

# Wayne County Drug & Alcohol Policy

Effective 7/1/24

Modified 7/1/24



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## **I. General Statement and Scope of Policy**

A. It is Wayne County's policy that the workplace shall be free of the presence of alcoholic beverages or unlawful controlled substances and that employees shall perform their job assignments safely, efficiently, and without the adverse influence of alcohol or controlled substances. This policy governs all County employees who hold a position that has been deemed Safety Sensitive.

B. Employees should be aware of the harmful effects, dangers, and impacts of the use and abuse of alcohol and controlled substances in the workplace. Employees working under the influence of alcohol or controlled substances:

1. May create unsafe conditions for themselves, their co-workers, and the general public;
2. May perform unsatisfactorily and adversely affect the performance of others;
3. May discredit Wayne County and cause disrespect for the employee, the County, and the citizens we serve.

C. The County believes an employee who comes forward to report a substance abuse problem should be given every encouragement to participate in a counseling, treatment, or rehabilitation program for drug and/or alcohol use or abuse. However, employees who violate this policy shall be subject to disciplinary action in accordance with the Wayne County Personnel Policy and as outlined in this policy.

D. In order to ensure consistent application of this policy, the Director of Human Resources will be consulted when determining any discipline being imposed.

E. Supervisors and/or other employees will be trained to recognize the symptoms of possible substance use and abuse, and the appropriate actions to take to ensure the safety of employees and the public's confidence in the County government.

## **II. Acronyms & Definitions**

A. Accident - An incident that results in injury, illness, death or damage to property.

B. Adulterated Specimen - A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

C. Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

D. Alcohol Concentration or Content - 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 part.



E. Alcohol Confirmation Test - A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

F. Alcohol Screening Device (ASD) - A breath device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list for such devices.

G. Alcohol Screening Test - An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

H. Alcohol Testing Site - A place or facility selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

I. Alcohol Use – The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

J. Breath Alcohol Concentration Test (BACT) - The Alcohol test administered to determine the concentration of alcohol present in an individual's system

K. Breath Alcohol Technician (BAT) - A trained/certified individual in accordance with Part 40 who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing Device which has been calibrated on the EBT approved for confirmatory devices for EBT. The internal and external calibration checks are performed in accordance with the device's manufacturer.

L. Custody & Control Form (CCF) - DOT approved form for both PHMSA and FMCS employees references a document or paper trail showing the seizure, custody, control, transfer, analysis, and disposition of physical and electronic evidence of a human specimen test.

M. Chain-of-Custody - The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) as approved by the Office of Management and Budget.

N. Confirmation or Confirmatory Drug Test - A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

O. Designated Employer Representative (DER) - The County appointed DER is the Occupational Health Nurse. The Safety Officer will be designated as the co-DER. The DER will coordinate efforts to remove employees from safety sensitive functions. The co-DER will serve as the DER when the DER is unavailable. Both parties will receive all testing communication and information

P. Department of Transportation (DOT) - Responsible for planning and coordinating federal transportation projects. It also sets safety regulations for all major modes of transportation.



Q. Direct Observation - The process in which an observer will witness the urine pass from the donor's body into the collection container.

R. Drugs - The drugs for which tests are required under Part 40 and DOT agency regulations are: marijuana metabolites, cocaine metabolites, amphetamines, phencyclidine (PCP) and opiate metabolites.

S. Evidential Breath Testing Device (EBT) - A device approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for "Evidential Breath Measurement Devices" and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

T. Illegal Use of Drugs and Controlled Substance - Use of any illegal drug, misuse of legally prescribed drugs, use of illegally obtained prescription drugs, and improper use of other substances which might impair performance.

U. Laboratory - Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

V. Medical Review Officer (MRO) (DOT 49 CFR Part 199.109, Part 40.123, Part 40.163) The licensed physician designated by the County to receive laboratory results.

1. The MRO role is to interpret and evaluate the drug testing results.
2. Reports results to DER
3. The MRO shall review confirmed positive test results.

W. Reasonable Suspicion - A reasonable belief that an employee is using or may have used drugs or alcohol in violation of this policy based upon specific, articulable observations concerning the appearance, behavior, odors, performance or speech of the employee.

X. Retaliatory Actions - The discharge, suspension, demotion, relocation, or other adverse employment action taken against an employee in the terms, conditions, privileges, and benefits of employment.

Y. Substance Abuse Professional (SAP) - A professional that meets the requirements of DOT 49 CFR Part 40.281. They monitor employees' participation in rehabilitation programs and certify employees as ready to return to work following completion of treatment programs.

Z. Safety Sensitive Position - Positions with duties that involve such a significant risk of injury to others that even a momentary lapse of attention can have disastrous consequences. These positions are identified by the Director of Human Resources or designee based on duties and



responsibilities of the employee, and are identified in the job description for Safety Sensitive positions.

AA. Service Agent - Person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

BB. Screening Test Technician (STT) - A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing or alcohol screening device, respectively.

CC. Split Specimen collection - A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

DD. Substance abuse - Refer to any of the following:

1. The excessive use or misuse of lawfully obtained prescription drugs, over the counter drugs, or alcohol which impairs job performance, alters behavior, and/or creates a risk to the health and/or safety of the employee or others.
2. The use of unlawfully obtained illegal drugs or controlled prescription drugs.

EE. Substance Abuse and Mental Health Services Administration (SAMHSA) - The agency within the U.S. Department of Health and Human Services that leads public health efforts to advance the behavioral health of the nation. SAMHSA's mission is to reduce the impact of substance abuse and mental illness on America's communities.

FF. Unannounced Follow-up Testing – Testing that is conducted on a periodic, unannounced basis, following his/her return to work from an approved drug or alcohol rehabilitation program.

GG. Urine Specimen Collector - A trained person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the urine specimen provided by those employees, and who initiates and completes the custody and control form (CCF). To be permitted to act as a collector in the DOT drug and alcohol testing program, the collector must meet qualifications outlined in §40.31 and §40.33.

HH. Verified Test - A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

### **III. Prohibited Conduct**

A. Employees are prohibited from reporting for duty or remaining on duty when using drugs, except when the use is pursuant to the instructions of a medical doctor who has advised the employee that the substance will not adversely affect the employee's ability to perform his or her job duties safely.



B. Employees are prohibited from reporting for duty or remaining on duty with an alcohol concentration of 0.02 or greater. Employees found to have an alcohol concentration of 0.02 or greater, but less than 0.04, are prohibited from performing any covered functions for at least 8 hours from the time of the test. The County will ensure that an employee who engages in conduct prohibited by does not return to duty to perform a safety sensitive until the employee undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. ***The exception to this policy is any employee as defined in NCGS 20-138.2B - A person commits the offense of operating a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol if the person drives a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body. This section does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties.***

C. Employees are prohibited from using alcohol in any form (including medications containing alcohol) while performing driving.

D. Employees are prohibited from performing driving within four (4) hours after using alcohol. On-call employees who are not at work but could be called in to perform safety sensitive functions, are subject to this pre-duty alcohol prohibition. This means an employee who is on-call must decline a call to work if his or her acceptance requires the employee to perform driving within four (4) hours after consuming alcohol. An on-call employee who is required to decline work because of his/her use of alcohol in violation of the four-hour rule is subject to discipline up to and including termination.

E. Employees are prohibited from using alcohol for eight (8) hours following an accident in which his or her performance of driving has not been discounted by the County as a contributing factor to the accident, or until the employee takes a post-accident alcohol test (and tests negative), or the County determines that the employee's performance could not have contributed to the accident.

F. Employees may not "refuse to submit" to any drug or alcohol test required under this policy.

G. Employees are prohibited from performing or continuing to perform a safety sensitive if they have tested positive for drugs (i.e., a positive test result verified by an MRO), or alcohol.

H. During an employee's workday, an employee is prohibited from engaging in the unlawful or unauthorized manufacture, distribution, dispensation, sale, purchase, solicitation, transfer, possession, use or transport of drugs or alcohol. These prohibitions do not include the authorized distribution, dispensation, sale, purchase, solicitation, transfer, possession, use or transport of alcoholic beverages in connection with County-sponsored functions or events.



I. Employees are prohibited from failing to stay in contact with the County or its medical review officer ("MRO") while awaiting the results of a drug test.

J. No supervisor or manager who has actual knowledge that an employee has engaged in or is engaging in conduct prohibited under this policy shall permit the employee to work or continue working under such circumstances. Any employee who has been directed not to work or directed to stop working under such circumstances must immediately comply.

K. The lawful use of any medication (therapeutic drugs) while performing a safety sensitive is prohibited to the extent such use may affect the employee's ability to perform his/her job duties safely.

#### **IV. Types of Tests**

A. Pre-Employment Drug Testing -All applicants must complete a pre-employment drug test prior to their first day of employment. The candidate must produce a negative drug test result prior to first performing employment functions. If the test is canceled, the applicant must take and pass the test before being hired. Any employee or applicant who has previously failed a pre-employment drug test administered under this part must provide proof of having successfully completed a referral, evaluation, and treatment plan by a substance abuse professional.

B. Post-Accident Drug and Alcohol Testing. Together with other accident testing which may be required by the County, the safety sensitive employee(s) must complete drug and alcohol tests as soon as possible after they are involved in an accident or incident, if the accident or incident involves:

1. A death, or personal injury necessitating in patient hospitalization
2. Damage to equipment in excess of \$1,000

All surviving employees whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident must be tested. The County may decide not to test but this decision must be based on specific information that the employee's performance had no role in the cause(s) or severity of the accident. This must be documented using the County's Safety Center.

The County will ensure that all safety sensitive drug and alcohol tests are separate from all DOT drug and alcohol tests in all respects.

Alcohol testing must be done as soon as possible following an accident, but not more than eight (8) hours after the accident. Drug testing must be done as soon as possible after the accident, but not more than thirty-two (32) hours after the accident. If a post-accident alcohol test is not administered within two (2) hours following the accident, the employer shall prepare and maintain on file a record stating the reasons for the delay. If a post-accident drug test is not



administered within thirty-two (32) hours following the accident, the supervisor shall prepare and maintain on file a memorandum for record stating the reasons for the delay. If the County does not administer an alcohol test within 8 hours following a post-accident, the County will ensure that it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered.

If the County decides not to conduct a post-accident alcohol or drug test of an employee, the County will ensure it makes that decision based on specific information that the employee's performance had no role in the cause(s) or severity of the accident.

All safety-sensitive employees must remain readily available for testing after an accident, including notifying the employer representative of the employee's whereabouts. Failure to do so will be considered a test refusal. Testing may be conducted as soon as practical while the employee assists in the resolution of the accident or receives medical attention. This may be documented on the Memorandum for Record: Statement Why a Reasonable Suspicion or Post-Accident Test Was Not Given.

**C. Random Drug Testing.** Safety-sensitive employees must complete random drug tests from a selection pool. Random selections will be made at a minimum of four times a year by a scientifically valid computer program such as a random number table or a computer-based random number generator. The annual random drug testing rate of 25% will be utilized for this pool of employees. The random tests will be spread reasonably throughout the year. All employees will have an equal chance of being selected each time selections are made. Testing will be unannounced, and the employee must proceed to the service provider immediately after being notified of the testing requirement.

The County will ensure that an employee removed from the random drug test pool (for any length of time) passes a pre-employment drug test before being placed back into the random drug test pool. Removal of the drug screening pool is for employees on an extended leave without pay -typically greater than 90 days.

**D. Reasonable Suspicion Drug and Alcohol Testing.** Safety sensitive employees will also be subject to reasonable suspicion drug and alcohol testing upon reasonable suspicion of probable drug or alcohol use. An employee who is directed to take a reasonable suspicion drug and/or alcohol test must submit to the test as directed. The County shall transport or ensure transport of the employee both to and from the collection site. An employee who is requested to submit to a reasonable cause/suspicion drug and alcohol test will be removed from duties including driving County vehicles pending receipt of the test results.

1. Any employee can initiate a Stop Work Authority based on an observation that an employee may be impaired or under the influence of a controlled substance. The observation must be documented as soon as possible.



2. Reasonable suspicion drug/alcohol testing shall be conducted when there is reasonable cause to believe the employee is using a prohibited drug or alcohol. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug or alcohol on the basis of specific physical, behavioral, or performance indicators of probable drug use. **At least one supervisor shall document their reasonable belief and the bases of the belief, and the Safety Manager or HR Director must substantiate and concur in the decision to test an employee.** The documentation and request will be validated through the county's HR Director prior to any testing .
3. If the County does not administer a test within 2 hours following the determination of reasonable suspicion, the County will ensure that it prepares and maintains on file a record stating the reasons the test was not promptly administered.
4. If the County does not administer a test within one business day following the determination of reasonable suspicion, the County will ensure that it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered.
5. Regardless of whether a reasonable suspicion drug/alcohol test is conducted, the County will not permit an employee to report for duty or remain on duty performing safety sensitive tasks while the employee is impaired, as shown by the behavioral, speech, or performance indicators of alcohol misuse.

#### E. Return-to-Duty Testing

1. The County will ensure that an employee who refuses to take a drug test, or has a positive drug test, at minimum, does not return to duty until the employee completes an SAP evaluation, referral, and education/treatment process. Employees who fail drug and alcohol testing may be immediately separated from employment.
2. In all accounts, the County will ensure that an employee does not return to duty in any safety-sensitive position until the employee successfully completes a return-to-duty drug/alcohol test. (Alcohol concentration must return below .02).
3. The County will ensure that an employee who engages in conduct prohibited may not return to duty to perform safety-sensitive tasks until, at minimum, the employee has complied with the SAP's evaluation, referral, and education/treatment process.



4. The County will ensure that all return-to-duty testing is performed under direct observation by the service provider.

**F. Follow-up Drug Testing -optional**

1. The County will ensure that follow-up testing is performed on an unannounced basis, at an established frequency, for a period of not more than 60 months.
2. The County will ensure that all follow-up drug testing is performed under direct observation by the service provider.

**G. Follow-up Alcohol Testing -optional**

1. The County will ensure an established written follow-up testing plan after it is determined that the employee successfully complied with the SAP's return-to-duty recommendations for education and/or treatment and that a copy of the follow-up testing plan is presented directly to HR.
2. The County will ensure that follow-up testing is conducted on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months.
3. The County will ensure that follow-up testing is conducted when the employee is working; just before the employee is to perform work; or just after the employee has ceased work.

**H. All required drug and alcohol testing shall comply with the procedures set forth at 49 CFR Part 40.**

1. All applicants and employees whose primary urine specimen results in a verified positive, adulterated or substituted test result have the right to request that their split-specimen be analyzed in a different DHHS certified laboratory, selected by the County, at the applicant's or employee's expense regardless of the test result. The request must be



made to the MRO within 72 hours of being notified by the MRO of a verified positive, adulterated or substituted test result.

2. The County will not delay the test due to lack of payment.

3. All County employees will be administered an oral fluid test or urine drug test except for Sheriff's Office personnel. Sheriff's Office applicants and employees must provide a urine specimen of at least 45 milliliters of urine for a drug test. If the tested individual is unable to provide such a quantity of urine, then the tested individual will be instructed to drink a set amount of fluids and after a set period of time, again attempt to provide a complete specimen. If the applicant or employee refuses to attempt to provide a new urine specimen, this will constitute a refusal to submit to a test.

If the applicant or employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection will be discontinued. The DER, after consulting with the MRO, will then direct the applicant or employee to obtain, within five working days, a medical evaluation. Failure to undergo such an evaluation constitutes a refusal to test. The purpose of the evaluation is to determine whether the applicant or employee has a medical condition that has, or with a high degree of probability could have, precluded the applicant, or employee from providing a sufficient amount of specimen.

4. Alcohol screening tests will be performed by a Screening Test Technician (STT) using a non- evidential screening device, or by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing device (EBT). The County ensures that the STTs are proficient in the operation of non-evidential screening devices and that the BATs are proficient in the operation of EBTs. In addition, the County will use only non-evidential alcohol screening devices and EBTs which are listed on the conforming products list issued by the ODAPC. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed using an EBT. The confirmation test will be conducted within 30 minutes from the end of the screening test. The confirmation test result is the final result upon which any discipline or other action taken under the County's policy shall be based.

5. If an employee fails to provide or claims that he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the County will direct the employee to obtain, within five days, an evaluation from a licensed physician who is acceptable to the County and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. Failure to undergo such an evaluation constitutes a refusal to test. If the physician concludes that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of breath, the employee's test will be canceled. If the physician concludes that there is not an adequate basis for determining that a medical condition has, or with a



high degree of probability could have, precluded the employee from providing a sufficient amount of breath, the employee will be considered to have refused to test.

6. Any employee who violates this policy in any way will be immediately removed from performing safety-sensitive functions. A result of 0.04 or higher on the alcohol test is a positive test result. Safety-sensitive employees with an alcohol test result between 0.02% and 0.039% are prohibited from performing their driving for a period of eight hours. The exception to this policy is any employee as defined in NCGS 20-138.2B - A person commits the offense of operating a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol if the person drives a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body. This section does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties.

7. Safety-sensitive regulated employees who receive a positive drug or alcohol test result:

- a) May be terminated or receive disciplinary action;
- b) Will be informed of educational and rehabilitation programs available
- c) Will be referred to a Substance Abuse Professional (SAP) for assessment if he/she is not terminated.

8. The safety-sensitive employee is responsible for any incurred costs associated with educational and rehabilitation programs or SAP assessments. An employee may not return to performing safety-sensitive duties unless the employee:

- a) Is evaluated by a Substance Abuse Professional;
- b) Successfully complies with the SAP's recommendations;
- c) Takes a return-to-duty drug test and receives a negative result, and/or a return-to-duty alcohol test and receives a result of less than .02% BAC; and,
- d) Participates in a follow-up program recommended by the SAP, which may include mandatory follow-up testing.



9. If an applicant or employee provides a negative dilute test result, he/she will be required to undergo a second test. If the second test is negative dilute, it will be considered negative, and no further testing is required upon MRO review.

#### **V. Refusal to Test**

A. Refusal to submit to a drug/alcohol test will be considered a positive and shall lead to termination. For applicants, a refusal will lead to withdrawal of the offer of employment. A test refusal includes the following circumstances:

- Failure to promptly notify the County that the employee was in an accident or not being readily available for testing after an accident (except as necessary to obtain assistance or medical care).
- Failure to provide a sufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall be provided by the employee's physician within 5 (five) days of the initial test attempt.
- The provided urine sample has been verified by the MRO as substitute or adulterated.
- Failure to appear for any test (except pre-employment) within a reasonable time, as determined by the County, after being directed to do so.
- Failure to remain at the testing site until the testing process is complete; however, an applicant who leaves the testing site before the pre-employment testing process commences is not deemed to have refused to test.
- Failure to provide a urine specimen for any drug test or breath specimen for any alcohol test.
- Failure to permit the observation or monitoring of a specimen collection if required.
- Failure or declination to take a second test as directed by the County DER or collector.
- Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the County.
- Failure to cooperate with any part of the testing process such as delaying, manipulating, obstructing, or including the use of any type of device and attempts thereof.
- Refusing to empty pockets when so directed by the collector.
- Behaving in a confrontational way that disrupts the collection process.
- Failure to sign the certification at Step 2 of the Custody Collection Form.



- Failure to follow the observer's instructions during a direct observation collection to include raising and lowering all clothing and turn around.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

#### B. Direct Observations

If a safety sensitive applicant or employee is directed to submit to a collection under direct observation, the DER, supervisor, or collector must explain to the covered applicant or employee the reason for a directly observed collection. Direct observations must be performed by the same gender or a medical professional. Circumstances requiring direct observation include:

- All return to duty tests.
- All follow-up tests.
- Anytime temperature on the original specimen was out of the acceptable temperature range.
- Anytime the original specimen appeared to have been tampered with.
- Anytime a collector observes materials brought to the collection site or conduct that clearly indicates an attempt to tamper with a specimen.
- When the MRO determines the original specimen was positive, adulterated, or substituted and a new specimen must be provided.
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to the County as negative-dilute and that a second collection must take place.

The County will provide employees with information concerning the effects of alcohol and drug use on an individual's health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervention when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management.

The EAP will provide education and training on drug and alcohol abuse. Education will include display and distribution of informational material and a service hot-line telephone number for employee assistance. In addition, all supervisors of safety sensitive employees will be trained to make reasonable suspicion determinations, including the specific, contemporaneous physical, behavioral, and performance indicators of probable drug and/or alcohol impairment.



## **VI. Test Results**

Laboratory drug test results are reported directly and only to the MRO. Test results must not be reported to or through the DER or a service agent. Before reporting a positive drug test result to the County, the MRO will give the employee/applicant an opportunity to discuss the test results and to provide any information that may explain the test result to the MRO. If the applicant or employee fails to respond to the MRO's contact, the MRO will verify the test is positive and report it to the County's DER. The DER and the Human Resources Director will notify the affected employee in writing using the Post Notice form (Appendix D). The MRO reports the drug test results within the time constraints and in a confidential manner. The laboratory transmits a semi-annual statistical summary, by operator, of the drug test data listed in Part 40, Appendix B to the operator on a semi-annual basis to the DER.

### **A. MRO Review**

1. The County will ensure its MRO provides quality assurance reviews of the drug testing process, including ensuring the review of the Custody and Control Form (CCF) on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be canceled.
2. The County will ensure its MRO performs the review functions for negative drug test results received from a laboratory, prior to verifying the result and reporting it to the operator's Designated Employer Representative (DER).
3. The County will ensure its MRO performs the review functions for confirmed positive, adulterated, substituted, or invalid drug test results received from a laboratory, prior to verifying the result and reporting it to the DER.
4. The County will ensure when its MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, the MRO notifies the employee of his or her right to have the split specimen tested and how to request the test.
5. The BAT or STT will transmit alcohol screening test results to the DER in a confidential manner for concentrations of less than 0.02 using the DOT procedures.
6. The BAT immediately transmits alcohol confirmation test results directly to the DER in a confidential manner.

### **B. For a DOT positive test result:**

1. The MRO and DER will contact applicants and employees, before reporting a positive test result;



2. The MRO will notify the employee of his/her rights and procedures to have the split specimen tested;
3. The employee has 72 hours from the time of this notification to request a test of the split specimen;
4. The interview between the employee, the DER and MRO must be documented. Time starts upon conclusion of the interview.
5. The County will not stand down an employee based on laboratory tests results before the Medical Review Officer (MRO) completes the drug test verification process unless an approved waiver has been granted.

**C. Employees.**

1. If the test is negative, the DER or designee informs the Division head or supervisor.
2. If the test is confirmed as positive, the Division head or supervisor schedules a private meeting with the employee to inform the employee of the test results with a Human Resources representative present.

**D. Applicants.**

1. If the test is negative, the selection process continues.
2. If the test is confirmed as positive, the Human Resources representative will notify the applicant of the test results.
3. An applicant who receives a confirmed positive test shall not be considered for employment for any position he or she is currently seeking and is ineligible for County employment for a period of six months from the testing date.
4. Employment decisions based on drug screening test results are irrevocable and appeals will not be considered.

**VII. Discipline and Consequences**

All disciplinary actions and dismissals will be decided and carried out in accordance with disciplinary and dismissal procedures contained in the Wayne County Personnel Policy.

**VIII. Voluntary self-referral**

Employees who admit to alcohol misuse or controlled substances use are subject to the referral, evaluation and treatment requirements and may not be subject to adverse action provided that:

1. The employee does not self-identify in order to avoid testing;



2. The employee makes the admission of alcohol misuse or controlled substances use prior to driving (i.e., prior to reporting for duty); and
3. The employee does not drive until the County has received documentation from the service agent and successfully completes the return to duty and follow-up process. [Part 199.105.e]

An employee who admits to drug and/or alcohol problems will be given an opportunity to obtain an assessment from the County's Employee Assistance Program (EAP). Prior to the assessment, the County will require the employee to sign a release of information that will enable the County's DER to receive the results of the assessment, and to receive subsequent reports related to the assessment, and the employee's successful completion of all recommendations for assistance.

An employee who self-identifies under this policy and who then fails to comply with the EAP's recommendations will not be permitted to return to safety sensitive functions until he/she has successfully complied with the SAP return-to-duty process. Once in compliance with the SAP return-to-duty process, prior to returning to safety sensitive functions, the employee will be required to provide a negative DOT drug and/or alcohol test result on a return-to-duty test.

Prior to the employee driving, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or the employee shall undergo a return-to-duty controlled substance test with a verified negative test result for controlled substances use.

In addition, the County may require employee monitoring and include follow-up testing, based on the recommendations of the EAP or the recommendation of a Substance Abuse Counselor.

If an employee approaches the County for assistance through rehabilitation for drug abuse or alcohol abuse prior to a testing request by the County; all possible and positive consideration for a medical leave of absence for treatment and/or counseling will be pursued. If an employee is terminated, County will not be obligated to provide assistance beyond the last day of employment.

## **IX. Effects of Alcohol and Drugs on the Body**

These summaries are provided in order to assist with the identification of objective factors indicating alcohol or drug abuse in the workplace.

**Alcohol:** You may observe slurred speech, bloodshot and watery eyes, poor balance, odor on breath, and involuntary or sudden movement of the eyes.

**Marijuana:** You may observe bloodshot eyes, muscular tremors, involuntary quivering, impaired time and distance perception, short attention span, disoriented behavior and inability to divide attention.



Cocaine: You may observe uncontrolled talkativeness, difficulty in focusing the eyes, dilated pupils, excitable behavior, sniffles and/or runny nose, body tremors, teeth grinding, and distorted thinking.

Amphetamines: You may observe dilated pupils, distorted thinking, and exaggerated reflexes, hallucinations, teeth grinding, anorexia, loss of coordination and physical collapse.

Opioids: You may observe constricted pupils, droopy eyelids, dry mouth, low raspy speech, depressed reflexes and poor coordination.

PCP: You may observe impaired driving ability, thick, slurred speech, poor coordination, violent, combative behavior, behavior recurring in cycles, involuntary eye movement, confusion, loss of memory and disorientated to time and environment.

#### **X. Confidentiality and Recordkeeping**

- A. Any tests for the presence of alcohol or controlled substances authorized by this policy shall be designed to protect the privacy of the applicant or employee being required to undergo testing.
- B. No sample obtained for the purpose of conducting tests for the presence of alcohol or controlled substances pursuant to this policy shall be used to perform any diagnostic examination that would detect any hidden or latent physical or mental infirmity, disease, or condition. Rather, the analysis of such sample shall be confined to such procedures as are devised to detect the presence of alcohol or controlled substances.
- C. All information obtained in the course of testing, examining, counseling, rehabilitating, and treating applicants or employees pursuant to this policy shall be protected as confidential information. Documents or data concerning this information shall not be open to inspection by persons other than the affected applicant or employee and shall be disseminated only on a need-to-know basis and at the express direction of the Director of Human Resources or to comply with applicable laws. Alcohol or drug test results may be disclosed in connection with legal proceedings related to the applicant or employee (including but not limited to unemployment and workers' compensation) and to the County's retained attorney.
- D. Drug test results from the County's drug testing program may not be used as evidence in a criminal action against an applicant or employee tested except by order of a court of competent jurisdiction.
- E. Records are retained in a secure location with controlled access. Records are retained as outlined in the table below.
- F. Upon a signed written request from an employee, the County provides the employee with all records of drug and alcohol use, testing results, and rehabilitation.

Record Type- Retention in Years

5 Years

- Records of verified positive drug test results.
- Records of alcohol test results indicating an alcohol concentration of 0.02 or greater
- Documentation of refusals to take required drug tests (including substituted or adulterated drug test results)
- Documentation of refusals to take required alcohol tests.
- SAP reports, including compliance with SAP recommendations, all follow-up tests and schedules for follow-up tests.
- Calibration documentation MIS Annual report data
- All follow-up drug test results and schedules for follow-up drug tests
- All follow-up alcohol test results and schedules for follow-up alcohol tests.
- Documentation of employee participation in training and receipt of written policies

4 Years

- Information obtained from previous employers concerning drug and alcohol test results of employees.
- Records confirming that supervisors and employees have been trained
- Records that demonstrate the collection process
- Records of decisions not to administer post-accident employee drug tests.

3 Years

- Records related to the alcohol and controlled substances collection process (except calibration of EBT devices) including records of the inspection and maintenance of EBT's.
- Records of negative and canceled drug test results.
- Records related to the collection process (except calibration of EBT devices)

2 Years

- Records of negative and canceled drug test results
- Records of alcohol test results with a concentration of less than .02



## 1 Year

- The employer shall maintain records related to drug and alcohol education and training while the individual performs the functions that require the training and for at least one year after ceasing to perform those functions.

## **XI. Drug Free and Alcohol Misuse Awareness Program**

A. Human Resources shall provide information regarding this policy and a drug and alcohol-free workplace to employees that includes the following:

1. The dangers of drug abuse and alcohol misuse in the workplace;
2. The County's policy of maintaining a drug and alcohol free workplace;
3. The penalties that may result for violations of this policy; and
4. The assistance program(s) available to all employees relating to alcohol or drug counseling, rehabilitation services, and Substance Abuse Professionals through the County's Employee Assistance Program:

MYgroup

1-800-633-3353

[www.mygroup.com](http://www.mygroup.com)

Confidential professional counseling and assistance 24 hours/7 days

B. Contact information for Wayne County Human Resources Department:-Employee Health Center 919-988-6475.

C. Supervisors shall receive information on this policy and training on detecting the use or abuse of alcohol and controlled substances.

D. The County will make this policy available to each employee via the County's intranet and the Safety Center's Document Library. The County will provide educational materials that explain alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements. The County will provide a copy of these materials to each employee prior to the start of alcohol testing and to each person subsequently hired or transferred into a covered position. The County will provide written notice to representatives of employee organizations of the availability of this information.

## **XII. Training**

All supervisors of employees working in safety sensitive functions will participate in training designed to educate them on the indication of alcohol and/or drug use and on the functions of the Employee Assistance Program.



All non-supervisory employees working in regulated activities and safety sensitive positions will participate in training on the County's policy against alcohol and/or prohibited drugs, and on the services available through the EAP.

This training shall include:

- New employee orientation –
  - An overview, distribution, and acknowledgment of the County's written policy on alcohol and/or drug testing
  - Information regarding the County's EAP services.

Documentation of employee participation in training and receipt of written policies, and copies of materials used in the training will be kept on file for 5 years.

### **XIII. Service Agents**

Service agents such as the sample collection site(s) and the laboratory are contracted through the County.

Service agents will not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the DOT drug and alcohol testing process, including but not limited to collections, laboratory testing, MRO, and SAP services.

The service agents may be inspected by designated personnel from the County to ensure standards are met. Failure to meet protocol requirements will result in non-compliance. If non-compliant the service agent will be issued a deadline to make corrections to their process in order to become compliant with the PHMSA standard.

Service agents will not act as an intermediary, in the transmission of lab drug test results, direct from the lab to the MRO, operator, or to another service agent, or in the transmission of alcohol test results of 0.02 or higher direct from the STT or BAT to the DER.

Service agents do not make decisions to test an employee based upon reasonable suspicion/cause, post-accident, return-to-duty, and follow-up determination criteria. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA.

Service agents do not make determinations that an employee has refused a drug or alcohol test. While a service agent may provide advice and information, these are duties the operator cannot delegate.

Service agents do not impose conditions or requirements on the operator, such as the DOT D&A testing of non-employees, that DOT regulations do not authorize.



Service agents do not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions the service agent performed because of a payment dispute or other reasons.

**APPENDIX A – Contact Listing**

Designated Employer Representative

Charlene Anderson, RN

134 North John Street

Goldsboro, NC 27530

919-731-1363

[Charlene.anderson@waynegov.com](mailto:Charlene.anderson@waynegov.com)

Co- Designated Employer Representative

Michael Dawson

Safety and Risk Manager

134 North John Street

Goldsboro, NC 27530

919-988-6556

[Michael.dawson@waynegov.com](mailto:Michael.dawson@waynegov.com)



### **Acknowledgment of and Agreement with Policy 10.92**

I have been provided a copy of, or access to the Wayne County Drug & Alcohol Testing. I have read and fully understand the policy and consent to all the provisions of that policy, including, if applicable, alcohol and/or drug test(s). I fully understand and agree that a violation of this policy will result in my termination from employment.

I further acknowledge that Wayne County has provided me with the opportunity to ask questions related to its alcohol and drug testing program and that all my questions have been answered.

Employee's Printed Name: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_