transfer may be offered or one of the affected employees may be required to resign. If a transfer is offered but not accepted, the affected employee will be asked to resign and failing to do so, will be terminated. When termination is deemed necessary, except when legitimate business reasons require otherwise, the Cooperative will allow the affected employees to select which one of them will be terminated. If the affected employees cannot decide which one of them will be terminated, the employee with the least seniority at the Cooperative shall be terminated unless the General Manager determines that the Cooperative business needs require otherwise.

SECTION 3: RESPONSIBILITY

- A. The Board of Directors is responsible for any changes in or revision of this policy.
- B. The General Manager shall be responsible for the administration of this policy.

Date Adopted: 4/30/2020

Supersedes: 8/25/2015

Attest:

Secretary

POLICY 530
SAFETY PROGRAM

SECTION 1: OBJECTIVE

It is the goal of the Cooperative's Board of Directors to always maintain SAFETY as a top priority. This includes doing the utmost to safeguard the lives of our employees and others, to assure that adequate guidelines and controls exist to prevent accidents, and to eliminate and/or minimize losses if accidents occur.

SECTION 2: CONTENT

A. Safety Equipment:

All personnel will be issued protective safety equipment determined appropriate for the position held. The issued equipment must be used when required.

B. Safety Regulations:

Reasonable efforts will be made to familiarize employees with written safety regulations. All employees shall adhere to these regulations. The Board of Directors adopts the GEMC Operations Safety Manual revised 2018.

C. Safety Training:

Formal training including Northwest Lineman College Electrical Lineworker Program, Coastal Pines Technical College Electrical Lineworker Apprentice Program, First Aid, CPR, and other subjects will be conducted. Planned on-the-job training and monthly scheduled safety meetings by GEMC and other safety professional instructors will be carried out as part of a continuing safety program.

D. Cooperation with Other Agencies:

The Cooperative will cooperate with other agencies interested in the promotion of safe working practices and the exchange of mutually beneficial information.

SECTION 3: RESPONSIBILITY

- A. It shall be the responsibility of the General Manager to make reasonable efforts to see that the GEMC safety manual, OSHA, National Electrical Safety Code, and all state and federal safety regulations as well as the Cooperative safety policies and procedures are adhered to.

- B. It shall be the responsibility of the immediate supervisor to provide his or her employees with the written GEMC safety manual. The GEMC safety manual shall be issued to all employees when they are hired or the manual or parts thereof are revised. It shall also be the responsibility of the immediate supervisor to see that the proper safety equipment is used and procedures are followed at all times and to see that such employees are required to participate in safety training, programs, and meetings.
- C. While at work, it is the responsibility of all employees to conduct themselves in a manner that ensures the safety of themselves and fellow employees, as well as the protection of the public and the Cooperative property. Each employee shall study the GEMC safety manual to learn and understand the safety rules, which apply to his or her job. These rules must be complied with as explained in the manual.
- D. It shall be the responsibility of the General Manager to appoint a Safety Director to work with and serve on the safety committee, to see that the provisions of this policy are carried out and that operating procedures are developed to implement it.
- E. Written monthly safety reports will be part of each board package and will be presented orally at each Board Meeting.

Date Adopted: 3/26/2020

Supersedes: 12/29/2009

Attest:

Secretary

POLICY 531

SUBSTANCE ABUSE

SECTION 1: OBJECTIVE

This policy establishes the Cooperative's position on the use or abuse of alcohol, drugs, or other controlled substances by its employees. It is a part of the Cooperative's commitment to safeguarding the health of its employees, to providing a safe place for its employees to work, and to supplying its customers with the highest quality products and services possible. Because substance abuse, either while at work or away from work, can seriously endanger the health and safety of the employees and render it impossible to supply quality products and services, the Cooperative has established this program to detect users and remove abusers of alcohol, drugs, or other controlled substances. The Cooperative is committed to preventing the use and/or presence of these substances in the workplace.

SECTION 2: POLICY

1. Anti-Drug Policy. The Cooperative prohibits the unlawful manufacture, distribution, dispensation, presence, or use of alcohol, drugs, or other controlled substances on its property. Employees violating this prohibition will be referred to rehabilitation, and/or disciplined up to and including termination of employment.
2. Notice. Notice of this policy will be posted in appropriate and conspicuous locations on Cooperative premises, and copies of the policy will be distributed to all employees and made available for inspection by applicants or employees during regular business hours in the administrative offices. Also, vacancy announcements for job postings will include a notice of drug testing.
3. Acknowledgment/Copy to Employees. All employees must acknowledge they have received notice of this substance abuse policy by signing the *Acknowledgment Form*. Additionally, employees will be given a copy of the Cooperative's written policy.
4. Education Program/Supervisor Training. The Cooperative will present a Substance Abuse Education Program for all supervisors and employees on a periodic basis. Supervisors will receive additional training on substance abuse.
5. Application of Policy. This policy applies to all applicants and employees of the Cooperative.

6. Drug Testing. The Cooperative will utilize drug testing to help administer this policy. Any refusal to take a drug test will result in denial of employment for applicants, and referral to utilization of the Resource File providers or termination, depending on the circumstances for employees. All applicants and employees will be required to sign the *Chemical Screening Consent and Release Form* before any drug test, and will have the opportunity to record on the form any information that he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. In general, the following types of testing will be used:
- a. All applicants will be tested after receiving an offer of employment. Any applicant who refuses to take a drug test will not be considered for employment. Any applicant who fails the drug test by having a confirmed positive test result, will not be considered for employment.
 - b. Employees will be subject to random testing throughout the year.
 - c. Employees will be tested when reasonable suspicion exists such that their behavior or performance indicates possible alcohol or other drug use, in violation of this policy. Supervisors who need to utilize reasonable suspicion testing will fill out the *Substance Abuse Investigation Form*. Articulate facts and reasonable inferences prompting reasonable suspicion drug testing may include, but are not limited to:
 1. Observable phenomena while at work such as direct observation of substance abuse or the physical symptoms or manifestations of being impaired due to substance abuse;
 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 3. A report of substance abuse provided by a reliable and credible source;
 4. Evidence that an individual has tampered with any substance abuse test during his or her employment with the Cooperative;
 5. Information that an employee has caused or contributed to an accident while at work;
 6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment;
 7. Excessive absenteeism including tardiness;
 8. Employee admissions regarding drug use;
 9. Repeated failure to follow instructions or operating procedures;
 10. Violation of Cooperative safety policies;
 11. Odor of alcohol and/or residual odor peculiar to some chemicals, alcohol, or other drugs;

12. Arrest or conviction for violation of a criminal drug statute or an alcohol abuse statute; and/or
 13. Possession of drug paraphernalia.
- d. Employees will be tested during any routine fitness for duty, annual, or biennial medical examinations.
 - e. Employees will be tested following accidents, when the employee's actions have contributed to the accident, where required by law or under this policy. Cooperative officials may use the *Post-Accident Investigation Form* to document such testing. After a minor accident where the employee is able to return to work, the employee may be allowed to resume work pending the results of the drug test. If the employee fails the drug test, by having a positive drug test result, he or she will be removed from the job immediately according to the provisions of this policy.
 - f. Employees will be tested when returning from rehabilitation, which was the result of a positive test and the involuntary referral of the employee to rehabilitation. Follow-up testing shall be conducted at least once a year for a two-year period after completion of the rehabilitation program, and without advanced notice to the employee.
7. Cost of Drug Testing. The Cooperative will pay the cost of all drug tests, which the Cooperative requires of employees. An employee or job applicant shall pay the cost of any additional tests not required by the Cooperative.
 8. Positive Drug Test.
 - a. Medical Review Officer (MRO) – All positive drug test results will be reviewed by the Medical Review Officer (MRO). The MRO may contact the applicant or employee in order to investigate the reasons behind a positive drug test. Failure to cooperate with the MRO will result in denial of employment or immediate termination of employment. If the MRO is unable to contact the applicant or employee, the MRO will communicate that fact to the Cooperative. Once the MRO has finalized the investigation, he or she will communicate the results to the Cooperative.
 - b. Confirmation/Notification – All positive drug tests will be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent method. Within five (5) working days after receipt of a positive confirmed test result from the laboratory, an employee or job applicant will receive written notification of such positive confirmed test result (*Notification Form*), the consequences of such results, and the options available, whereupon he or she will have five (5) working days to contest or explain the positive test result. If the employee's or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO shall

report a positive test result back to the employer. In Florida, a person may contest the drug test result pursuant to rules adopted by the Florida Department of Labor and Employment Security. However, if an employee or job applicant contests the results of the drug test under these rules, he or she is responsible for notifying the laboratory of any administrative or civil action brought pursuant to the Florida rules.

- c. Applicants – If an applicant tests positive, which means the presence of drugs are detected by the drug test, he or she will not be offered employment.
 - d. Employees – If an employee tests positive (confirmed drug test), he or she will be removed from the job and referred to evaluation, assessment, and/or rehabilitation at their own expense. The Cooperative will maintain a Resource File which contains information on employee assistance and rehabilitation resources in the administrative offices. Refusal to agree to be referred to rehabilitation will result in immediate termination of employment.
9. Drug Testing Procedures. The Cooperative will utilize any type of drug testing procedure that it believes is appropriate, in conformity with the law, including urinalysis, blood tests, breathalyzers, or any other method. All applicants and employees will be required to sign the *Chemical Screening Consent and Release Form* before any drug test.
 10. Drugs. The Cooperative will determine the controlled substances (including alcohol) for which testing will be performed and will provide employees and applicants with a list of those substances, described by brand name or common name, as applicable, as well as by chemical name.
 11. Resource File/Employee Assistance. The Cooperative will maintain a Resource File in the administrative offices containing information on employee assistance and rehabilitation resources, where employees may obtain information and/or counseling or treatment for rehabilitation from substance abuse, at the employee's own expense. The Cooperative will also post a listing of providers of employee assistance in the area. The Cooperative will certainly consider any rehabilitated employee for re-employment as required by law.
 12. Disciplinary Action. The Cooperative reserves the right to use disciplinary action up to and including termination of employment for any violation of this policy, any positive drug test, refusal to take a test, or any refusal by an employee to cooperate with any aspect of this policy.
 13. Confidentiality. All information, test results, or other materials received by the Cooperative in the operation of this substance abuse program are confidential communications, which will only be utilized on a need-to-know basis. These

confidential communications and information will not be released unless required by law.

14. Searches. The Cooperative reserved the right to search any person, personal article, work area, vehicle, or other items brought onto Cooperative property. Refusal by an employee to consent to a search will be grounds for termination of employment.
15. Drug-Free Workplace. This substance abuse policy operates in conformity and compliance with the State of Florida Drug-Free Workplace Program (Fla. Stat. 440.101 et. seq.), the State of Georgia Workers' Compensation Drug-Free Workplace Certification Program (O.C.G.A. 34-9-410 to 421 (1993)), and the Federal Drug-Free Workplace Act of 1988 (41 USC 701 et. seq.) On projects covered by the federal Drug-Free Workplace Act, all employees are required to report to the Cooperative if convicted of a violation of a criminal drug statute in the workplace, within five (5) days of conviction.
16. DOT Regulations. Any employees covered by the Department of Transportation's (DOT's) Procedures for Transportation Workplace Drug Testing Programs (49 CFR Part 40), are expected to maintain compliance with these regulations, which may differ from, or be greater than, the requirements of this policy. Likewise, the Cooperative will maintain compliance with DOT federal regulations or other laws where applicable. Employee covered by DOT drug and alcohol testing regulations are governed by the Cooperative's DOT Substance Abuse Policy, in addition to this policy.
17. Subcontractors. Subcontractors employed by the Cooperative to perform work on projects of \$50,000 or more are required to observe the same safety regulations and drug-free workplace standards as are Cooperative employees. All subcontractors are also required to provide evidence of drug and alcohol testing policies and procedures in compliance with the Georgia Workers' Compensation Drug-Free Workplace law and the Federal Drug-Free Workplace Act.
18. Policy Changes. The Cooperative reserves the right to change, alter, or amend this policy at any time at its discretion.
19. Definitions. When used in this policy, the term:
 - a. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
 - b. "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methadone, methaqualene, opiates, barbiturates, benzodiazepines, propoxphene, or a metabolite of any such substances. The Cooperative may test an individual for any or all of these.

- c. “Employee” means any person who works for salary, wages, or other remuneration for the Cooperative.
- d. “Job Applicant” means a person who has applied for a position with the Cooperative and has been offered employment conditioned upon successfully passing a substance abuse test and may have begun work pending the results of the substance abuse test.
- e. “Nonprescription Medication” means a drug or medication authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human disease, ailments, or injuries.
- f. “Prescription Medication” means a drug or medication lawfully prescribed by a physician for an individual and taken in accordance with such prescription.
- g. “Reasonable Suspicion Testing” means substance abuse testing based on a belief that an employee is using or has used drugs or alcohol in violation of the employer’s policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience.
- h. “Substance” means drugs or alcohol.
- i. “Substance Abuse Test” or “Test” means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites or of alcohol.

SECTION 3: RESPONSIBILITY

- A. The Board of Directors is responsible for any change or revision of this policy.
- B. The General Manager is responsible for seeing that detailed procedures are developed to implement this policy and provide effective control.

In Accordance with the Cooperative's authority, it hereby adopts as applicable to all employees of the Cooperative holding a CDL, as an Addendum, the U.S. Department of Transportation (DOT) Federal Motor Carrier Safety Administration (FMCSA) 49 CFR PART 382 CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY for the Cooperative 49 CFR PART 382, which addendum is FMCSA CLEARINGHOUSE READY, and FMCSA CLEARINGHOUSE READY Forms Toolkit to administer the Addendum. The Cooperative shall continue to be observe Cooperative Policy 531.1 provided those provisions are not in conflict with the Addendum.

Date Adopted: 3/26/2020

Supersedes: 5/29/1996

Attest: _____

POLICY 531.1

DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION SUBSTANCE ABUSE POLICY

I. OBJECTIVE

As part of the Cooperative's commitment to safeguarding the safety, welfare, and property of its customers, to providing its customers with the highest quality service possible, to maintaining a drug-free workplace as well as providing Cooperative employees with a safe and healthy workplace in which to work, this policy establishes the Cooperative's position on the misuse or abuse of alcohol and the use of drugs or other psychoactive substances by Cooperative employees. This policy is adopted for all Cooperative employees holding a commercial driver's license (CDL) and who operate, as a part of their duties with the Cooperative, a Commercial Motor Vehicle (CMV) in either interstate or intrastate operations ("Covered Employee"). This policy is adopted in compliance with the U.S. Department of Transportation (DOT) regulations controlling drug and alcohol use for Commercial Motor Vehicle Drivers. Because substance abuse either while at work or otherwise can seriously endanger the safety of employees and render it impossible for the Cooperative to perform its duties in an efficient, courteous, and exemplary fashion, thereby maintaining the public's confidence, the Cooperative has established this program to detect users and remove abusers of alcohol, drugs, or other psychoactive substances. This policy also prohibits the use and/or presence of these substances in the workplace.

II. POLICY

The essential parts of this program are as follows:

1. The Cooperative prohibits the unlawful manufacture, distribution, dispensation, possession, or use of alcohol, drugs or other controlled substances on its property or in Cooperative owned vehicles. Employees violating this prohibition will be referred to professional evaluation and/or disciplined up to and including termination.
2. The Cooperative will present a Substance Abuse Education Program for all employees on a periodic basis.
3. The Cooperative will utilize drug and alcohol testing to help administer this policy and to comply with Department of Transportation Regulations. The following types of testing will be used:
 - a. Pre-employment: Applicants will be drug tested.
 - b. Reasonable Suspicion: Employees will be tested for reasonable suspicion

- c. Random: Employees will be tested randomly where required by law or under this policy.
 - d. Post Accident: Employees will be tested following accidents where required by law or under this policy.
 - e. Return-to-Duty: Employees are subject to being tested when returning from a lengthy absence from duty.
 - f. Follow-up/Post Rehabilitation: Employees will be tested after referral to and successful completion of a substance abuse rehabilitation program.
4. No employees shall be on duty if they are using or have tested positive for alcohol or any controlled substances with the exception of validly prescribed medication. Any employee using prescription medication shall inform their supervisor prior to performing job duties.
 5. Employees are prohibited from performing safety-sensitive functions:
 - a. while having an alcohol concentration of 0.04 or greater as indicated by an alcohol breath test;
 - b. while using alcohol; or
 - c. within four (4) hours after using alcohol.
 6. All outside contractors will be required by contract or purchase order to certify the drug-free condition of their employees before these employees are allowed on Cooperative property.

III. APPLICABILITY

All Cooperative employees required to have a commercial driver's license (CDL) are considered "covered employees" and are subject to the controlled substance and alcohol testing rules contained in this policy. All other employees of the Cooperative are covered by the Cooperative's general Substance Abuse Program.

IV. SUBSTANCE ABUSE EDUCATION PROGRAM

1. Notice of Substance Abuse Program. All employees will be informed of the Cooperative's Substance Abuse Program and be made aware of its contents.
2. Employee Education Program. In order to protect the safety and health of its employees, the Cooperative will present a Substance Abuse Education Program to all employees on a periodic basis. Supervisors will receive an additional two (2) hours of initial training.

V. TESTING OF EMPLOYEES & APPLICANTS

1. Pre-employment Drug Testing. All applicants will be informed of the Cooperative's Substance Abuse Program and advised of the testing requirements in detail by Company personnel prior to an offer of hire. Following an offer of hire, all applicants will be drug tested as part of the application process. If the collection personnel has a reasonable suspicion that the specimen has been tampered with by the applicant, the applicant will not be considered further for employment. If an applicant's test was positive, he or she will not be considered for employment at that time. The applicant may be offered referral to professional evaluation at the applicant's own expense.

Additionally, following an offer of hire, all applicants will be required to sign the *Alcohol and Controlled Substances Testing Information Release Form* consenting to the release of testing information for the two preceding years from his/her previous employer(s). If an applicant refuses to sign the *Alcohol and Controlled Substances Testing Information Release Form*, he/she will not be considered further for employment. Likewise, if the testing information from an applicant's previous employer(s) reveals (1) an alcohol test with a concentration of 0.04 or greater, (2) a verified positive controlled substances test result, or (3) a refusal to be tested, he/she will not be considered further for employment, unless the information also includes proof of the applicant's subsequent substance abuse professional evaluation and/or records indicating that the applicant complied with the recommendations of the substance abuse professional and the return-to-duty testing requirements under § 382.309.

2. Reasonable Suspicion Testing. Employees will be asked to submit to a drug and/or alcohol screening test if reasonable suspicion exists to indicate controlled substance or alcohol use or that their health or safety to perform work may be impaired. Factors which could establish cause include, but are not limited to:
 - a. sudden changes in work performance;
 - b. repeated failure to follow instructions or operating procedures;
 - c. violation of the Cooperative safety policies;
 - d. involvement in any on-the-job recordable or DOT recordable accident;
 - e. discovery or presence of substances in an employee's possession or near the employee's workplace;
 - f. odor of alcohol and/or residual odor peculiar to some chemical or controlled substances;
 - g. appearance that the employee is "unfit for duty";
 - h. unexplained and/or frequent absenteeism or tardiness;
 - i. personality changes or disorientation;
 - j. arrest or conviction for violation of a chemical drug statute or driving under the influence (DUI); and
 - k. possession of drug paraphernalia.

If a supervisor believes reasonable suspicion exists, or has a reasonable suspicion that an employee may be impaired when on, before, or just after duty or using alcohol or controlled substances, these findings and observations will be documented on the *Reasonable Suspicion Investigation Form* by a supervisor educated in the detection of probable drug/alcohol use. Upon review and approval an authorized Cooperative official, the employee will be asked to consent to a drug and/or alcohol test(s) and sign the *Chemical Screening Consent and Release Form*. Subsequent procedures are detailed below. The alcohol test will not be administered by the supervisor making the reasonable suspicion determination.

If the employee refuses to sign the consent form while knowingly able, he/she will be referred to a substance abuse professional for evaluation and/or disciplined up to and including termination of employment, depending upon the circumstances.

In all cases when reasonable cause is suspected, the employee shall be removed from the job for the safety and welfare of the individual, other employees, and the public, and will not be allowed to return to active duty prior to obtaining negative test results.

3. Random Testing. Covered employees will be asked to submit to unannounced drug and alcohol test whereby each employee has the chance of being randomly selected for testing. The employee will be asked to consent to a test(s) and sign the *Chemical Screening Consent and Release Form*.
4. Post-Accident Testing. Employees involved in reportable accidents (as defined by the DOT) involving a fatality or who receive citations for moving traffic violations shall be tested as soon as practicable for the use of controlled substances and/or alcohol in compliance with DOT Regulations.

The employee shall, by telephone, notify his or her immediate supervisor as soon as possible following an accident and, if required provide a urine sample for testing as soon as practicable, but not later than thirty-two (32) hours after the accident. The employee will also be alcohol tested within two (2) hours following an accident. However, if the alcohol test is not performed within two (2) hours following the accident, the Cooperative will document the reason(s) for non-performance and will alcohol test the employee no later than eight (8) hours following the accident. **The refusal to be timely tested is grounds for immediate termination.**

An employee who is subject to post-accident testing must remain available, or the Cooperative will consider the employee to have refused to submit to testing if the employee makes himself or herself unavailable. The employee subject to post-accident testing must refrain from consuming alcohol for eight hours following the accident, or until s/he submits to an alcohol test, whichever comes first.

If seriously injured and unable to provide a specimen, the employee shall provide appropriate authorization for the release of medical records to the Medical Review Officer (MRO), which would indicate the presence of controlled substances and/or alcohol in his or her system. An employee will not be allowed to return to active duty prior to obtaining the test results.

In accordance with DOT regulations, the Cooperative will recognize post-accident drug and alcohol tests conducted by Federal, State and local officials in lieu of its own tests, if conducted in accordance with DOT regulations.

5. Return to Duty Testing. Employees who have been referred to rehabilitation must submit to and pass drug and alcohol tests before they return to the job. An employee's alcohol test must indicate a breath alcohol concentration of less than 0.02, and his/her controlled substance test must indicate a verified negative result for controlled substance use. Employees who return to duty after an extended period of time away from employment with the Cooperative may also be required to submit to and pass a drug and alcohol test.
6. Follow-up/Post Rehabilitation Testing. Employees returning from rehabilitation shall be subject to drug and alcohol testing, with a minimum of six (6) unannounced follow-up alcohol tests administered by the Cooperative over the following twelve (12) months. Follow-up/Post Rehabilitation testing may be extended for up to sixty (60) months following return-to-work.
7. Other Testing Programs. Employees may be required to submit to drug and alcohol testing when required by federal or state law, regulation, or by contractual obligation, not otherwise anticipated by the provisions of this policy. In the event that other drug testing is required, every effort will be made to coordinate new testing requirements with the Cooperative's other drug testing provisions.
8. Specimen Tampering. If the Cooperative has a reasonable suspicion a specimen has been tampered with by the tested employee, the employee will be disciplined up to and including termination of employment.

VI. TESTING AND POST-TEST PROCEDURES

1. Consortia. Random alcohol and controlled substance testing may be conducted through a consortium of employers including but not limited to the following companies:

Okefenoke Rural Electric Membership Corporation

The Cooperative will conduct the required number of random alcohol and substance abuse tests based on the total number of employees covered by the consortium.

The Cooperative will maintain a complete and comprehensive description of the procedures used by the consortium in selecting and testing covered employees and will maintain its records in accordance with DOT regulations.

2. Consent and Release. Once selected for a drug and/or alcohol test under this policy, an employee will be required to sign the *Chemical Screening Consent and Release Form*. An employee who refuses to sign the *Chemical Screening Consent and Release Form* when knowingly able, will be treated as a positive test for the use of controlled substances. The refusal of an employee to be timely tested is grounds for immediate termination of employment.
3. Split Specimen/Sample Testing. Every drug test conducted will be “Split Sample” Tested. Split Specimen Testing is a procedure under which an original urine specimen is divided into two containers, each of which is sealed, labeled, and maintained separately. If the primary specimen tests positive, the split or secondary specimen can be tested, upon timely request, to ensure that the confirmed positive was not caused by error or tempering. Those employees requesting the split sample to be tested must do so within seventy-two (72) hours of being notified of the verified positive. If the second portion produces a negative result, or for any reason the second portion is not available, the test is considered negative and no sanctions are imposed.

An employee requesting the testing of split or secondary specimen does so at his or her own expense. However, if the split or secondary specimen results are negative, the Cooperative will reimburse the employee for the cost of the test.

4. Alcohol Testing. For purposes of this policy, alcohol testing requires breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). Two breath tests will be 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 will be conducted. The employee and the individual conducting the breath test (called a breath alcohol technician (BAT)) will complete the *DOT Breath Alcohol Testing Form* to ensure that the results are properly recorded. All DOT alcohol testing will be conducted in accordance with applicable DOT rules and regulation.
5. Alcohol Misuse. Employees who engage in prohibited alcohol conduct must be immediately removed from safety-sensitive function. Employees who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a substance abuse professional and have complied with any treatment recommendations to assist them with an alcohol problem. Employees who have any alcohol concentration (defined as 0.02 or greater) in their breath, when tested just before, during, or just after performing safety-sensitive function, must also be removed from performing such duties for at least twenty-four (24) hours.

6. Breathalyzers. The Cooperative may utilize breathalyzers or other testing procedures permitted by law to detect alcohol use or possible impairment of employees. If possible, impairment is suspected, an employee should be treated in the same fashion as other for cause investigations, including use of the *Reasonable Suspicion Investigation Form* and the *DOT Breath Alcohol Testing Form*.
7. Confidentiality. All test results are to be kept confidential and will be reviewed by the Cooperative's Medical Review Officer (MRO) prior to the transmission of the results to the authorized Cooperative official. Employees with a negative result may return to work. A confirmed positive test will result in referral of the employee to a substance abuse professional for evaluation, which may include suitable medical treatment and/or rehabilitation, and/or the employee may be disciplined up to and including termination of employment.

VII. MISCELLANEOUS MATTERS

1. Laboratory/Forms. All testing will be done by a SAMHSA certified lab chosen by the Cooperative. Appropriate DOT Forms will be utilized.
2. Confirmation Test. If an initial drug test is positive, a confirmation test will be performed on the same specimen using Gas Chromatography/Mass Spectrometry (GC/MS).
3. "Split Sample" Testing. Split Specimen Testing is a procedure under which an original urine specimen is divided into two containers, each of which is sealed, labeled and maintained separately. If the primary specimen tests positive the split or secondary specimen can be tested, upon timely request, to ensure that the confirmed positive was not caused by error or tampering. Those employees requesting the split sample to be tested have to do so within seventy-two (72) hours of being notified of the verified positive.
4. Blind Performance Testing. In accordance with DOT regulations and to ensure accuracy, the Cooperative will submit three blind performance drug test specimens for each 100 employee specimens it submits for testing. Records will be kept to substantiate compliance with these requirements.
5. Drug-Free Workplace. Any employee engaged in the unlawful manufacture, distribution, dispensation, possession, or use of any controlled substances while on Cooperative property, in a Cooperative vehicle, or while on Cooperative business will be removed from the workplace, referred to professional evaluation, and/or disciplined up to and including termination of employment, and may be subject to criminal investigation and/or prosecution.
6. Other Policies. This Substance Abuse Program primarily governs the Cooperative's action in the area of alcohol, drugs, and other controlled

substances. Other Cooperative policies may be applicable in this area to the extent they do not conflict with this policy.

7. Positive Test. No covered employee shall be on duty if they are using or have tested positive for controlled substances or have a breath alcohol concentration of 0.02 or greater. If an employee tests positive for controlled substances or has a breath alcohol concentration of 0.04 or greater, he or she will be referred to a substance abuse professional for evaluation (at his or her own expense) and/or disciplined up to and including termination of employment, depending upon the circumstances.
8. Refusal of Evaluation/Treatment. If an employee refuses to seek professional evaluation, when given that option by the Cooperative, after testing positive and being informed of the Cooperative's policy, he or she may be terminated for violation of Cooperative policy.
9. Prescription Drugs. In any of the selection or testing situations described in this policy, if prescription drugs are detected, the MRO will allow the applicant or employee to prove medical authorization for the prescription. The Cooperative reserves the right to contact the individual's physician or professional, or Cooperative officials may send the individual to a Cooperative designated physician for verification and review of the situation. Any employee using prescription medication should inform his/her immediate supervisor prior to beginning job duties. Test results revealing the use of legally prescribed medication will be kept strictly confidential in accordance with Cooperative policy.
10. Arrests/Convictions. If an employee is arrested or convicted of violation of any criminal drug statute, he or she must notify Cooperative officials within 5 days of the arrest and/or conviction. The Cooperative will thoroughly investigate all of the circumstances and Cooperative officials may utilize the drug and alcohol testing procedures if cause is established by the investigation. In most cases, an arrest for drug related crime constitutes cause under this policy.
11. Searches. The Cooperative reserves the right to search all vehicles, containers, lockers, or other items on Cooperative property in furtherance of this policy. Individuals may be required to display personal property for visual inspection upon the request of a Cooperative official. Failure to consent to search or display for visual inspection will be grounds for termination of employment, or reason for denial of access to Cooperative premises.
12. Records. Records relating to the Cooperative's Substance Abuse Program will be maintained by the appropriate Cooperative official or his/her designee, in a secure location with controlled access.
13. Severability of Provisions. If any of the provisions of this Substance Abuse Program shall be held unconstitutional or otherwise invalid by any court of

competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

14. Contractors. Contractors employed by the Cooperative to perform work are held to the same safety regulations and drug-free workplace standards as are Cooperative employees. Therefore, all contractors must provide evidence of drug and alcohol testing policies and procedures prior to entering into any contracts with the Cooperative.

VIII. DEFINITIONS

1. Accident means an accident as defined in 49 CFR Part 390.5.
2. Alcohol means the intoxication agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.
3. Controlled or Illegal Substance has the meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1308).
4. Covered Employee means any person who operates a commercial motor vehicle (CMV). This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the Cooperative or who operate a commercial motor vehicle at the direction of or with the consent of the Cooperative.
5. Drugs shall mean and include controlled substances, and illegal substances as herein defined. The term “drugs or alcohol” may be used in this policy for the sake of clarity although it is understood that alcohol is a drug.
6. Drug Test or Chemical Screen shall mean any urinalysis test capable of detecting drugs as specified by Department of Transportation (DOT) regulations.
7. Employee shall include all probationary employees, career, and non-career service employees of the Cooperative regardless of whether any such employee may be a regular, part-time, temporary, or seasonal employee of the Cooperative.
8. Performing (a safety-sensitive function) an employee is considered to be performing a covered function (safety-sensitive function) during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.
9. Prescription or Non-prescription Medication shall include any medication given under the prescription of physician or any medication purchased over the counter that could hinder an employee’s ability to reasonably and safely compete his assigned task or employment function.

10. Reasonable Suspicion or Reasonable Cause shall mean reasonable suspicion based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of an employee and include, but are not limited to, the factors listed above under Reasonable Suspicion Testing.
11. Safety-Sensitive Function (Covered Function) means any of those on-duty functions set forth in 49 CFR Part 395.2 *On-Duty time*, paragraphs (1) through (7).

IX. RESPONSIBILITY

- A. The Board of Directors is responsible for any change or revision of this policy.
- B. The General Manager is responsible for seeing that detailed procedures are developed to implement this policy and provide effective control.

Date Adopted: 3/26/2020

Supersedes: 5/29/1996

Attest:

Secretary

**U.S. Department of Transportation
(DOT)**

**Federal Motor Carrier Safety Administration
(FMCSA)**

Addendum to OREMC Policy 531.1

**49 CFR PART 382
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY**

Okefenoke Rural Electric Membership Corporation

Hereafter referred to as: “OREMC” or “Corporation”

FMCSA CLEARINGHOUSE READY

SECTION A - GENERAL

This policy and 49 CFR Part 40 Regulations of the U. S. Department of Transportation Procedures for Transportation Workplace Drug And Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered employees. They may be viewed at <http://www.dot.gov/odapc> Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40.

OREMC shall test, in accordance with Federal regulations, employees required to have a Commercial Driver’s License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol.

PURPOSE 382.101

The purpose of this policy, in addition to meeting Federal regulations, is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. Our program can help improve your health, help you avoid trouble with the law, and make our workplace safer. This policy is considered a health and safety policy of OREMC.

APPLICABILITY 382.103

- (a) This policy applies to every person of OREMC who operates a commercial motor vehicle in commerce in any State, and is subject to:
- (1) The commercial driver's license requirements of part 383;
 - (2) All Drivers Operating Commercial Motor Vehicles for Corporation; or
 - (3) The commercial driver's license requirements of the Canadian National Safety Code.
- (b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to employers and the requirements in this policy that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

The COVERED EMPLOYEE CERTIFICATE OF RECEIPT contains the name, address, and phone number of the responsible individual(s). The CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY complies with requirements of the Department of Transportation regulations as set forth in 49 CFR § 382 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-

accident, reasonable suspicion, etc.); maintaining a locked file system on all test results; and overseeing the referral of employees for evaluation and treatment. OREMC shall ensure that all covered employees are aware of the provisions and coverage of OREMC's CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

OREMC SERVICE AGENT CONTACT INFORMATION

OREMC (DOT Employer)

ADDRESS: 14384 Cleveland St. E
Nahunta, GA 31553
USDOT Number: 379974

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: David Smith
TITLE: Safety Manager/Loss Control Training
PHONE: (800) 262-5131
E-MAIL: David.smith@oremc.com

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Pam Curtis

MEDICAL REVIEW OFFICER (MRO)

NAME: Dr. Terri Hellings
ADDRESS: 2837 Southampton Rd
Philadelphia, PA 19154
PHONE: (215) 637-6800

LABORATORY

NAME: Medtox Laboratories
ADDRESS: 402 W County Rd D
St. Paul, MN 55112

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: Jason Hill
ADDRESS: 3421 Cypress Mill Rd, Suite 3
Brunswick, GA 31520
PHONE: (912) 222-3851

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: Spec Group
ADDRESS: 1441 Dredsen Dr
Atlanta, GA 30319
PHONE: (404) 846-1600

OREMC'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect OREMC's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent the Corporation's state specific non-DOT Corporation Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, Corporation's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times 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 performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 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, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions* (See *Definitions*).

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that OREMC as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). OREMC shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. OREMC shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES 382.105

OREMC shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to OREMC by 382.105.

DEFINITIONS 382.107

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

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

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of

alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol. [*Caution: Certain brands and types of cough medicines contain alcohol.*]

CFR means Code of Federal Regulations.

Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has gross combination weight rating of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds (11,794 or more kilograms); or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR part 172, Subpart F.

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of Federal

regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

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

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

- (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:
 - i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - ii. Tire disablement without other damage even if no spare tire is available.
 - iii. Headlight or taillight damage.
 - iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

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

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

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

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));
 - (2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
 - (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
 - (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));
 - (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));
 - (6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));
 - (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or
 - (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
 - (9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
 - (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
 - (11) Admit to the collector or MRO that you adulterated or substituted the specimen.
 - (12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a)(3).
- (b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- (c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means 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 performing work. Safety-sensitive functions shall include:

- (1) All time at OREMC's or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by OREMC;
- (2) All time inspecting equipment as required by 392.7 and 392.8 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, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 393.76);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

- (1) In drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

- (a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
 - (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
 - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.
- (b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, OREMC, or the general public.

OTHER REQUIREMENTS IMPOSED BY OREMC 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of OREMC, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation.

REQUIREMENT FOR NOTICE 382.113

Before performing an alcohol or controlled substances test under the Federal regulation, OREMC shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. OREMC shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS 382.115

- (a) All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.
- (b) All foreign-domiciled employers must implement the requirements of this policy on the date the employer begins commercial motor vehicle operations in the United States.

PUBLIC INTEREST EXCLUSION 382.117

OREMC shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R.

STAND-DOWN WAIVER PROVISION 382.119

- (a) OREMC is prohibited from standing employees down, except consistent with a waiver from the Federal Motor Carrier Safety Administration as required under 382.119 of Federal regulations.
- (b) If OREMC seeks a waiver from the prohibition against standing down an employee before the MRO has completed the verification process shall follow the procedures in 49 CFR 40.21. OREMC must send a written request which includes all of the information required by that section to the Federal Motor Carrier Safety Administrator (or the Administrator's designee), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.
- (c) The final decision whether to grant or deny the application for a waiver will be made by the Administrator or the Administrator's designee.
- (d) After a decision is signed by the Administrator or the Administrator's designee, OREMC will be sent a copy of the decision, which will include the terms and conditions for the waiver or the reason for denying the application for a waiver.
- (e) Questions regarding waiver applications should be directed to the Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366-5720.

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

- (a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:
 - (1) The admission is in accordance with OREMC's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
 - (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
 - (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
 - (4) The driver does not perform a safety sensitive function until OREMC is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
- (b) A qualified voluntary self-identification program or policy must contain the following elements:
 - (1) It prohibits OREMC from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
 - (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem; It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
 - (3) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty-controlled substance test with a verified negative test result for controlled

- substances use; and
- (4) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

- (a) For each alcohol test performed, the Corporation shall provide the driver's commercial driver's license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).
- (b) For each controlled substance test performed under this part, the Corporation shall provide the following information, which must be recorded as follows:
- (i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).
 - (ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

EMPLOYEE ASSISTANCE PROGRAM

OREMC's employee assistance program (EAP) is a confidential program designed to assist in the identification and resolution of problems associated with employees impaired by alcohol or drugs, or other personal concerns that may adversely affect employee job performance.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If OREMC has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE 382.205

No driver shall use alcohol while performing safety-sensitive functions. If OREMC has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE 382.207

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If OREMC has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT 382.209

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST 382.211

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. OREMC shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AN/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the Corporation by the DOT in 49 CFR 382.111 to imposed other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the Corporation to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the Corporation) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the Corporation; 3) if the Driver is still insurable at standard rates under the Corporation fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence. It is understood by the Corporation that such disclosure of an off-duty DUI arrest or conviction alone will not constitute “actual knowledge by an employer that a driver has used alcohol or controlled substances” in accordance with 49CFR Part § 382.107 of the FMCSA Regulations.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES 382.213

- (a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- (b) OREMC, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.
- (c) OREMC may require a driver to inform OREMC of any therapeutic drug use.

All drivers of OREMC are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at OREMC to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, OREMC, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137). The claimed use of products containing cannabidiol (CBD) will not be accepted by the Corporation as a medical excuse for a positive THC (marijuana) test.

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although OREMC shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. OREMC, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during

any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

- (a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
- (b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
- (c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
- (d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B

Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

SECTION C - TESTS REQUIRED

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of OREMC), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the OREMC allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

CORPORATION RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by Corporation pursuant to 49 CFR Part 40 and 49 CFR Part 382, The Corporation reserves the independent authority to screen and/or test employees under Corporation's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227].

PRE-EMPLOYMENT 382.301

- (a) Prior to the first time a driver performs safety-sensitive functions for OREMC, the driver shall undergo testing for controlled substances as a condition prior to being used, unless OREMC uses the exception in paragraph (b) of this section. OREMC shall not allow a driver, who OREMC intends to hire or use, to perform safety-sensitive functions unless OREMC has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. *OREMC shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, OREMC shall accept the result as a negative test.*
- (b) OREMC is not required to administer a controlled substances test required by paragraph (a) of this section if:
 - (1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and
 - (2) While participating in that program, either--
 - (1) Was tested for controlled substances within the past 6 months (from the date of application with OREMC), or
 - (2) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with OREMC); and
 - (3) OREMC ensures that no prior employer of the driver of whom OREMC has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.
- (c) (1) If OREMC exercises the exception in paragraph (b) of this section, OREMC shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:
 - (i) Name(s) and address(es) of the program(s).
 - (ii) Verification that the driver participates or participated in the program(s).
 - (iii) Verification that the program(s) conforms to part 40 of Federal regulations.
 - (iv) Verification that the driver is qualified under the rules of this policy, including that the driver

has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.

(2) If OREMC who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If OREMC cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, OREMC shall conduct a pre-employment controlled substances test.

(d) OREMC may, but is not required to, conduct pre-employment alcohol testing under this policy. If OREMC chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

- (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
- (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
- (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
- (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
- (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, OREMC shall test for alcohol for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, OREMC shall test for controlled substances for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

- (c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must be Performed by OREMC
Human Fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

- (d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, OREMC shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, OREMC shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.
- (2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, OREMC shall cease attempts to administer a controlled substance test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- (e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by OREMC to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to 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 emergency medical care.
- (f) OREMC shall provide 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 section.
- (g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by OREMC.
- (2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by OREMC.
- (h) Exception. This section does not apply to:
- (1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or
 - (2) An occurrence involving only the loading or unloading of cargo; or
 - (3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by OREMC unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

- (a) OREMC shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- (2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions.

Sections (c) through (h) omitted intentionally.

- (i) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
 - (2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
 - (3) Each driver selected for testing shall be tested during the selection period.
- (j) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, OREMC, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in OREMC's random testing pool, and all covered drivers must be in the random pool. If OREMC conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) OREMC does not need to compute this total number of covered drivers rate more than on a once per month basis.
 - (2) OREMC may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, OREMC must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool
- (k) (1) OREMC shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
 - (2) OREMC shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.
- (l) OREMC shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, OREMC shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
- (m) 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.
- (n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for OREMC, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.
- (o) If OREMC is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, OREMC may--
 - (1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or
 - (2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which OREMC is subject.

REASONABLE SUSPICION 382.307

- (a) OREMC shall require a driver to submit to an alcohol test when OREMC has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. OREMC's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
- (b) OREMC shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. OREMC's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- (c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of OREMC who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving Corporation premises driving a motor vehicle.*
- (d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with the Federal regulation. A driver may be directed by OREMC to only undergo reasonable suspicion alcohol testing 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.
- (e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, OREMC shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, OREMC shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall OREMC permit the driver to perform or continue to perform safety-sensitive functions, until:
 - (i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
 - (ii) Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.(3) Except as provided in paragraph (e)(2) of this section, OREMC shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit OREMC with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law. written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of OREMC who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart

O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

**SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND
CONFIDENTIALITY**

RETENTION OF RECORDS 382.401

- (a) General requirement. OREMC shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.
- (b) Period of retention. OREMC shall maintain the records in accordance with the following schedule:
- (1) *Five years.* The following records shall be maintained for a minimum of five years:
 - (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
 - (ii) Records of driver verified positive controlled substances test results,
 - (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
 - (iv) Driver evaluation and referrals,
 - (v) Calibration documentation,
 - (vi) Records related to the administration of the alcohol and controlled substances testing programs, including records of all driver violations, and
 - (vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and
 - (viii) A copy of each annual calendar year summary required by 382.403.
 - (2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).
 - (3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.
 - (4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by OREMC while the individual performs the functions which require the training and for two years after ceasing to perform those functions.
- (c) Types of records. The following specific records shall be maintained. “Documents generated” are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.
- (1) Records related to the collection process:
 - (i) Collection logbooks, if used,
 - (ii) Documents relating to the random selection process,
 - (iii) Calibration documentation for evidential breath testing devices,
 - (iv) Documentation of breath alcohol technician training,
 - (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,
 - (vi) Documents generated in connection with decisions on post-accident tests,
 - (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and
 - (viii) A copy of each annual calendar year summary as required by 382.403.
 - (2) Records related to a driver’s test results:
 - (ix) OREMC’s copy of the alcohol test form, including the results of the test,
 - (x) OREMC’s copy of the controlled substances test chain of custody and control form,
 - (xi) Documents sent by the MRO to OREMC, including those required by part 40, Subpart G,
 - (xii) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and

(xiii) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.

(xiv) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that OREMC:

(A) Must obtain in connection with the exception contained in 382.301 of this policy, and

(B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

(xv) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and

(xvi) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

(xvii) Materials on alcohol misuse and controlled substances use awareness, including a copy of OREMC's policy on alcohol misuse and controlled substances use,

(xviii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,

(xix) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;

(xx) Documentation of training for breath alcohol technicians as required by 40.213(a), and

(xxi) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

(xxii) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,

(xxiii) Names and positions of officials and their role in OREMC's alcohol and controlled substances testing program(s),

(xxiv) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and

(xxv) OREMC's alcohol and controlled substances testing policy and procedures.

(d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at OREMC's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

(a) OREMC shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over OREMC or any of its drivers.

(b) If OREMC is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report OREMC's annual calendar year summary information, OREMC shall prepare and submit the report to the FMCSA by March 15 of that year. OREMC shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. OREMC must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). OREMC may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see: <http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must

submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

- (c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. OREMC shall ensure the accuracy and timeliness of each report submitted by OREMC or a consortium.
- (d) If OREMC has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for OREMC), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. OREMC may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.
- (e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of OREMC. However, a Corporation official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS 382.405

- (a) Except as required by law or expressly authorized or required, OREMC shall not release driver information that is contained in records required to be maintained under 382.401.
- (b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. OREMC will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.
- (c) OREMC shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over OREMC or any of its drivers.
- (d) OREMC and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the Corporation and any other information pertaining to the Corporation's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over OREMC or any of its drivers.
- (e) When requested by the National Transportation Safety Board as a part of a crash investigation:
 - (i) OREMC must disclose information related to the OREMC's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and
 - (ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.
- (f) When requested by the National Transportation Safety Board as part of an accident investigation, OREMC shall disclose information related to OREMC's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.
- (g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
- (h) OREMC may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's

compensation, unemployment compensation, or other proceeding relating to a benefit sought).

- (i) OREMC shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO OREMC 382.407

The medical review officer shall report the results of controlled substances tests to OREMC in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

- (a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.
- (b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one (1) year for negative and canceled controlled substances test results.
- (c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

- (a) OREMC shall notify a driver of the results of a pre-employment controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. OREMC shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. OREMC shall also inform the driver which controlled substance or substances were verified as positive.
- (b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.
- (c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

- (a) OREMC must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the Corporation must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope

of the information requested must date back 3 years.

- (b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).
- (c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the Corporation must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION 382.415

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

**SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN
SUBSTANCE USE-RELATED CONDUCT**

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

- (a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.
- (b) OREMC shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if OREMC has determined that the driver has violated this policy.
- (c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING 382.503

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. OREMC shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT 382.505

- (a) No driver tested under the provisions of Section C of this policy who is 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 for OREMC, including driving a commercial motor vehicle, nor shall OREMC permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- (b) Except as provided in paragraph (a) of this section, OREMC shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit OREMC with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on OREMC's property, or in any of OREMC's vehicle, or on OREMC's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify OREMC's personnel when contacted. Failure to advise OREMC of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

OREMC and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

**SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE
INFORMATION, TRAINING, AND REFERRAL**

OREMC’S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

- (a) *General requirements.* OREMC shall provide educational materials that explain the requirements of this policy and OREMC’s policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.
- (1) OREMC shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.
 - (2) OREMC shall provide written notice to representatives of employee organizations of the availability of this information.
- (b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:
- (1) The identity of the person designated by OREMC to answer driver questions about the materials; (*COVERED EMPLOYEE CERTIFICATE OF RECEIPT*)
 - (2) The categories of drivers who are subject to the provisions of this policy; (*APPLICABILITY*)
 - (3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with the policy; (*PERIOD OF THE WORK DAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE*)
 - (4) Specific information concerning driver conduct that is prohibited by this policy; (*SECTION B - PROHIBITIONS*)
 - (5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d); (*SECTION C - TESTS REQUIRED*)
 - (6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); (*49 CFR part 40*)
 - (7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy; (*REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST*)
 - (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences; (*DEFINITIONS*)
 - (9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O; (*CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E*)
 - (10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; (*OTHER ALCOHOL-RELATED CONDUCT 382.505*)
 - (11) Information concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver’s or a coworker’s); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;
 - (12) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse:
 - i. A verified positive, adulterated, or substituted drug test result;
 - ii. An alcohol confirmation test with a concentration of 0.04 or higher;
 - iii. A refusal to submit to any test required by subpart C of this part;
 - iv. An employer's report of actual knowledge, as defined at §382.107:

- A. On duty alcohol use pursuant to §382.205;
- B. Pre-duty alcohol use pursuant to §382.207;
- C. Alcohol use following an accident pursuant to §382.209; and
- D. Controlled substance use pursuant to §382.213;
- v. A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
- vi. A negative return-to-duty test; and
- vii. An employer's report of completion of follow-up testing.

(c) *Optional provision.* The materials supplied to drivers may also include information on OREMC's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on OREMC's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(d) *Certificate of receipt.* OREMC shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. OREMC shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

OREMC shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT 382.605

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

**SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE
COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE**

The purpose of OREMC Policy update in advance of the Implementation Date of January 6, 2020 as mandated by § 382.601: 1) is part of the Corporation’s efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule effective January 5, 2017; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020, so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) *Pre-employment query required.*

- (1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.
- (2) OREMC must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) *Annual query required.*

- (1) OREMC must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.
- (2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, OREMC may obtain the individual driver’s consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell OREMC whether there is information about the individual driver in the Clearinghouse, but will not release that information to
- (3) OREMC. The individual driver may give consent to conduct limited queries that is effective for more than one year.
- (4) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver’s Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) *Employer notification.* If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver’s records, FMCSA will notify the employer.

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

- (1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
 - (2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with
 - (3) § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.
- (e) *Recordkeeping required.* Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

**DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE
382.703**

- (a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.
- (b) Before OREMC may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:
 - (1) A verified positive, adulterated, or substituted controlled substances test result;
 - (2) An alcohol confirmation test with a concentration of 0.04 or higher;
 - (3) A refusal to submit to a test in violation of § 382.211;
 - (4) An employer's report of actual knowledge, as defined at § 382.107, of:
 - i. On duty alcohol use pursuant to § 382.205;
 - i. Pre-duty alcohol use pursuant to § 382.207;
 - ii. Alcohol use following an accident pursuant to § 382.209; and
 - iii. Controlled substance use pursuant to § 382.213;
 - (5) A SAP report of the successful completion of the return-to-duty process;
 - (6) A negative return-to-duty test; and
 - (7) An employer's report of completion of follow-up testing.
- (c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.
- (d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).
- (e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE 382.705

- (a) *MROs.*
 - (1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:
 - (i) Verified positive, adulterated, or substituted controlled substances test results;
 - (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).
 - (2) MROs must provide the following information for each controlled substances test result

specified in paragraph (a)(1) of this section:

- (i) Reason for the test;
- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
- (iii) Driver's name, date of birth, and CDL number and State of issuance;
- (iv) Employer's name, address, and USDOT number, if applicable;
- (v) Date of the test;
- (vi) Date of the verified result; and
- (vii) *Test result*. The test result must be one of the following:
 - (A) Positive (including the controlled substance(s) identified);
 - (B) Refusal to test: adulterated;
 - (C) Refusal to test: substituted; or
 - (D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) *Employers*.

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
- (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) *Test result*. The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
- (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
- (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and
- (iv) Documentation, including a certificate of service or other evidence, showing that the

employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

- (i) On-duty alcohol use pursuant to § 382.205;
- (ii) Pre-duty alcohol use pursuant to § 382.207;
- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

- (i) Driver's name, date of birth, CDL number and State of issuance;
- (ii) Employer name, address, and USDOT number, if applicable;
- (iii) Date the employer obtained actual knowledge of the violation;
- (iv) Witnesses to the violation, if any, including contact information;
- (v) Description of the violation;
- (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and
- (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs*.

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

- (i) SAPs name, address, and telephone number;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Date of the initial substance-abuse-professional assessment; and
- (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately*. Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	<ul style="list-style-type: none"> — An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	<ul style="list-style-type: none"> — Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	<ul style="list-style-type: none"> — Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION
382.707

- (a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.
- (b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.
- (c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

(a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

(1) Employer Clearinghouse registration must include:

(i) Name, address, and telephone number;

(ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and

(iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.

(2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.

(3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:

(1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;

(2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and

(3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) *C/TPAs and other service agents.* Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

(1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and

(2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.

(3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

(a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.

(b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.

(c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

- (a) *C/TPAs*. No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
- (b) *SAPs*. A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.717

- (a) Petitions limited to inaccurately reported information.
 - (1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.
 - (2) *Exceptions*.
 - (i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.
 - (ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).
 - (iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).
- (b) *Petition*. Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:
 - (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
 - (2) Detailed description of the basis for the allegation that the information is not accurate; and
 - (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.
- (c) *Submission of petition*. The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.
- (d) *Notice of decision*. Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.
- (e) *Request for expedited treatment*.
 - (1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.
 - (2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.
- (f) *Administrative review*.
 - (1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.
 - (2) The request must prominently state at the top of the document: "Administrative Review of Drug

and Alcohol Clearinghouse Decision” and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver’s request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver’s request for review. The Associate Administrator’s decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver’s drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

- (1) The SAP reports to the Clearinghouse the information required in § 382.705(d);
- (2) The employer reports to the Clearinghouse that the driver’s return-to-duty test results are negative;
- (3) The driver’s current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and
- (4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver’s drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

- (1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.
- (2) Information about a particular driver’s drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. **Exception:** No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer’s use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from

the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

- (c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.
- (d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

- (a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.
- (b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.
- (c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.
- (d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(a) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) *Exceptions.*

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

(B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

(ii) [*Reserved*]

(b)(1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Appendix A

OREMC Commercial Motor Vehicle Driver's Certificate of Compliance with DOT Cellphone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

*Except as prohibited under Corporation policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.*

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$3,750 for each violation. Corporation can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by OREMC to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

POLICY 532

STATEMENT OF FUNCTION OF EMPLOYEE ADVISORY COMMITTEE

SECTION 1: BASIC FUNCTION

To study, advise and make recommendations to the Board of Directors on matters relating to working conditions, wages and salaries, and employee benefits, including all matters encompassed within the Employment Policy.

SECTION 2: DUTIES AND RESPONSIBILITIES

In cooperation with the General Manager, reviews, not less frequently than annually, the OREMC Employment Policy, Wage and Salary Administrative Policy, and makes appropriate recommendations to the Board of Directors.

SECTION 3: ORGANIZATIONAL RELATIONSHIPS

- A. The Committee shall be comprised of 4 members of the Board of Directors.
- B. The chairman shall be elected by the Committee.
- C. The President may be an ex-officio member of this Committee.
- D. This Committee reports to the Board of Directors.

SECTION 4: TERM IN OFFICE

- A. This Committee is a continuing one.
- B. The term of director members shall run for one year, concurrent with the term of the President.

Date Adopted: 3/26/2020

Supersedes: 4/27/1999

Attest:

Secretary

POLICY 533

BUSINESS ETHICS AND CONDUCT

I. OBJECTIVE:

- A. To establish a policy setting forth the highest standards of ethical and professional behavior for the employees of the Cooperative.
- B. To provide a mechanism for reporting of violations or suspected violations of Cooperative policies, applicable law, regulation or rule; and to further provide for monitoring of compliance by the Cooperative for deviations from the standards set forth in this policy.

II. POLICY:

A. Scope

- 1. It is the Cooperative's policy to manage and operate business activities in conformity with applicable laws and high ethical standards. The management and employees are determined to comply fully with the law, and to maintain the Cooperative's reputation for integrity and fairness in business dealings with members and others.
- 2. All senior management and employees are expected to adhere to all ethical and legal standards as outlined in this policy and to preserve the Cooperative's integrity and reputation.

B. Financial Controls, Procedures & Records

Applicable law and Cooperative policy require the Cooperative to keep accurate books and records that fairly and completely reflect the cooperative's financial position, its transactions and the disposition of its assets. Employees must, therefore, take care (as applicable) to:

- 1. Act with honesty and integrity, avoiding actual or apparent conflicts of interest in personal and professional relationships. (See Employee Policy 503– Standard of Conduct)
- 2. Provide members and other relevant constituents with information that is accurate, complete, objective, relevant, timely, and understandable.

3. Comply with rules and regulations of federal, state, and local governments, and other appropriate private and public regulatory agencies.
4. Act in good faith, responsibly, with due care, competence and diligence, without misrepresenting material facts or allowing independent judgment to be subordinated.
5. Share knowledge and maintain skills important and relevant to member and cooperative needs.
6. Proactively promote ethical behavior in the work environment.
7. Strive for responsible use of all assets and resources of the Cooperative.

C. Respectful Workplace

The Cooperative recognizes a responsibility of all employees to ensure that the basic principles of respect and dignity are exercised in all working relationships. The Cooperative will not tolerate behavior that would violate its harassment or discrimination policies and procedures.

D. Good Faith and Fair Dealing

Each member of management and employee should endeavor to deal fairly with each other, as well as with the cooperative's suppliers, competitors and employees. No one should take unfair advantage of another through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice. Information about the Cooperative's competitors must be used in an ethical manner and in compliance with the law.

E. Use of Cooperative Funds/Fraud

1. Employees are personally accountable for any form of Cooperative funds such as credit cards, tickets, cash, and checks entrusted to them. Those who authorize the use of funds must ensure that the Cooperative has received proper value in return.
2. The Cooperative is committed to the elimination of fraud and theft, to the rigorous investigation of suspected cases of fraud, and, when fraud or other criminal acts are proved, to ensure that wrong doers are appropriately dealt with. The Cooperative will refer appropriate cases to law enforcement for prosecution. Employees who have reason to suspect another person of fraud or other serious offense, such as:

- a. Theft of Cooperative property,
- b. Abuse or misuse of cooperative property or a position of trust, or
- c. Deception or falsification of records (e.g., time records, expense claims)

should follow the action outlined in paragraph H of this policy. (See Employee Policy 503 – Standard of Conduct)

F. Improper Payments

No payment or transfer of Cooperative funds or assets shall be made that is not authorized, properly accounted for, and clearly identified on the Cooperative's books. Payment or transfer of the Cooperative's funds and assets are to be used only as specified in the supporting documents. No member of management or employee may authorize any payment or use any funds or assets for a bribe, "kickback," or similar payment that is directly or indirectly for the benefit of any individual (including any government official, agent or employee anywhere in the world), company or organization in the United States or any foreign country, and which is designed to secure favorable treatment for the Cooperative. Under federal legislation it is a felony to make payments of this kind to foreign government officials.

G. Confidentiality

Cooperative policy prohibits employees from disclosing confidential or proprietary information outside the Cooperative, during or after employment, without authorization from the cooperative to do so. (See Employee Policy 503 – Confidential Information).

H. Reporting Concerns

Senior management or employees with concerns about unethical conduct, violations of Cooperative policies, or violations of local, state, or federal law, regulation or rules are encouraged to report such violations immediately. Employees are encouraged to first report the suspected violation, condition or practice to the Human Resources department and give the Cooperative a reasonable opportunity to remedy the situation before taking further action. **Any employee may, however, directly report the suspected violation to any member of senior management or board member at any time.** Alternatively, the confidential reporting procedure outlined in Policy 534 may be utilized. No employee will be discharged, threatened or discriminated against in any manner for making a good faith report of what he or she reasonably believes to be a violation of state or federal law.

I. Sanctions for Violations

Employees found to be in violation of this policy will be subject to disciplinary action, up to and including termination of employment.

III. RESPONSIBILITY:

The general manager is responsible for the administration of this policy.

Date Approved: 3/26/2020

Supersedes: 10/26/2004

Attest:

Secretary

Appendix # 1

EMPLOYEE COMMITMENT TO ETHICAL CONDUCT

I, _____, acknowledge that I have read and understand the attached Policy 533, Business Ethics and Conduct Policy of the Cooperative. I understand that each member of management and employee of Okefenoke Rural Electric Membership Corporation is expected to carry out his or her work in accordance with the highest standards of ethical and professional behavior.

My obligation is to go beyond the minimum required by the law: to protect the Cooperative's reputation for integrity by acting with honesty and integrity in all I do on its behalf. I understand that unethical conduct will be treated as a serious disciplinary issue by the Cooperative and may result in termination and/or criminal prosecution.

I have been informed that I have an obligation to report concerns about unethical conduct, violations of Cooperative policy, suspected violations of law, regulation or rule to Cooperative management. I understand that no employee will be subject to retaliation for making a good faith report of wrongdoing.

Dated this _____ day of _____, 20_____

Employee

Appendix # 2

MANAGEMENT COMMITMENT TO ETHICAL CONDUCT

I, _____, acknowledge that I have read and understand the attached Policy 533, Business Ethics and Conduct Policy of the Cooperative. I understand that each member of management and employee of Okefenoke Rural Electric Membership Corporation is expected to carry out his or her work in accordance with the highest standards of ethical and professional behavior.

As a senior management member, my obligation is to go beyond the minimum required by the law: to protect the Cooperative's reputation for integrity by acting with honesty and integrity in all I do on its behalf. I pledge to use my best efforts to ensure adequate procedures, communication, monitoring and internal controls are in place in the Cooperative's daily business environment to ensure compliance with the spirit and intent of applicable laws and policies. I understand that unethical conduct will be treated as a serious disciplinary issue by the Cooperative and may result in termination and/or criminal prosecution.

I have been informed that I have an obligation to ensure that all concerns or reports of unethical conduct, violations of Cooperative policy, suspected violations of law, regulation or rule are reported to the general manager. I understand that any concern or report of unethical conduct will be investigated promptly and thoroughly, and that if appropriate, corrective action will be taken. I understand that no employee will be subject to retaliation for making a good faith report of wrongdoing.

Dated this _____ day of _____, 20_____

Employee

POLICY 534

WHISTLEBLOWER POLICY

I. OBJECTIVE

To provide an avenue for employees and others (“Whistleblowers”) to raise concerns about possible improper or illegal activities at Okefenoke Rural Electric Membership Corporation (hereinafter called the “Cooperative”) such as, but not limited to, incorrect financial reporting and breaches of board policies including Business Ethics and Code of Conduct, and to provide reassurance that Whistleblowers will be protected from reprisals or victimization for filing reports in good faith.

II. PROCEDURE

Employees are encouraged to first report the suspected violation, condition or practice to a person with supervisory authority (need not be direct supervisor) and give the Cooperative a reasonable opportunity to remedy the situation before taking further action. **Any employee may, however, directly report the suspected violation to any member of senior management or board member at any time.**

In instances where the employee desires, the Cooperative will engage in a third party to help ensure the confidentiality of all Whistleblower reports. Any person who desires to report possible improper or illegal conduct relating to the Cooperative may file a report with Todd Carter of Welchel, Brown, Readdick & Bumgartner 912-264-8544. All reports will be processed by an independent third party in a manner designed to ensure Whistleblower confidentiality. Whistleblowers are encouraged to file additional reports as deemed appropriate, but especially as follows:

- A. Serious concerns relating to financial reporting, unethical or illegal conduct should also be reported directly to the General Manager. Should the General Manager be the subject of the complaint, it should be reported to the Board President.
- B. Employment-related concerns should also be reported through normal channels such as supervisor, division manager, and human resources director.

III. CONTENT

The Board of Directors of the Cooperative resolves the following to be its policy with respect to Whistleblowers:

- A. Harassment or victimization of Whistleblowers will not be tolerated.
- B. The Cooperative shall protect the Whistleblower's identity whenever possible.
- C. Employees are encouraged to put their names to allegations where appropriate. Follow-up questions and investigation may not be possible unless the source of the information is identified.
- D. Concerns expressed anonymously will be investigated, but consideration will be given to the seriousness of the issue raised, the credibility of the concern, and the likelihood of confirming the allegations from identified sources.
- E. Employees who knowingly make false and malicious allegations may, if discovered, be subject to disciplinary action, up to and including termination of employment.
- F. Although Whistleblowers are not expected to prove the truth of an allegation, they should demonstrate to the person contacted that there are sufficient grounds for concern.
- G. The Cooperative's Board Finance and Audit Committee will receive a report on each complaint and a follow-up report on actions taken.
- H. Initial inquiries will be made to determine whether an investigation is appropriate, and the form it should take. Some concerns may be resolved by agreed action without the need for investigation.
- I. The Whistleblower will be given the opportunity to receive a follow-up report within two to three weeks. Such follow-up report shall:
 - i. Acknowledge that the concern was received by the Cooperative;
 - ii. Indicate how the matter will be dealt with;
 - iii. Give an estimate of the time that it will take for a final response; and
 - iv. Provide a synopsis of any inquiries, investigations, or other actions taken by the Cooperative.

IV. RESPONSIBILITY

- A. The General Manger shall be responsible for calling to the attention of the Board President any non-adherence hereto, for discussion of the full board.
- B. The Board of Directors is responsible for reviewing and changing this policy as may be recommended or required by changing situations and circumstances.

Date Adopted: 3/26/2020

Supersedes: 10/26/2004

Attest:

Secretary

POLICY 535

BUSINESS TECHNOLOGY USE

SECTION 1: OBJECTIVE

To establish Okefenoke Rural Electric Membership Cooperative's requirements for employee use of Technology Resources. This Policy shall apply to all employees and should be read and interpreted in conjunction with all other Okefenoke Policies.

Employees are required to read and sign the "TECHNOLOGY RESOURCES COMPREHENSIVE ACKNOWLEDGEMENT" regarding the Cooperative's TECHNOLOGY RESOURCES.

SECTION 2: GENERAL

A. Definitions

"Technology Resources" refers to the Cooperative's information technology network and infrastructure. Specifically, Technology Resources include, but are not limited to, desktop and server computers, laptops, smartphones, tablets, printers, data and voice networks, networked devices, software, electronically-stored data, portable data storage devices, third-party networking services, telephone handsets, video conferencing systems, and all other similar items commonly understood to be covered by this term.

"Technology Users" refers to any person who has access to any Technology Resources. This includes all employees, interns, leased and temporary workers, independent contractors, consultants, suppliers, agencies, member owners and business partners and other persons or entities that use Technology Resources.

B. Role to Defend

Every Technology User is required to "help protect and defend" by following cybersecurity Policies and Procedures and by adhering to best practices developed to protect him or her [self] and Technology Resources.

C. Change Management Authorization

The purchase, maintenance and installation of all Technology Resources, including hardware and software, is the responsibility of the Information Technology Division. No copies of the Cooperative's software shall be made except for the purpose of backup copies.

D. Technology Resource Ownership

Technology Resources were architected, procured and installed to facilitate business communication between Technology Users and third-parties having an interest in Okefenoke business. All Technology Resources and information contained within Okefenoke's on and off-site networks are the property of Okefenoke in the same respect as other Okefenoke assets.

E. Installation of Hardware/Software by Technology Users

Technology Users shall contact the IT Department for authorization prior to installing hardware or software on any Cooperative Technology Resource.

F. Malware

Any Technology User that has knowledge of malware introduced into Technology Resources or questions the integrity or safety of any electronic data shall immediately contact the IT Department.

G. Rights of Privacy

Any Technology User transmitting or storing personal information on Technology Resources waives all rights to privacy as to such personal information. The Technology User is not granted any explicit or implicit expectation of privacy with respect to the use of Technology Resources.

H. Accessing Others Data

Technology users are prohibited from accessing or attempting to access resources or communications of other users without the express permission of such user and in compliance with applicable Policies, Procedures and applicable law. Excluded from the prohibition is routine maintenance by IT or access properly authorized by the employee.

SECTION 3: ELECTRONIC ACCESS SERVICES

A. Granted to Technology Users based on individual business needs.

B. Granted to Technology Users upon written acceptance of their compliance with the statements and instructions in this document and upon written request of their immediate supervisor.

SECTION 4: ACCEPTABLE BUSINESS USES OF TECHNOLOGY RESOURCES

A. Cooperative related business only, although incidental personal or emergency use may be tolerated unless, the General Manager, or his designee, in his/her discretion, determines otherwise, in which event personal use may be restricted or prohibited.

- B. Communication and exchange for work-related professional development, to remain professionally current, or to debate issues in a field of work-related knowledge.
- C. For work-related professional activities, or work-related professional associations, and work-related research and development.
- D. Work-related gathering of information.

SECTION 5: UNACCEPTABLE BUSINESS USES OF TECHNOLOGY RESOURCES

- A. For “for-profit” activities not sanctioned by the Cooperative.
- B. For private or personal business other than incidental or emergency usage.
- C. Any other use determined by the General Manager, or his designee, to be adverse to the interest of the Cooperative.

SECTION 6: UNACCEPTABLE AND UNETHICAL USES OF TECHNOLOGY RESOURCES

- A. Seeking to gain unauthorized access to resources or “hacking” of any computer system.
- B. Wasting of resources (people, capacity, and computer). Every e-mail/phone message/Fax/Paper Copy costs the Cooperative money. The larger the message and/or attachments, the greater the cost. Remember that the cost of delivering a message is not only the connect time, but also the systems infrastructure, network bandwidth, and people. This also includes the resources that make it possible. These are costs not only for the receiver, but for the sender as well.
- C. No communications are to be vulgar, profane, insulting, offensive, inflammatory, harassing, defamatory, or disruptive to another person’s ability to work. Communications constituting a violation of no harassment/ no discrimination policy are prohibited.
- D. Using a pseudonym or writing anonymous mail appears to disassociate you from responsibility for your actions and is almost always inappropriate. Concealing or misrepresenting your name or affiliation with intent to mask irresponsible or offensive behavior is a serious abuse. Using identifiers of others as your own constitutes fraud.
- E. Illegally downloading software could be a copyright infringement and is never appropriate.
- F. Alteration or destruction of the integrity of computer-based information.

- G. Compromising the privacy of users or confidentiality of data.
- H. Downloading and/or viewing of pornography.
- I. Playing computer games.
- J. Propagating chain letters for commercial purposes or in violation of the non-solicitation policy.
- K. Electronic harassment or stalking.
- L. Sending mass emails to Cooperative employees regarding any non-business matter.
- M. Bulk downloading.
- N. Any action deemed inappropriate and adverse to operational efficiency as determined by the General Manager.

SECTION 7: DISCIPLINARY ACTION

Disciplinary action shall be applied at the discretion of management according to the seriousness of the offense and/or the employee's total work record. Disciplinary action may be in the form of a verbal or written warning notice, suspension from work with or without pay, or discharge.

SECTION 8: RESPONSIBILITY

The general manager is responsible for the administration of this policy and its provisions.

Date Adopted: 7/29/2021

Supersedes: 3/26/2020

Attest:

Secretary

TECHNOLOGY RESOURCES COMPREHENSIVE ACKNOWLEDGEMENT

The Cooperative reserves the right to access, review and disclose information obtained from the Cooperative's Technology Resources at any time. Technology Users are required to notify their supervisor and the Cooperative's IT department if they become aware of any use of the Cooperative's Technology Resources that are in violation of the parameters set forth in **POLICY 535**.

I consent to the monitoring of my usage on any Cooperative Technology Resource. I also confirm that I have read, understand and agree to the terms set forth in POLICY 535.

_____ (Employee)

_____ (Supervisor)

_____ (Date)

POLICY 536

SOCIAL MEDIA

I. OBJECTIVE:

To establish a corporate policy providing guidelines for engaging, posting, commenting and/or distributing social media content regarding the Cooperative brand.

II. CONTENT:

- A. **Definition:** Social media is broadly defined by Merriam-Webster as “websites and other online means of communication that are used by large groups of people to share information and to develop social and professional contacts,” and not limited to social networking sites such as Facebook, SnapChat, Whatsapp, Google+, Pinterest, Tumblr, Instagram, LinkedIn, etc.; video sites such as YouTube or Vine; microblogs including Twitter; blogs, online forums and discussion boards; and all other online publications not affiliated with Okefenoke REMC.
- B. **Social Media Authorization:** The Cooperative may utilize social media to promote and further its business interests. The determination of use and editorial control of social media tools shall be the responsibility of the General Manager or designee. The General Manager shall reserve the right to designate all employee(s) who are authorized to provide social media content related to pertinent cooperative business objectives. All social media content must adhere to the terms and conditions of use set forth by this policy. All official Cooperative business communication must have prior approval from an authorized designee or the General Manager.
- C. **Corporate Rules and Guidelines:** The following guidelines apply to all employees, and/or other employed agents who could be perceived as an official company representative providing digital content on the Cooperative’s behalf.
1. Only authorized employees shall be allowed to engage in social media communication representing the Cooperative.
 2. All information pertaining to the business of the Cooperative, statements, and/or comments with implied authority shall be first approved by General Manager or designee.
 3. Authorized employees must be transparent and identify themselves as an employee of the Cooperative.
 4. Authorized employees could be held legally liable for anything written or implied online that has not been approved or not in accordance with the Cooperative’s policies and viewpoints.

5. Employees shall not disclose confidential, proprietary, security sensitive information, or trade secrets regarding business of the Cooperative.
6. Employee shall not comment on business related to legal matters, existing litigation or with any parties with whom the Cooperative may be in litigation.
7. Employee shall not represent themselves or the Cooperative in a false or misleading way. All statements must be true, and all claims must be substantiated.
8. Privacy rights of Cooperative employees, retirees, board members or agents must be honored by seeking their permission before writing about or displaying internal Cooperative events that might be considered a breach of their privacy and confidentiality.
9. Employees shall acknowledge that the digital content of your company-owned computer, cell phone and/or tablet, along with written content for the Cooperative belong to the Cooperative exclusively. See **Policy 535** for reference.
10. At no time shall employees create personal content while using Cooperative property, vehicles or when wearing an official Cooperative uniform, safety equipment or Cooperative branded attire without prior approval from the General Manager or designee.

D. **Expectations for Employees' Personal Behavior on Social Media:** Within social media, a similarity often exists when speaking "on behalf of the Cooperative" and speaking "about" the Cooperative. The following expectations are related to personal or unofficial online digital discussions where employees might refer to the Cooperative.

1. Use a personal email address to register on social networks, blogs, or other online tools utilized primarily for personal use. Only use your Cooperative email address for business purposes.
2. Refrain from using social media and/or posting digital content while on company time, while within a workplace environment, or while on equipment provided by the Cooperative except for approved business purposes.
3. Do not link a personal blog or social networking site to the Cooperative's website without prior approval.
4. When expressing personal opinions, never represent yourself as a spokesperson for the Cooperative unless you are authorized to do so. If the Cooperative business could be inferred as a subject of the content you are creating, obtain prior approval before posting comments.
5. Employees are solely responsible for their actions and comments regarding social media. Content posted by employee social media account(s) are the exclusive responsibility of the employee.

6. Unapproved content shared on social media that could be perceived as negative, socially unacceptable, vulgar, or in any way detrimental to the Cooperative's reputation shall be addressed promptly per **Policy 535 & 536**.
7. In effort to uphold an informative and effective social media presence, all employees shall be a "scout" for Cooperative compliments and criticism. Employees are one of the Cooperative's most vital assets for monitoring the digital landscape. In the event an employee should discover a positive or negative online remark about the Cooperative that the employee believes should be reviewed, notify your Manager/Supervisor and the Member Communications/Marketing Coordinator immediately. Do not personally respond or comment.
8. Employees should be conscious when mixing business and personal lives online, as they are likely to intersect. Take extra precaution to isolate personal social media accounts from business accounts when possible. The Cooperative respects the free speech rights of all its employees, however employees must recognize that members, colleagues and supervisors often have access to the online content you post. Cooperative employees should also ensure that their digital presence is consistent with how they wish to present themselves to colleagues, other individuals and the general public. Before creating personal digital content, public perception should always be considered. Employees should educate themselves regarding social media privacy settings to ensure that their comments, photos, posts and the like are not viewed by people whom they do not intend to have access.
9. Be aware that any comment, text, photo, post and the like can be shared by any intended recipient with others despite your wish or intention.
10. Employees should always understand that by virtue of their employment at the Cooperative they are ambassadors for the Cooperative. Any digital content, conversation or communication that undermines the trust placed in you by the Cooperative shall result in disciplinary action up to and including termination.

III. APPLICABILITY:

This policy applies to all Cooperative employees and other employed agents.

IV. RESPONSIBILITY:

It is the responsibility of the general manager or designee to ensure this policy is followed.

Date Adopted: 3/262020

Attest:

Secretary

POLICY 537

CELL PHONE USAGE GUIDELINES

SECTION 1: OBJECTIVE

To ensure the safety of all the Cooperative employees who drive a Cooperative vehicle and to comply with state and federal regulations regarding cell phone usage while operating Cooperative vehicles.

SECTION 2: CONTENT

1. All employees while driving a commercial motor vehicle (CMV), as defined in 49 CFR Part 390.5... (having a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more) are prohibited from holding, dialing, or reaching for a cellular phone or supporting a cell phone with any part of their body.
2. A driver of a CMV is allowed to initiate, answer, or terminate a call by touching a single button on a mobile phone or headset provided it can be done while seated in a normal manner and seat-belted as required by law. Any such movement must be accomplished without removing the driver's eyes from the roadway. Thus, hands-free technology is permissible provided the use does not cause distraction.
3. All employees, operating *any* type of vehicle, are prohibited from texting at all times while operating a Cooperative or personal vehicle while engaged in any activity on behalf of the Cooperative.
4. All drivers must minimize other distractions which take away from concentrating on driving, as driving while distracted constitutes a hazard. Distractions include, but are not limited to, eating, reading, talking to passengers, and performing other activities which tend to cause the driver to remove their eyes from the road or divert their attention from the task of driving. Mobile devices used for work such as iPads, iPhones are not to be used while driving to look up information regarding outages, locations etc. Vehicles must come to a complete stop in a safe location before using these devices.

SECTION 3: DRIVING DEFINED

Driving is defined as operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, traffic control device, or other temporary delays. Driving would not include operating a CMV when the driver has moved the vehicle to the side of, or off, a highway or other road and has stopped in a location where the vehicle can remain stationary.

SECTION 4: EXEMPTION

The regulations and this policy do not prevent drivers of commercial motor vehicles from using voice commands or a mobile phone to report a traffic accident, medical emergency, fire, actual or potential criminal act, or a condition creating an immediate and serious safety hazard, or while responding to a utility emergency.

SECTION 5: RESPONSIBILITY

The general manager is responsible for the administration of this policy and its provisions.

Date Adopted: 3/26/2020

Supersedes: 9/23/2015

Attest: _____
Secretary

ACKNOWLEDGEMENT

I acknowledge that I have received a written copy of the cell phone and distracted driving policy. I fully understand the policy and agree to abide by the terms, and that I am willing to accept the consequences of failing to follow the policy.

Employee Signature

Date

POLICY 538
TELECOMMUTING

I. **PURPOSE**

To provide guidelines for the administration of telecommuting work arrangements.

To ensure consistent application and equitable treatment of telecommuting opportunities, while allowing department managers flexibility to make certain telecommuting decisions on a case-by-case basis.

To outline allowances and requirements for telecommuting work arrangements with the understanding that what will work well for one position or person might not work for another, and acknowledge success depends on both the nature of the work and the nature of the worker.

II. **GENERAL**

Okefenoke EMC values collaboration and teamwork amongst our workforce and believes these are critical components to effectively serving our mission to provide safe, reliable, and affordable energy to our membership. Telecommuting work arrangements are a tool that management may establish for some employees on a temporary or intermittent basis in authorized situations.

III. **APPLICABLE**

The provisions of this policy apply to employees who are in an approved position and whose supervisor and Department Manager have approved them individually for a telecommuting work arrangement.

The General Manager may extend telecommuting work arrangements to employees in specific situations to ensure business continuity and employee health and safety.

Telecommuting is a privilege, not an entitlement or guarantee, and is granted at the sole discretion of the Cooperative. As such, telecommuting arrangements may be discontinued at any time at the sole discretion of the Department Manager or General Manager. Efforts will be made to provide advance notice of a change, but in some cases, notice may not be possible.

IV. **POLICY**

A. **Authorized Telecommuting Situations**

1. Employee Emergencies:

- a. When a personal emergency or other special circumstances make it undesirable or impossible for employees to work from normal locations, temporary telecommuting from home or an alternate location will be allowed.

- b. Department Manager approval required.
 - c. Examples include but are not limited to situations of severe weather; or family or personal emergencies which require the employee to be away from the office, but available to perform work remotely via company provided device.
2. Project Work:
- a. Temporary telecommuting may be permitted, with advance planning, for certain types of project work. Qualifying project work includes tasks which require employees to work independently and maintain uninterrupted concentration for periods of time.
 - b. Telecommuting employees shall not use their homes to receive work-related visitors. Meetings should take place on the Cooperatives property, a Cooperative approved meeting site, or via an approved online application such as Zoom, Web Ex, Microsoft Teams, or any other cooperative approved platform.
 - c. Department Manager approval required.
3. Specialized, Hard-to-fill Positions:
- a. In rare occasions, longer-term telecommuting arrangements may be permitted for highly specialized, hard-to-fill positions.
 - b. Department Manager and General Manager approval required.
4. Emergency or Disaster Situations:
- a. When circumstances make it undesirable or impossible for employees to work from their normal locations, telecommuting from home or an alternate location may be allowed. This would include events such as disasters rendering an office building unusable (fire, flood, tornado, etc.), pandemic, etc.
 - b. Telecommuting will be allowed in emergency situations and for a temporary duration to ensure business continuity and employee health and safety.
 - c. The General Manager or designee shall determine when telecommuting is necessary for emergency or disaster related reasons.
 - d. In situations where widespread telecommuting is required, employees will be advised of such requirements by their Department Manager or the General Manager

- e. Information Technology Department will be made aware in advance to ensure appropriate equipment (i.e., hardware, software, phone, etc.) are in place to allow the employee to effectively telecommute.
 - i. The IT department will keep a log of all equipment assigned to telecommuting employees.
 - ii. All equipment must be returned to the IT department in a reasonable time frame when an employee has finished their telecommunication term.
- f. Supervisors and Department Managers will collaborate with the Information Technology Department to review and establish equipment needs to provide support in advance of emergency telework situations.

B. Supervisor Responsibilities

1. Review and Approval Process:

- a. Supervisors are responsible for seeking review and approval through their Department Manager before any telecommuting arrangement is finalized.
- b. Supervisors and their Department Managers will consult with Manager of Human Resources to determine if the employee and position are appropriate for a telecommuting arrangement. Considerations will include well-defined deliverables and performance expectations, workspace design considerations, scheduling issues, and employee performance.
- c. Department Manager, in collaboration with the Information Technology Department, will determine equipment needs for each employee on a case-by-case basis.
- d. All telework arrangements require a signed Telecommuting Acknowledgement found in Appendix A of this policy. Supervisors are responsible for completing and obtaining signatures on the Telecommuting Acknowledgement Form.
 - i. If the form requires updates throughout the work arrangement (such as a change in address, schedule change, etc.), supervisors are responsible for coordinating these updates with the employee.
 - ii. To the extent practical, supervisors shall limit telecommuting arrangements to Tuesday through Thursday to reduce the appearance of extended weekends.
 - iii. The supervisor may require the employee to work from the normal or alternate company reporting location at any time, for any duration, during the telecommuting arrangement with little or no notice to the employee.

2. Monitoring Productivity and Performance:

- a. Managers and or Supervisors are responsible for establishing well-defined deliverables, milestones, and performance expectations with telecommuting employees, and are responsible for monitoring all productivity and quality standards set by the department.
- b. Regular communication between the telecommuter and supervisor is required.
- c. Managers and or Supervisors will address performance and productivity concerns as they arise and will consider ending the telecommuting arrangement if performance expectations are not maintained.
- d. Telecommuting arrangements are not indefinite but should be evaluated and reconsidered as the needs of the workplace or the position change.
- e. While telecommuting, employees should be accessible, within reason, via telephone, text messaging, and e-mails during agreed upon work hours. If an employee will be unavailable for an extended period during the agreed upon work hours, they must notify their supervisor/manager as soon as possible.

3. In an end-of-employment situation, managers and or supervisors will:

- a. Notify Human Resources to ensure that access to Cooperative computers, databases, and other electronic devices are deactivated and returned to the Company.
- b. Ensure all confidential member, Cooperative, and/or employee information is retrieved, secured, or handled consistent with the Cooperative's confidentiality and data protection policies.

V. RESPONSIBILITY

- A. The General Manager shall be responsible for the approval of this policy.
- B. The Manager of Human Resources shall be responsible for the administration, review, and formulation of any necessary changes in this policy as may be recommended or that are required by changing circumstances.
- C. Each Staff member is responsible for the implementation of and adherence to this policy within his/her own department.

Date Adopted: October 5, 2022

Attest:

Secretary

APPENDIX A
Telecommuting Acknowledgement

Employee: _____

Job title: _____

Department: _____

This Telecommuting Agreement will begin and end on the following dates:

Start date: _____ Estimated End date: _____

Temporary work location: _____

Employee schedule: _____

Okefenoke REMC will provide the following equipment:

The employee will provide the following equipment:

Employee agrees to the following conditions:

1. Employee will establish an appropriate work environment for work purposes. The Company will not be responsible for costs associated with the setup of Employee's workspace, such as remodeling, furniture, or lighting, nor for repairs or modifications to the space.
 - The Cooperative will not assume responsibility for operating costs, home maintenance, or other costs incurred by employees in the use of their homes as an alternate work location. Examples include but are not limited to hardware/software repair, telephone equipment service or repair, travel costs which would not otherwise be incurred, office desk or chair, broadband/internet access.
 - Employees are responsible for ensuring their alternate work location is a safe environment. Injury resulting from unsafe work conditions at the employee's alternate work location, which is not in control of the Cooperative, is the responsibility of the employee.
 - Telecommuting employees shall meet the same standards and professionalism expected as if they were working at their normal reporting location.
2. Employee will remain accessible and productive during scheduled work hours.
3. If Employee is unable to work due to illness or scheduled/unscheduled time off, Employee will record such hours using the appropriate pay code (Annual leave, FMLA, etc.).
4. Employee will report to the assigned Cooperative work location as necessary upon directive from his or her supervisor.
5. Employee will communicate regularly with his or her supervisor and co-workers

6. Employee will comply with all Cooperative rules, policies, practices, and instructions that would apply if Employee were working at the Cooperative's work location.
7. Employee will ensure the protection of proprietary Cooperative, member, and/or employee information.
8. Employee will maintain satisfactory performance standards.
9. Employee will plan for regular dependent care and understands that telecommuting is not a substitute for dependent care. In emergency circumstances (i.e., pandemic or disaster situations), exceptions may be made for employees with caregiving responsibilities.
10. Employee will always maintain a safe and secure work environment and hold the Cooperative harmless for injury to others at the telecommuting location.
11. Employee will report work-related injuries to his or her supervisor as soon as practicable.
12. Employee agrees that Cooperative equipment will be used in accordance with all Cooperative policies, procedures, and configurations. Employee will not make any changes to security, network connectivity, or administrative settings on Cooperative equipment.
13. Employee understands that all tools and resources provided by the Cooperative shall always remain the property of the Cooperative.
14. Employee agrees to protect Cooperative tools and resources from theft or damage and to report theft or damage to his or her supervisor immediately.

By signing below, Employee:

- acknowledges receipt and understanding of the Telecommuting policy,
- understands the expectations outlined in this Telecommuting Acknowledgement,
- understands all terms and conditions of employment with the Cooperative remain unchanged, except those specifically addressed in this Acknowledgement, and
- understands the Cooperative retains the right to modify this Acknowledgement for any reason at any time.

Employee signature: _____ Date: _____

Supervisor signature: _____ Date: _____

Department Manager signature: _____ Date: _____