

County of Cumberland Board of Chosen Freeholders	Policy Number: 4.05	Pages: Page 1 of 17
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Subject: Drug & Alcohol Testing for Safety-Sensitive Employees		

I. Policy

Cumberland County Government, Board of Chosen Freeholders does hereby endorse the Omnibus Transportation Employee Testing Act of 1991 and the rules mandated by the Department of Transportation (DOT), and Federal Transit Administration (FTA). Cumberland County employees who perform safety sensitive transportation functions, or supervise personnel in safety sensitive transportation functions shall be subject to policies and procedures in accordance with Department of Transportation, 49 CFR Part 40 Procedures for Transportation Workplace Drug Testing Programs and 49 CFR Part 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations. In an effort to comply with laws, rules, and regulations promulgated by Federal Agencies with the authority to do so, as well as to protect affected employees performing work in safety sensitive positions, the Board of Chosen Freeholders for Cumberland County hereby adopts the regulations as set forth in this policy thereby establishing programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or prohibited drugs used by safety sensitive employees as defined in 49 CFR Part 40 and Part 655, as well as Federal Motor Carrier Safety Administration (FMCSA) 49 CFR Part 392 et. al.

II. Definitions

- A. **Accident:** An accident occurs when either a road vehicle involved suffers disabling damage and is towed away from the scene or there has been an injury requiring immediate medical treatment away from the scene or in the event of a death.
- B. **Adulterated Sample:** A specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high/low that it is not consistent with human urine.
- C. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol or other low-molecular weight alcohols including methyl and isopropyl alcohol.
- D. **Alcohol Use:** The consumption of any beverage, mixture or preparation, including any medication containing alcohol.
- E. **Breath Alcohol Technician (BAT):** An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.
- F. **Canceled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which this part otherwise requires to be canceled. A canceled test is neither a positive nor negative result.
- G. **Confirmation Drug Test:** A second analytical procedure performed on a urine specimen to identify the presence of a specified drug or metabolite.

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- H. **Covered Employee:** A person, including applicants and transferees, who performs safety-sensitive functions as defined in this section.
- I. **Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his/her medical history and any other relevant biomedical information.
- J. **Performing a Safety-Sensitive Function:** Means any period in which a covered employee is actually performing, is ready to perform, or is immediately available to perform such functions.
- K. **Prohibited Drugs:** Means cocaine, marijuana, opioids, amphetamines, and phencyclidine. Employees are prohibited from using the five listed drugs at all times, and a covered employee may be tested for these drugs any time while on duty.
- L. **Refusal to Test:**
1. **Alcohol and/or Drug Test:** You are considered to have refused to take an alcohol test and violated this policy if you fail to:
 - a. Appear for any test within a reasonable time (except a pre-employment test), as determined by the employer, after being directed to do so by the employer;
 - b. Remain at the testing site until the testing process is complete;
 - c. Attempt to provide a saliva or breath specimen, as applicable, for any test required by DOT, FTA or FMCSA regulations;
 - d. Provide a sufficient breath or urine specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - e. 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 device or other device that could be used to interfere with the collection process;
 - f. Remove a prosthetic device that could be used to interfere with the collection process;
 - g. Admit to the collector or MRO that you adulterated or substituted the specimen;
 - h. Undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures outlined in 49 CFR 40.265c
 - i. Sign the certification as Step 2 of the Alcohol Testing Form;
 - j. Cooperate with any part of the testing process.
 - k. If the MRO reports that you have a verified adulterated or substituted test result.
 1. Any covered employee who refuses to submit to a drug or alcohol test will be immediately removed from performing any safety-sensitive function and in accordance with 49 CFR, Part 40, and Subpart O are referred to Cumberland County's SAP.

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2. Post-Accident Testing: In addition to the above, a covered employee who fails to remain readily available for a post-accident test, including notifying the employer of his or her location or if he or she leaves the scene of the accident prior to being tested, may be deemed by the employer to have refused to submit to testing.

M. Safety-Sensitive Function:

1. The Federal Transit Administration (FTA) means any of the following duties:
 - a. Operating a revenue service vehicle, including when not in revenue service;
 - b. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL);
 - c. Controlling dispatch or movement of a revenue service vehicle;
 - d. Maintaining a revenue service vehicle or equipment used in revenue service, with some exceptions; or
 - e. Carrying a firearm for security purposes.
2. The Federal Motor Carrier Safety Administration (FMCSA) means any of the following:
 - a. 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;
 - b. All time inspecting equipment as required by the FMCSA regulations or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time;
 - c. All time spent at the driving controls of a commercial motor vehicle (CMV) in operation;
 - d. All time, other than driving time, spent on or in a CMV except for time spent resting in the sleeper berth;
 - e. All time loading or unloading a CMV, supervising or assisting in the loading or unloading, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; or
 - f. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

N. **Substance Abuse Professional (SAP)**: A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, state licensed family therapist credentialed suitable for becoming an EAP, social worker, employee assistance professional, **marriage counselor** or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

O. **Verified Drug Test**: Means a drug test result of validity testing result from an HHS certified laboratory that has undergone review and final determination by the MRO.

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- P. Volunteer: A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety sensitive function for an entity subject to this part and received remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

III. Procedures

- A. **Covered Employees:** Cumberland County employees who are required by their positions to hold a commercial driver's license (CDL) and/or who perform safety-sensitive functions in connection with transportation funded by the Federal Transit Administration shall be subject to this policy. Compliance with this policy and the federal regulations is mandatory and is a prerequisite to employment in a covered position. A volunteer is a covered employee if the volunteer is required to hold a commercial driver's license or if the volunteer performs a safety sensitive function for this entity subject to this part and received remuneration in excess of his or her actual expenses incurred while engaging in volunteer activity.

An employee, applicant or transferee is covered under the following regulations:

1. FMCSA: The employee is required to have a CDL because, in the course of performing work-related functions, that employee may have to drive a vehicle for which a CDL is required.

Persons with the following titles will be tested: road supervisor, supervisor of roads, senior mechanic, mechanic, heavy equipment operator, equipment operator, truck driver, assistant supervisor traffic maintenance, traffic maintenance worker.

2. FTA: The employee performs safety-sensitive functions in a program that receives funding from the FTA. Under FTA regulations, an employee is covered under the safety-sensitive test if the employee:
 - a. Operates a revenue service vehicle, even if the vehicle is not then in revenue service;
 - b. Operates a nonrevenue service vehicle, which requires a CDL;
 - c. Dispatches or controls a revenue service vehicle;
 - d. Maintains a revenue service vehicle or equipment used in revenue service;
 - e. Provides security and carries a firearm;
 - f. Is a supervisor who may be called upon to perform any of the above functions.

The Cumberland County Division of Workforce Development and the Cumberland Area Transport System does not utilize volunteers in safety sensitive positions.

Persons with the following titles will be tested: omnibus operator, senior omnibus operator, radio dispatcher, mechanic, senior mechanic.

In those instances where rule variations occur between the FTA and FMCSA, the policy will contain a notation indicating same. Employees who hold a CDL and work in an FTA-funded program will follow the FTA rules.

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- B. **Required Testing for Drugs & Alcohol:** Pursuant to federal regulations, tests for controlled substances and alcohol shall be conducted. Drug testing shall be done by urine sample screening for marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP). Prior to performing an alcohol or drug test under the federal regulations, the County must inform the employee that the test is required under the regulations.
- C. **Pre-Employment/Pre-Duty Testing:** All applicants for and transfers to safety-sensitive positions are required to submit to a drug test with a verified negative test result prior to beginning a safety-sensitive function. Pursuant to 49 CFR 655.41(d), When a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days, regardless of the reason, and the employee has not been in the employer's random selection pool during that time frame, the employee must take a pre-employment drug test with a verified negative result. All drug tests for an employee coming back to work to perform safety-sensitive duties, not related to a post SAP referral, must undergo a pre-employment test.
- D. When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation, and treatment plan as described in Section 655.62.
- E. **Post-Accident Testing:** As soon as practicable after an accident involving a commercial motor vehicle or transit vehicle, all surviving covered employees operating the public transportation vehicle at the time of the accident as described in Section 655.44, shall be tested for drugs and alcohol. For employees covered under the FTA, any other covered employee whose performance could have contributed to the accident shall also be tested. Said testing shall be performed when:
- a. Employees under the FMCSA:
 - (1) There is a loss of human life or
 - (2) A citation is issued to the employee under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a. 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 tow truck or other motor vehicle.
 - b. Employees under the FTA:
 - (1) There is a loss of human life;
 - (2) One or more individuals receive injuries requiring immediate transport to a medical treatment facility; or
 - (3) One or more vehicles receive disabling damage.
 - (4) With respect to an occurrence in which the public transit vehicle involved is a bus, electric bus, van, or automobile, (one or more vehicles (including non FTA funded vehicles) incurs disabling damage as the result of the occurrence and such

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vehicle or vehicles are transported away from the scene by a tow truck or other vehicle.

Under (2) and (3) above, only, testing is not required if the supervisor can document that, using the best available information at the time of the determination, the covered employee's performance can be completely discounted as a contributing factor.

Every effort must be made to perform the alcohol test within 2 hours of the accident, but no later than 8 hours after the accident. When these limits are not met, the employee's supervisor must document the reasons why the test could not be performed within the prescribed time limits. Testing for drugs must be done within 32 hours of the accident. The supervisor must document the reasons for failure to perform a drug test within the 32-hour time frame (use Form #405PAT).

A covered employee who is subject to post-accident testing shall remain readily available for testing, including notifying the designated County representative of the accident and his or her location if he or she leaves the scene of the accident prior to submission to the tests. Failure to do so will be deemed by the County as refusal to submit to testing. An employee who seeks necessary medical attention for the injured following an accident or who leaves the scene of an accident for the period necessary to obtain assistance in responding to the accident or who needs to obtain necessary emergency medical care will not be considered to have refused testing.

The results of a breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by law enforcement agencies with the authority to do so shall meet the requirements for post-accident testing, provided such tests conform to applicable federal, state or local requirements and the results are obtainable by the County, but only if testing could not otherwise be done.

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F. Random Testing:

- a. Pursuant to FTA regulations, Cumberland County shall drug test a minimum of 25% of its covered employees who perform safety-sensitive functions within the calendar year. Cumberland County will also alcohol test a minimum of 10% of its covered employees who perform safety-sensitive functions within the calendar year.
- b. Pursuant to FMCSA regulations, Cumberland County will drug test a minimum of 50% of its covered employees who perform safety-sensitive functions in a calendar year. Cumberland County will also alcohol test a minimum of 10% of its covered employees who perform safety-sensitive functions within the calendar year.

The selection of employees to be tested shall be completed using a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employee's social security numbers, payroll identification numbers, or other comparable identifying numbers, with testing spread reasonably throughout all periods of the calendar year. The scientifically valid method will ensure that each affected employee has an equal chance of being tested at least once annually without elimination. The effect, therefore, is that an employee may not be selected at all during the course of the year, or he/she may be selected several times.

Tests must be unannounced, immediate and unpredictable. Test dates must be spread reasonably throughout the calendar year and shall occur at all time periods when safety-sensitive functions are performed. This allows no discretion by personnel as to who is selected or notified to proceed for testing.

Employees subject to random testing may only be tested for alcohol just before, during, or just after performing a safety-sensitive function. An employee is subject to drug testing any time while on duty. Each covered employee who is notified of selection for random drug or random alcohol testing must proceed to the test site immediately.

- G. Reasonable Suspicion Testing: Cumberland County shall test employees when there is a reasonable suspicion that the employee violated the prohibitions established under the federal regulations as outlined in this policy.

The determination to require a reasonable suspicion test shall be made by a supervisor who has been trained in detecting the signs and symptoms of drug and alcohol use. The determination shall be based on specific observations concerning the appearance, behavior, speech or body odors of the employee. Once a determination to test is made by the supervisor, he/she shall, within 24 hours, complete the "Supervisor's Report of Reasonable Suspicion."

For those employees covered by the **FMCSA** regulations, a reasonable suspicion alcohol test is only authorized if the supervisor's observations are made just preceding, during or just after the period the employee is required to be in compliance with the regulations. The employee can only be directed to undergo reasonable suspicion testing for alcohol under the federal regulations just before, while or just after performing safety-sensitive functions. If the test is not administered

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within two (2) hours following the determination of reasonable suspicion, the supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the test isn't administered within eight (8) hours, the supervisor shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

For those employees covered under the FTA regulations, reasonable suspicion alcohol testing is only authorized if the observations required are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety sensitive functions; just before the employee is to perform safety sensitive functions; or just after the employee has ceased performing such functions.

- H. Return to Duty Testing: An employee who had violated the rules to perform a safety-sensitive function shall undergo a return to duty drug and/or alcohol test with a negative result before being allowed to perform safety-sensitive functions. The SAP can require the employee to undergo both alcohol and drug tests prior to performing safety-sensitive functions, regardless of the basis of the original violation. Where a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of 0.04 or greater, Cumberland County, before returning the employee to duty to perform a safety sensitive function, shall follow the procedures outlined in 49 CFR Part 40.
- I. Follow-Up Testing: An employee who is returned to a safety-sensitive position after engaging in prohibited conduct is subject to unannounced follow-up testing, including, at a minimum, 6 unannounced tests within the 12 months following reinstatement. On the recommendation of the substance abuse professional (SAP), follow-up testing can continue for up to 60 months after reinstatement. Follow-up testing can include testing for both alcohol and drugs, regardless of the original violation.
- J. Prohibitions:
1. Alcohol and Drugs under FMCSA Regulations:
 - a. 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. No supervisor having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform safety-sensitive functions.
 - b. No driver shall use alcohol while performing safety-sensitive functions. No supervisor having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.
 - c. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. No supervisor having actual knowledge that a driver has used alcohol within

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four (4) hours shall permit a driver to perform or continue to perform safety-sensitive functions.

- d. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- e. 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 physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle and/or equipment. No supervisor having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.
- f. No driver shall refuse to submit to a post-accident, random, reasonable suspicion of follow-up test required under FMCSA regulations as set forth in this policy. No supervisor shall permit a driver who refuses to submit to said tests to perform or continue to perform safety-sensitive function.

2. Alcohol and Drugs under FTA Regulations:

- a. No covered employee 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. No supervisor having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform safety-sensitive functions.
- b. No covered employee shall use alcohol while performing safety-sensitive functions. No supervisor having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.
- c. No covered employee shall use alcohol within four (4) hours prior to performing safety-sensitive functions. No supervisor having actual knowledge that a covered employee has used alcohol within four (4) hours prior to performing a safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.
- d. No covered employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following an accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- e. No covered employee shall perform a safety-sensitive function if he or she uses any controlled substance. No supervisor having actual knowledge that a covered employee is using a controlled substance and performing safety-sensitive functions shall permit the employee to perform or continue to perform a safety-sensitive function.
- f. No covered employee shall refuse to submit to a post-accident, random, reasonable suspicion or follow-up test required under FTA regulations as set forth in this policy.

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No supervisor shall permit a covered employee who refuses to submit to such tests to perform or continue to perform a safety-sensitive function.

- K. **Consequences:** For the first occurrence, immediately after receiving notice from the MRO, that a covered employee has a verified positive drug test result, the employer will require that the employee cease performing a safety sensitive function. If an employee refuses to submit to a drug or alcohol test required by this part, the employer will require that the covered employee cease performing safety sensitive functions. If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test as required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs. Any employee who has a second verified positive drug test result from the MRO shall immediately be removed from performing safety-sensitive functions pending termination of employment.
1. **Positive pre-employment test result for drugs:** No applicant whose pre-employment drug test result is reported as positive by the MRO shall be hired.
 2. **Positive pre-assignment test result for drugs:** No employee whose pre-assignment drug test result is reported as positive by the MRO shall be assigned to a safety-sensitive function. In addition, the employee will be referred to the SAP for evaluation and treatment. Prior to returning to a safety-sensitive function, the employee must undergo a return-to-duty controlled substance test with a verified negative result.
 3. **Positive drug test result for random, reasonable suspicion or post-accident test:** Any covered employee whose drug test result is verified positive by the MRO shall be immediately removed from duty, referred to the SAP for evaluation and treatment and, if required by the SAP, may not be returned to perform a safety-sensitive function until a return to duty test with a verified negative result.
 4. **Alcohol test result of 0.02 or greater but under 0.04:**
 - a. **FTA:** A covered employee under the FTA regulation whose alcohol test reading is 0.02 or greater but less than 0.04 may not perform or continue to perform a safety-sensitive function until either the employee's alcohol concentration measures less than 0.02 or the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test. In addition, the employee will be referred to the SAP for evaluation. For a second violation, the employee will be immediately relieved from duty pending termination of services.
 - b. **FMCSA:** A driver covered by the FMCSA regulations whose alcohol reading is 0.02 or greater but less than 0.04 may not perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not

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less than twenty-four (24) hours following administration of the test. In addition, the employee will be referred to the SAP for evaluation and counseling. For a second violation, the employee will be immediately relieved from duty pending termination of services.

5. Alcohol test result of 0.04 or greater, random, reasonable suspicion or post-accident test: Any covered employee whose alcohol test result is 0.04 or greater shall be immediately removed from performing safety sensitive functions, referred to the SAP for evaluation and treatment and, if required by the SAP, submit a return to duty test with an alcohol concentration of less than 0.02. The SAP must certify in writing to the coordinator that the employee has fulfilled the SAP's requirements for return to duty. For a second violation, the employee will be immediately relieved from duty pending termination of services.
6. Positive return-to-duty or follow-up test for drug or alcohol: An employee who has a positive return-to-duty or follow-up drug test or an alcohol test result of 0.02 or greater will be immediately removed from duty pending termination of services.
7. Refusal to submit to a required test:
 - a. Any employee who refuses to submit to an alcohol test (see Section II, L.1) as required will be immediately removed from performing any safety-sensitive function and, in accordance with 49 CFR Part 40, and Subpart O and referred to Cumberland County's SAP and treated by the County in the same manner as if the employee had an alcohol test result of 0.04 or greater.
 - b. Any employee who refuses to submit to a drug test (see Section II, L.2) as required will be immediately removed from performing any safety-sensitive function and, in accordance with 49 CFR Part 40, and Subpart O and referred to Cumberland County's SAP and treated by the County in the same manner as if the employee had a verified positive test for controlled dangerous substance.
8. Reasonable suspicion testing: An employee will be immediately removed from service pending the results of the reasonable suspicion test(s).
9. Standing down an employee: An employee may not be temporarily removed from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for drugs, and adulterated test or a substituted test before the MRO has completed verification of the test result.
10. Drug test result of negative dilute: If an employee's or applicant's drug test result is negative dilute, he or she will be sent for a re-test. This result alone, however, is not sufficient to permit direct observation of the re-collection. The result of the re-test will be the result of record.

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L. Education, Training and Monitoring:

1. All covered employees shall receive a copy of this policy. Each employee shall sign an acknowledgement of receipt, which shall be filed with the employee's personnel file. This policy is also available through the County Intranet Network.
2. Employees who have questions, concerns or need information on this program shall contact: Director of Personnel and Human Resources, County of Cumberland, 164 W. Broad St., Bridgeton, NJ 08302.
3. The County shall maintain an ongoing educational program under the direction of the County Department Head, which shall also be responsible for training, documentation and record-keeping functions. The County Department shall also be the repository of the originals.
 - a. Education materials, which include information on the County drug and alcohol policy; the use and abuse of drugs and alcohol; and where to get help, including the community hotline numbers for drug and alcohol problems, shall be available at all times from the program coordinator or SAP, distributed on a periodic basis to all employees and also given to all new employees at the time of orientation.
 - b. All employees, including supervisory personnel, shall receive a minimum of one (1) hour of training on the effects and consequences of alcohol and prohibited drug use on personal health, safety, the work environment and on the signs and symptoms that may indicate prohibited drug or alcohol use. Participants shall sign an acknowledgement of their attendance, which shall be filed in their personnel files.
4. The County shall be responsible for ensuring that the service agents used in implementing its Drug and Alcohol Testing Policy meet the qualifications set forth in 49 CFR Part 40. The Designated Employer Representative (DER) shall request documentation from each service provider that verify they meet the requirements set forth in the regulations.

M. Testing Procedures: All testing for drugs and alcohol shall be conducted pursuant to regulations issued by the DOT under 49 CFR Part 40.

1. Employee Notification of Test:

- a. Employees who are required to take a random or reasonable suspicion drug and/or alcohol test shall be notified by the DER.
- b. Applicants for employment in a safety-sensitive position shall be advised by the County DER that pre-employment drug testing is required under the federal regulations.
- c. Employees subject to return-to-duty and follow-up testing shall be informed both orally and in writing by the SAP that they are required to take these tests. The supervisor shall notify the employee when scheduled for the return-to-duty and follow-up testing. The supervisory shall schedule the test dates in accordance with the SAP's written follow-up testing plan.

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- d. No County employee shall falsely represent that a test is being administered under the authority of any federal regulation.
2. Reporting to Test Site: Once an employee has been noticed that he/she is required to take a drug or alcohol test, the employee shall immediately and directly report to the test site with proper identification. For reasonable suspicion testing, the supervisor shall arrange transportation of the employee to and from the test site. When the employee(s) leaves the work site for testing, the supervisor shall notify the test site of the employee's departure and that the employee should arrive within a reasonable time frame.
 3. Drug Test Collection: Collection of urine for drug testing shall comply with DOT regulations, including those found at 49 CFR Part 40, including subparts C, D, E, and I.
 4. Breath Alcohol Testing: Collection of breath for alcohol testing shall comply with DOT regulations, including those found at 49 CFR Part 40 subparts J, K, L, and M.
 5. Drug Testing Laboratories: Pursuant to 49 CFR Part 40 subpart F, Cumberland County shall use independent qualified laboratories certified by the DHHS to conduct urine drug testing.
 6. Reporting of Test Results:
 - a. Drug Test Results: Drug test results will be reported and reviewed in accordance with the regulations set forth in 49 CFR Part 40.
 - (1) All laboratory test results will be reported to the MRO only.
 - (2) If the laboratory reports a confirmed positive, adulterated, substituted or invalid test result to the MRO, the MRO shall notify the individual and give him or her an opportunity to discuss the test result. The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact. The employee must be informed that if he or she declines to discuss the result, the MRO will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable. The MRO shall speak directly with the employee concerning the test result.
 - (3) The MRO shall make reasonable efforts to contact the employee. At a minimum, that means three (3) attempts spaced reasonably over a 24-hour period at the day and evening numbers provided by the employee.
 - (4) If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact the Designated Employer Representative (DER), who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated official, the official shall employ measures that ensure, to the maximum extent practicable, the requirement that the employee contact the MRO is held in confidence.

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- (5) If, after making all reasonable efforts, the DER is unable to contact the employee, the employee shall be placed on leave without pay pending employee contact.
- (6) If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the employer as negative.
- (7) The MRO may declare a test positive or as a refusal to test without an interview under the following circumstances: 1) the employee declines the opportunity to discuss the results with the MRO; 2) the DER has successfully contacted the employee and instructed him or her to contact the MRO within 72 hours and more than 72 hours have passed since the contact; or 3) more than 10 days have passed since the MRO received the test results from the lab, and the MRO and DER have been unable to contact the employee despite all reasonable efforts to do so.
- (8) If the MRO verifies a positive test under circumstances listed in (6) above, the employee may present evidence to the MRO within 60 days of the MRO's verification documenting that serious illness, injury or other circumstances unavoidably prevented the employee from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification, allowing the employee to present information concerning a legitimate explanation for the confirmed test result.
- (9) The MRO shall report verification of a positive test or adulterated or substituted test to the DER, who shall immediately take administrative actions designated by this policy and/or the regulations.
- (10) The MRO and County must conduct the verification process in accordance with 49 CFR Part 40 subparts G and H. This includes notifying the employee that he or she has 72 hours to request a test of the split specimen. If the employee requests an analysis of the split specimen within 72 hours of having been informed of his or her right, the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis. The MRO shall report the results of the split specimen to the employee and DER.
- (11) Action required by the DOT agency regulations as a result of a positive drug test or refusal to test is not stayed pending the result of the test of the split specimen.
- (12) Employees will be responsible for the cost of the split test.
- (13) The transmission of the test results may be in writing, in person, or by telephone or electronic means, but the MRO shall ensure immediate transmission to the DER of results that require the employer to prevent the employee from performing a safety-sensitive function. The DER shall take the administrative action designated by this policy.
- (14) If the initial transmission is not in writing, for instance by telephone, the MRO shall verify his or her identity to the DER by use of a password.
- (15) If the initial transmission is not in writing, the MRO shall send the employer's copy of the drug testing form to the DER as soon as possible.
- (16) The MRO shall report the verified results of a drug test to the DER, either positive or negative, in accordance with 49 CFR Part 40. A signed, written notification

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must be received by the DER within two (2) business days of the completion of the MRO's verification.

- b. Alcohol Tests: Alcohol tests shall be conducted in accordance with CFR 49 Part 40, including subparts J, K, L, M and N.
 - (1) The results from breath alcohol tests shall be transmitted by the BAT's only to the DER. The transmission, receipt and handling of all results shall be done in a confidential manner.
 - (2) The transmission of the test results may be in writing, in person or by telephone or electronic means, but the BAT shall ensure immediate transmission to the DER of results that require the employer to prevent the employee from performing a safety-sensitive function. The DER shall take immediate administrative action required by this policy.
 - (3) If the initial transmission is not in writing, for example by telephone, the BAT shall verify his or her identity to the DER by use of an assigned ID number.
 - (4) If the initial transmission is not in writing, the BAT shall as soon as possible, send the employer's copy of the breath alcohol testing form to the DER.

N. **Random Sampling Procedures:** Cumberland County contracts with a Third Party Administrator (TPA) to implement the random drug and alcohol testing requirements for unannounced testing.

- 1. The DER shall be responsible for ensuring the TPA schedules tests that are unannounced, unpredictable and spread reasonably throughout the calendar year.
- 2. The DER shall be responsible for notifying the employees selected for testing. No County employee shall have any discretion in the random selection process.
- 3. Only if an employee whose name has been selected is not due to report to work during the testing period can he or she be excused and a substituted name be drawn.
- 4. There will be two separate pools: one for employees subject to the FTA regulations and those subject to the FMCSA regulations.
- 5. The list of employees subject to testing shall be updated by the DER on a monthly basis. The update shall include names of employees who have begun performing safety-sensitive functions, the deletion of employees who are no longer covered, and the removal of names of employees who are out of work on extended leaves.
- 6. The DER shall ensure the required number of employee tests are conducted to meet the federally mandated percentages.

O. **Information Disclosure**

- 1. The confidentiality of employee information contained in the records the County is required to keep is an important aspect of this program. Every effort will be made to protect the privacy of the individuals involved. Records shall be kept in a secure manner so that disclosure of information to unauthorized persons does not occur. Disclosure will only be made pursuant to 49 CFR Part 40, including subpart P, CFR 655.73 and 49 CFR 382.405.

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2. If the County, as a prior employer, receives a request for information pursuant to 49 CFR 40.25, it must, after reviewing the former employee's specific written request, immediately release the requested information to the employee making the inquiry.

P. **Record Keeping:** The County shall keep all required records for the periods designated in 49 CFR Part 40, including subpart P. All records shall be kept in a secure location with access limited to authorized personnel only.

Q. **Reports**

1. The DER shall prepare and maintain an annual calendar year summary for the FMCSA of the results of the County's testing programs for employees covered by the FMCSA regulations. The report shall be completed by March 15 for the previous year and contain the information set forth in 49 CFR 382.403. If requested by the FMCSA, the DER shall submit the report to the FMCSA.
2. The DER shall prepare and submit an annual report to the N.J. DOT. The report shall be prepared on a form designated by the FTA that summarizes the results of the County's drug and alcohol testing program for employees subject to the FTA regulations.

R. **Applicant History**

1. The County shall request from DOT-regulated employers of the applicant in the prior two years, pursuant to the applicant's consent, information on the following: 1) the driver's alcohol tests with a concentration result of 0.04 or greater; 2) verified positive controlled substances test results; 3) refusals to be tested, including verified adulterated or substituted drug test results; 4) other violations of DOT agency drug and alcohol testing regulations; and 5) documentation of successful completion of DOT return-to-duty requirements.
2. The DER shall obtain from any prospective applicant covered by the DOT regulations a consent to release this information before appointment to a safety-sensitive position.
3. The Personnel and Human Resources Office shall obtain information from the applicant regarding history of positive tests, previous refusals to test on any pre-employment drug or alcohol test administered by an employer to which the applicant applied for, but did not obtain, in the last two years.
4. The County may not appoint an applicant to a safety-sensitive position if it obtains information that the driver has had an alcohol test with a concentration of 0.04 or greater, a verified positive drug test, a violation of a DOT agency drug and alcohol testing regulation or a refusal to take a test without obtaining information that the applicant has complied with the applicable return-to-duty requirements.

S. **Effects of Alcohol and Drug Addiction:** Please see Exhibit I, "Alcohol and Drug Addiction Fact Sheet" for information pursuant to Federal regulations.

T. **Information and Assistance**

1. Program Coordinator: Director of Personnel (policy and information questions)

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2. Designated Employer Representatives (DER):
 - CATS Director – 1678 W Sherman Ave Vineland NJ (856) 691-9331
 - Director of Public Works – 800 E Commerce Street Bridgeton NJ (856) 453-2192
 - Director Workforce Development – 3322 College Drive Vineland NJ (856) 696-5660
3. Third Party Administrator (TPA):
 - Inspira Occupational Health Services
 - Medical Review Officer, Inspira Occupational Health
 - Drug & Alcohol Program Administrator, Inspira Occupational Health
 - Testing Laboratories:
 - Alere Inc.
4. Substance Abuse Professional: Southwest Council
5. Cumberland County Alcoholism & Drug Abuse Services