



**RESOLUTION NUMBER 2025-33
A RESOLUTION ADOPTING THE DRUG AND ALCOHOL POLICY FOR THE
OPERATION OF COMMERCIAL MOTOR VEHICLES**

WHEREAS, Union County is dedicated to the health and safety of its drivers; and

WHEREAS, drug and/or alcohol use may pose a serious threat to driver health and safety; and

WHEREAS, it is the policy of Union County to prevent the use of drugs and abuse of alcohol from having an adverse effect on our drivers; and

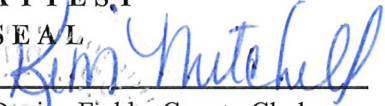
WHEREAS, the Federal Motor Carrier Safety Administration (FMCSA) has issued regulations which require the County to implement an alcohol and controlled substance testing program.

NOW THEREFORE, BE IT RESOLVED, by the Union County Board of County Commissioners the attached Drug and Alcohol Policy for the Operation of a Commercial Motor Vehicle is approved.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2024.

BOARD OF COUNTY COMMISSIONERS OF UNION COUNTY, NEW MEXICO

**ATTEST
SEAL**


Devian Fields, County Clerk

By:


Clayton Kiesling, Chairman


W. Carr Vincent, Member


Lloyd Miller, Member



**Union County Drug and Alcohol Policy
for DOT Safety Sensitive Employees Subject to Federal Drug and Alcohol Testing
Under 49 Part 382 and 49 CFR Part 40**

Adopted by the Union County Board of County Commissioners on December 9, 2024

PURPOSE

The purpose of this policy is to establish procedures to comply with applicable federal safety standards for safety-sensitive duties regulated by the United States Department of Transportation (DOT) and its agency the Federal Motor Carrier Safety Administration (FMCSA). These standards were designed to reduce accidents caused by controlled substances and alcohol.

SCOPE

This policy applies to all employees who are required to hold a commercial driver's license (CDL) to perform their job for Union County

DEFINITIONS

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

Collection Site: A place where individuals present themselves for the purpose of providing breath or body fluid to be analyzed for alcohol or specified controlled substances. The site must meet all DOT standards.

Commercial Motor Vehicle (CMV): A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property which is 26,001 pounds or greater.

Controlled Substance: Opioids, cocaine, marijuana, phencyclidine, and amphetamines.

Drugs: Includes "controlled substances" and any drug in which its use could adversely affect performance of safety-sensitive functions, including prescription drugs and over-the-counter medications.

Covered employee: An employee required to hold a CDL to perform their job for [County Name].

Direct Observation Collection: Observation of the collection will be required if the employee:

- Attempts to tamper with his or her specimen at the collection site;
- The specimen temperature is outside the acceptable range;
- The specimen shows signs of tampering unusual color, odor, characteristic; or



- The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen; or the collector notes conduct suggesting tampering.
- The Medical Review Officer (MRO) orders the direct observation because:
 - The employee has no legitimate medical reason for certain atypical laboratory results; or
 - The employee's positive or refusal [adulterated / substituted] test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).
 - The test is a Follow-Up test or a Return-to-Duty test.

DESIGNATED EMPLOYER REPRESENTATIVE (DER) – The County position identified by the County as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.

FMCSA Drug and Alcohol Clearinghouse "Clearinghouse" – means a FMCSA secure online database (<https://clearinghouse.fmcsa.dot.gov>) that gives employers real-time information about CDL and Commercial Learner's Permit ("CLP") holders' drug and alcohol program violations. Employers and service agents are required to report information and to conduct queries regarding drivers who are subject to the FMCSA controlled substance and alcohol testing regulations.

Impairment: An employee's behavior or condition which adversely affects performance (e.g., reduced alertness, coordination, reactions, responses, or effort) or threatens the safety of the employee, others, or property due to the use of drugs or alcohol.

Medical Review Officer (MRO): Is a physician who is responsible for receiving and reviewing drug and alcohol test results and evaluating medical explanations in the event of confirmed positive test results.

On-Duty Time: Means all time from the time an employee begins to work or is required to be in readiness to work until the time relieved from work and all responsibility for performing work. On-duty time shall include all safety-sensitive functions noted below.

Safety-Sensitive Functions for CDL Positions: Means all time spent (1) waiting to be dispatched; (2) inspecting, servicing, or conditioning any commercial motor vehicle (CMV); (3) at the driving controls of a CMV in operation; (4) in or upon any CMV; (5) loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; and (6) all time fueling, repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (49 CFR.382.107)

Substance Abuse Professional (SAP): Means an individual who is credentialed as a professional



who is knowledgeable about disorders associated with substance abuse in relation to safety-sensitive duties regulated by DOT. A SAP initially evaluates drivers who have violated DOT drug and alcohol regulations and makes recommendations concerning education, treatment, follow-up testing, and aftercare. Once the education and/or treatment is successfully completed, the SAP reassesses the driver's condition and, if satisfied with the driver's compliance, completes a SAP report and prescribes a series of follow-up tests.

I. PROCEDURES - GENERAL

1. Employees required to possess a CDL are subject to all testing requirements required by the DOT/FMCSA including pre-employment, random, reasonable suspicion, post-accident, return-to-duty, and follow-up testing.
2. For applicants, the conditional offer of employment is contingent upon the satisfactory completion of the pre-employment drug screening and the Clearinghouse pre-employment search. Current CDL employees are subject to an annual search of the Clearinghouse with satisfactory results to continue performing job duties requiring a CDL license. (49 C.F.R. § 382.701)
3. Any test for drug or alcohol use must be conducted in conformance with the requirements in 49 CFR Part 40.

II. PROHIBITIONS

1. ALCOHOL PROHIBITIONS: (382 Subpart B) Covered employees shall not:
 - A. Use while performing safety-sensitive functions.
 - B. Use during the 4 hours before performing safety-sensitive functions.
 - C. Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of .02 or greater.
 - D. Possess alcohol while on-duty, including the possession of medicines containing alcohol (prescription or over the counter), unless the medicine packaging seal is unbroken.
 - E. Use during the 8 hours following an accident or until the driver undergoes a post-accident test, whichever occurs first.
 - F. Perform safety-sensitive functions for at least 24 hours when a test shows an alcohol concentration of .02 to .039.
 - G. Refuse to take a required alcohol test.
2. DRUG PROHIBITIONS: (382.213; 382.215) covered employees shall not:
 - A. Use any drug, except under instruction of a health care provider who has advised the employee that the drug will not adversely affect the employee's ability to safely operate a CMV. If the drug will adversely affect the employee's ability to safely operate a CMV, the employee shall obtain a statement from the medical professional indicating any work restrictions and their duration and present it to their supervisor prior to going on duty.
 - B. Test positive or have adulterated or substituted a test specimen for controlled



substances.

- C. Refuse to take a required test.
3. SUPERVISORS/MANAGERS (382.205-207; 382.213-215); shall not:
- A. Permit an employee who refuses to submit to an alcohol and/or a drug test as required by this program to perform or continue to perform safety-sensitive duties.
 - B. Permit an employee to perform or continue to perform safety-sensitive duties if the employer has knowledge or a reasonable suspicion that a covered employee is under the influence of controlled substances and/or alcohol that an employee has tested positive, or has used a controlled substance, or has consumed alcohol within the prohibited time frames.
 - C. Permit an employee to perform safety-sensitive duties for at least 24 hours or until the start of the next shift, whichever is later, following the administration of an alcohol test with test results of 0.02 or greater but less than 0.04.

III. CONSEQUENCES FOR VIOLATION OF PROHIBITIONS

- 1. DOT regulations do not address employment actions such as hiring, firing, or granting leaves of absence. All employment decisions are the responsibility of the employer. Under federal regulations, the main requirement for an employer is to immediately remove employees from performing DOT safety-sensitive duties as described below for violating the prohibitions. The County reserves the right to impose disciplinary action up to and including termination for violations of this policy, in accordance with the applicable County's Personnel Rules.
- 2. A positive drug and/or alcohol test shall result in termination unless the employee accepts a Last Chance Agreement in accordance with Section IV below.
- 3. The employee shall not perform safety-sensitive functions until all return-to-duty requirements are met. Before returning to duty, the employee must undergo a return-to- duty test for:
 - A. Alcohol with a verified return-to-duty test result of less than .02, and/or
 - B. Drugs with a verified negative result.
- 4. Even if the decision is made to terminate the employee, the employee shall be advised by the Union County Human Resources Department of the resources available in evaluating and resolving the problem. This shall include the names, addresses, and telephone numbers of SAPs and counseling and treatment services.
- 5. Prior to being allowed to return to safety-sensitive functions, the employee must be evaluated by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and drug use.
- 6. If the employee was identified as needing assistance in resolving the problem, the employee must:



- A. Be evaluated by the SAP to determine that the employee properly followed any prescribed rehabilitation program, and
 - B. Be subject to unannounced follow-up alcohol and/or drug tests administered by the employer following the employee's return to duty. The number and frequency of the tests are to be determined by the SAP, must remain unknown to the employee, and must consist of at least six tests during the first 12 months following the employee's return to duty. Follow-up testing may be done for up to 5 years.
- 7. Follow-up tests cannot be substituted for other tests (such as random).
 - 8. Return-to-duty and follow-up drug tests must be done under direct observation.
 - 9. Union County will withdraw the conditional offer of employment and will not hire an applicant who tests positive for controlled substances.

IV. LAST CHANCE AGREEMENT (LCA)

- 1. The intent of the LCA is to offer an employee who has tested positive in violation of this policy a second chance and an opportunity to obtain treatment for a substance abuse problem in lieu of termination.
- 2. LCAs may be used when the following factors are present:
 - A. It is the employee's first positive test for controlled substances or alcohol, and it was not a post-accident test under Section VI (2) of this policy.
 - B. The determination of a positive test was not a result of a "refusal to test" as described in Section IX of this policy.
 - C. The employee agrees to be evaluated by a county-selected SAP to determine whether a dependency issue exists, and if so, agrees to comply with the treatment program outlined by the SAP.
 - D. The employee agrees to "return to duty" testing as explained in Section VII (5) of this policy and follow up testing pursuant Section VI (6) if required by the SAP.
 - E. The employee agrees to sign the SAP's medical release form (or a form acceptable to the SAP) allowing the County to receive the assessment results and periodic treatment compliance reports.
 - F. The employee agrees to accept and serve a suspension without pay as recommended by the County Manager.
- 3. At a minimum, the LCA will include the following provisions:
 - A. The agreements set forth in C, D, E, and F directly above.
 - B. A requirement that the employee successfully enroll and complete a treatment program (if recommended by the SAP) and receive a negative return to duty test result.
 - C. A statement acknowledging that a violation of the LCA or future violations of this policy will result in termination.
 - D. The LCA must be signed by the employee and the County Manager.
 - E. LCA will expire five (5) years from the date of execution.



V. **PRESCRIPTION MEDICATION:** (392.4; 382.213(b)(d))

1. It is the responsibility of employees to inform the DER or their supervisors when they are taking any prescription that may create impairment. All CDL employees who use prescription medications pursuant to the instructions of a physician are required to ask the physician if those drugs could adversely affect their ability to safely operate a commercial motor vehicle. If the physician affirms that safe operation of a commercial motor vehicle could be impaired by the employee's use of a drug, the employee is required to immediately report this to the DER or their supervisor and the employee must be removed from the performance of safety-sensitive duties.
2. Employees **MUST** have a valid and current doctor's prescription and **MUST** be under the prescribing doctor's care if taking any type of prescription medicine that can create an impairment.
3. If an employee tests positive and cannot produce a valid prescription, the MRO will report a positive result to the employer. The consequences for a positive test will apply.
4. If an employee tests positive and a valid prescription exists, the MRO will report the result as negative, but will also report any safety concerns, which may require further evaluation.
5. **Medical Marijuana** (49 CFR Part 40, at 40.151(e)) Marijuana is a federally prohibited substance. An authorization for use of marijuana for medical purposes will not be an acceptable excuse for testing positive for THC, the marijuana metabolite. The employment protections provided by the Lynn and Erin Compassionate Use Act do not apply to safety-sensitive positions. NMSA § 26-2B-9(B)(2). Anyone testing positive for marijuana will be subject to the consequences of this policy for a positive drug test.

VI. **REQUIRED TESTS FOR COVERED APPLICANTS AND EMPLOYEES (CDL REQUIRED)**

To ensure compliance with DOT regulations, applicants for positions requiring a CDL and covered employees will be subject to controlled substance and alcohol tests under the circumstances described below. Applicants and employees are required to submit to testing in the following circumstances as a condition of their employment.

1. **PRE-EMPLOYMENT TESTING:** (382.301)
 - A. Applicants selected for CDL-covered positions are to be given a conditional offer of employment, pending negative results from drug and alcohol testing.
 - B. Negative test results must be received prior to the employment start date.
 - C. A positive drug test result or a refusal to submit to a drug test will result in



automatic disqualification. If disqualified, an applicant must wait at least six (6) months before reapplying for employment, in a safety sensitive position, with Union County.

- D. Employees transferred, or applying for a position requiring a CDL, or whose current position is changed to require a CDL, are not permitted to operate a CMV unless they have a CDL or CDL permit, and have received a pre-employment drug test with negative results. A positive drug test or a refusal to submit to drug testing or failure to comply with any part of the testing protocol will result in the employee's disqualification from the safety-sensitive position and may subject the employee to disciplinary action, up to and including termination, in accordance with the applicable collective bargaining agreements and/or the County's Personnel Rules.

2. POST-ACCIDENT TESTING: (382.303)

As soon as practical following an accident involving a CMC, Union County shall test the surviving driver(s) for alcohol and drugs when either:

- A. The accident involved a fatality **or** the driver receives a moving violation traffic citation and
 - 1. One of the vehicles involved in the accident had to be towed **or**
 - 2. One of the people involved in the accident had to receive medical attention immediately away from the scene.
- B. The employee (driver) must ensure that the supervisor/manager is notified as soon as practicable following an accident. The supervisor/manager will review the circumstances of the accident to determine if a post-accident test is required, and if so, make arrangements to have the employee tested for alcohol and drugs. Employees who have been involved in accidents which do not require a post-accident test under this policy may not be tested without their written consent.
- C. Alcohol tests should be conducted within 2 hours of the accident.
- D. If a test was not administered within this time frame, the Human Resources Department will prepare and maintain a file stating the reason a test was not promptly administered.
- E. If the driver is not tested within 8 hours, attempts to administer a test should cease and a record prepared and maintained by the Human Resources Department indicating why the test could not be performed.
- F. Drug tests should be completed within 24 hours of the accident. If a test was not administered within this timeframe, the Human Resources Department will prepare and maintain a file on record stating the reason a test was not promptly administered. If the driver is not tested within 32 hours of the accident, attempts to test should cease and a record prepared and maintained by the Human Resources Department indicating why the test was not performed.



- G. A driver who is subject to post-accident testing must remain available or Union County may consider the driver to have refused to submit to testing. The driver subject to post-accident testing must refrain from consuming alcohol for 8 hours following the accident, or until completion of an alcohol test, whichever comes first.

NOTE: Nothing in this policy should be construed to require the delay of necessary medical attention for injured people following an accident. Also, the driver is not prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency care.

3. **RANDOM TESTING: (382.305)**

- A. Union County conducts random drug testing on DOT safety sensitive positions, in accordance with 49 CFR §382.305. The minimum annual percentage rates for these tests are set, and can be modified, by the FMCSA. The selection of employees for random alcohol and/or controlled substance testing shall be made by a scientifically valid method, such as a random table of a computer-based random number generator that is matched with employees' identification numbers.
- B. On a monthly basis the Human Resources Officer will provide the drug and alcohol testing services vendor with an updated list of all covered employees. This list represents the random testing pool. The vendor will use this list to select employees for random testing. The random selection and testing dates shall be unannounced and spread reasonably throughout the year with each employee having an equal chance of being tested each time the random selections are made. Each covered employee randomly selected for testing shall immediately, upon notification, report to the testing site.
- C. An employee may only be scheduled for a **random alcohol test** immediately before, during, or immediately after the performance of safety-sensitive duties. Employees may be scheduled for a random drug test at any time.
- D. The conditions for selection and notification of random testing are:
 - 1. Human Resources Department and the supervisory staff shall ensure that employees selected for random tests proceed immediately to the testing site upon notification of selection.
 - 2. Employees must immediately proceed to the collection site when they are notified of their selection.
 - 3. Strict confidentiality procedures are to be followed regarding the names of employees selected and scheduled for testing as well as the results of such testing. Any breach in confidentiality may result in disciplinary action.



4. Employees who are on leave for one week or less should be sent for testing immediately upon their return to work.
 5. In the event an employee, who is selected for a random test, is on an extended leave, the Human Resources Department will contact its designated vendor for the name of the next alternate random selection in place of the original selection. If an alternate employee is selected, both the Human Resources Department and its designated vendor must document the details of the alternate selection.
4. REASONABLE SUSPICION TESTING: (382.307)
- A. When a trained supervisor has reasonable suspicion to believe an employee is under the influence of drugs or alcohol, the employee is required to submit alcohol and/or controlled substance test.
 - B. Reasonable suspicion is determined through the personal observation of the employee by a supervisor who has received the required CDL supervisor training (§ 382.603), and must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.
 - C. If possible, it is best to have two supervisors, or a supervisor and a County Administration Department employee involved in the determination. At least one of the supervisors involved must have received the required CDL supervisor training.
 - D. If it is determined that reasonable suspicion exists that the employee is under the influence, each should then **document** their visual observations of the employee's appearance and behavior using the Reasonable Suspicion Checklist in the appendix.
 - E. If it is determined that reasonable suspicion of an impairment does not exist, **and** the employee is able to perform work duties, the employee should be returned to work.
 - F. If it is determined that the employee is not under the influence of alcohol and/or drugs, but is not fit to perform work duties, the County Manager should be contacted to determine the appropriate actions to be taken.
 - G. If reasonable suspicion is established, the employee must be escorted (transported) for a reasonable suspicion test. The reasonable suspicion test is to be conducted, even if the employee admits to using drugs and/or alcohol.
 - H. Reasonable suspicion testing for alcohol may be done only when the observations are made immediately before, during or immediately after the performance of safety-sensitive duties.
 - I. Reasonable suspicion testing for drugs may be done at any time while the employee is on duty, including prior to the start of duties of that work



shift.

- J. For drug tests, the reasonable suspicion documentation must be completed within 24 hours of the observed behavior or before the results are released, whichever is earlier.
- K. If a reasonable suspicion alcohol test is not administered within two hours following the supervisor's observations, the supervisor must prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly.
- L. If the reasonable suspicion alcohol test is not administered within eight hours, the supervisor must cease attempts to have the tests administered and must prepare and maintain on file a record stating the reasons the alcohol and/or drug test was not administered promptly.
- M. An employee who is taken for a reasonable suspicion drug and/or alcohol test must be immediately removed from safety-sensitive duties and cannot be returned to those duties until a negative result from the reasonable suspicion test is received.
- N. An employee's refusal to test or cooperate in the testing process will be treated as a positive test.
- O. At the conclusion of the collection process, the supervisor or Human Resources Department employee will make necessary arrangements to have the employee taken home; the employee cannot be permitted to drive. If the employee refuses those arrangements and attempts to drive, do not attempt to restrain the employee but contact local law enforcement to report the circumstances.

5. RETURN-TO-DUTY TESTING: (382.309; 40.305)

- A. Employees retained by the County after a positive test result, test refusal, or self-disclosure may return to safety-sensitive functions after their evaluation by a SAP and participation in the prescribed treatment program.
- B. Return-to-duty tests need not be confined to the substance involved in the violation. The SAP may recommend both a drug and alcohol return-to-duty test be given. The employee must have a negative test result before returning to duty.
- C. Return-to duty drug tests must be under direct observation.

6. FOLLOW-UP TESTING: (382.311; 40.307)

- A. An employee who has tested positive for drugs and/or alcohol will be subject to unannounced follow-up drug and/or alcohol testing after return to safety-sensitive duties. The follow-up testing schedule is determined by the SAP and will consist of a minimum of six drug and/or alcohol tests in the first 12 months. Follow-up testing may be extended up to five years at the direction of the SAP. The number and frequency of the tests are to be



- determined by the SAP but must consist of at least 6 tests during the 12 month period following return to duty and may extend for up to 5 years.
- B. The SAP's plan for follow-up testing must remain unknown to the employee.
- C. Follow-up tests cannot be substituted for other tests (such as random).
- D. Follow-up drug tests must be under direct observation.

VII. **TESTING PROCEDURES (382.407 – 409)**

Testing shall be conducted in a manner to ensure adherence to standards of confidentiality, privacy, accuracy, and reliability as required by DOT regulations.

1. CONTROLLED SUBSTANCE TESTING: (Part 40, Subpart B)
 - A. Testing for controlled substances shall be conducted in accordance with 49 CFR Part 40.
 - B. A positive result will occur if the sample contains a substance present in an amount greater than the minimum threshold as defined by the regulations.
 - C. A Medical Review Officer or MRO's assistant will contact the employee/applicant if there is a positive result to verify the result.
 - D. The Medical Review Officer or MRO's assistant will report the result to the DER or other authorized County official.
 - E. The Medical Review Officer or MRO's assistant will give the donor the option of testing the remaining split specimen at a HHS certified laboratory of their choice at their expense. The donor has up to 72 hours to request the split sample be tested.
2. ALCOHOL TESTING: (Part 40, Subpart B)
 - A. Alcohol testing shall be conducted in accordance with 49 CFR Part 40. Alcohol testing may be conducted by a qualified Screening Test Technician (STT) or Breath Alcohol Technician (BAT). STTs are only permitted to conduct the first test given to an employee by using either a breath or saliva test (Screening Test). A BAT is authorized to conduct a Screening Test, but, unlike a STT, is also authorized to conduct the second test given to an employee whose test result is .02 or above (Confirmation Test). For a Screening Test, the STT or BAT may use an approved Alcohol Screening Device (ASD) or an Evidential Breath Testing device (EBT). For a Confirmation Test, the BAT is required to use an EBT.
 - B. If an employee's alcohol concentration is 0.02 – 0.039, a second, confirmation test will be performed. If the confirmation test results are in the same range, the results will be reported to Union County. The employee will be removed from performing any safety-sensitive functions for 24 hours before being required to re-test and being allowed to return



to work if those results are below 0.02.

- C. If an employee's alcohol concentration is 0.04 or greater, a second confirmation test will be performed. If the confirmation test results are the same or greater, the test will be considered positive and reported to Union County. The employee will be removed from duty and (if retained) they must complete the entire SAP rehabilitative process as outlined in this policy.

VIII. **REFUSAL TO SUBMIT TO TESTING** (382.107 and 382.211)

Refusal to submit to testing is equivalent to a positive test. Any employee refusing to submit to testing will be referred to a SAP and will face appropriate disciplinary action. Any applicant refusing to submit to testing will not be considered for employment with Union County. The following behavior constitutes a refusal:

1. Failure to appear for any test (except a pre-employment test) after being directed to do so by the employer.
2. Failure to remain at the testing site until the testing process is complete. Provided that a person who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
3. Failure to provide specimen.
4. In the case of a drug test that is required to be directly observed or is a monitored collection, when the donor fails to permit the observation or monitoring.
5. Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
6. Failure or declining to take a second test the employer or collector has directed the donor to take.
7. Failure to undergo a medical examination or evaluation, as directed by the MRO, as part of the verification process ("shy bladder" shy lung"), or as directed by the Designated Employer Representative (DER). In the case of a pre-employment drug test, the applicant is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
8. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behaving in a confrontational manner that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
9. Is reported by the MRO as having a verified adulterated or substituted test result.
10. A donor's admission to a collector that he/she has adulterated or substituted their specimen.
11. Failure to follow the observer's instructions to raise and lower clothing or to turn around to permit the observer to determine if the donor has a prosthetic or other device that could be used to interfere with the collection process.



12. Possession of or wearing a prosthetic or other device that could be used to interfere with the collection process.

IX. **VOLUNTARY EMPLOYEE SELF-IDENTIFICATION PROGRAM:** (As allowed by Union County and not required by DOT regulations.)

1. As deemed practical, Union County will assist employees in overcoming drug and alcohol problems if this policy has not already been violated. An employee may not self-identify to avoid required testing. To participate in this voluntary program, the employee must make the admission of alcohol misuse or drug use **prior to** performing a safety-sensitive function (i.e., prior to reporting for duty).
2. Employees who seek voluntary treatment prior to a violation of this policy will not be disciplined for making a voluntary admission of alcohol misuse or controlled substance use within the parameters of this policy.
3. The employee will be referred the County's Employee Assistance Program (EAP) Employees who seek voluntary assistance will be returned to safety-sensitive duties only upon successful completion of an educational or treatment program as determined by a SAP.
4. Prior to the employee participating in a safety-sensitive function, the employee shall undergo a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or controlled substance test with a verified negative test. The employee will be required to submit to follow up testing as set forth in this policy.
5. Employees are encouraged to apply for FMLA leave if participating in a rehabilitation treatment program. The County offers health benefit plans to eligible employees that cover treatment for substance use disorders. Insurance may cover all or part of the cost of such a program. However, the financial burden of payment for such a program ultimately rests with the employee. Information regarding availability of treatment resources and possible insurance coverage for treatment services is available from the Human Resources Department

X. **DESIGNATED EMPLOYER REPRESENTATIVE (DER)**

The Human Resources Coordinator will serve as the DER and may be contacted to answer questions regarding this policy or issues related to the use or misuse of controlled substances or alcohol.

XI. **TRAINING** (382.601; 382.603)

1. Those employees who supervise covered employees must receive 60 minutes of alcohol and 60 minutes of controlled substance training. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under Section VII (4) of this policy. The training shall



include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

2. Each covered employee must be provided with a copy of this policy and materials about the effects of drug and alcohol use (such as film or written), the County DOT policy, and the name of the supervisor who can answer their questions about the material. Each employee must sign a certificate of receipt of the materials.

XII. CONFIDENTIALITY/RECORD KEEPING (Part 382, Subpart D; Part 40, Subpart P)

All records will be maintained and retained in accordance with federal regulations. All employee drug and alcohol test records are considered confidential and will be secured and only accessible to authorized employees. Employee alcohol and controlled substance test records will only be released in the following situations:

- To an employee, upon their request;
- Upon written consent by the employee authorizing the release to a specified individual;
- Upon request of a DOT agency with regulatory authority over the County;
- Upon request of state or local officials with regulatory authority over the County;
- Upon request of the United States Secretary of Transportation;
- Upon request by the National Transportation Safety Board (NTSB) as part of an accident investigation;
- In a lawsuit, grievance, or other proceeding when legally applicable;
- Upon request by subsequent employers upon receipt of a written request by an employee;
- To the Clearinghouse.

XIII. CLEARINGHOUSE REPORTING

The following information will be collected and maintained under this section and shall be reported to the Clearinghouse:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to a required test;
4. An employer's report of actual knowledge, as defined at §382.107:
 - A. On duty alcohol use pursuant to §382.205;
 - B. Pre-duty alcohol use pursuant to §382.207;
 - C. Alcohol use following an accident pursuant to §382.209; and
 - D. Controlled substance use pursuant to §382.213;
5. A SAP's report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. A report of completion of follow-up testing.

XIV. INFORMATION ON DRUG ABUSE AND ALCOHOLISM (§ 382.601(b)(11))



Drug use and alcohol abuse can have a serious impact on everyone. Either can negatively impact health, work, personal life, and the lives of others. The following information should assist in identifying individuals at risk and represent some of the potential effects that drug and alcohol use may have on the user:

Workplace

- May cause the employee to feel capable of handling tasks that are too much or too dangerous.
- May cause lateness and absenteeism, increasing the workload of others.
- May cause crime on the job, including theft of County and personal property.
- May cause major errors in the work performed, risking harm to the employee, coworkers, and customers.

Health

- Neurological problems, including dementia, anxiety, and suicide;
- Cardiovascular problems, include hypertension;
- Increased cancer risk;
- Liver diseases, including alcoholic hepatitis and cirrhosis;
- Sexual dysfunction.

Personal life

- Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.
- If drinking affects your work life, it could lead to job loss and all the financial problems that would follow.

Signs and Symptoms of a drug and/or alcohol problem

Any one or more of the following signs may indicate a drug and/or alcohol problem:

- Appears fearful, anxious, or paranoid for no reason;
- Blackouts or the inability to remember what has happened;
- Cold, sweaty palms; shaking hands;
- Lack of motivation; appears lethargic or “spaced out;”
- Pattern of absenteeism with vague excuses;
- Red, watery eyes; pupils larger or smaller than usual; blank stare;
- Regular (or daily) use or consumption;
- Secretive or suspicious behavior;
- Sudden mood swings, irritability, or angry outbursts;
- Unexplained need for money; stealing money or items.

Intervening when a drug or alcohol problem is suspected

There are several good reasons why employees should be concerned if their coworkers are using drugs or alcohol on the job:

- The employee and their coworkers’ health and safety may be at risk.
- Creates a negative work environment.

No matter what the employee’s position is in the County, steps can be taken to reduce the risk of drug and alcohol abuse on the job. Acceptance of any misuse puts the employee,



the County, and the public at risk. Accordingly, the County requests that any signs or symptoms of drug use or alcohol abuse be reported to the employee's immediate supervisor. Alternatively, employees may report any signs or symptoms to the County DER. Additional information may be obtained by contacting the County's Employee Assistance Program ("EAP").

XV. ACKNOWLEDGMENT

The final page of this policy is the acknowledgment to be completed by the employee upon receipt of the policy attesting that they understand that to continue employment with Union County they must abide by the terms of this policy. The signed acknowledgment page must be returned to the Union County Human Resources Department.

ACKNOWLEDGMENT AND RECEIPT

I have received a copy of the **Union County Government Policy Regarding Compliance with Department of Transportation Drug and Alcohol Regulations, Resolution # 2025-33**

I understand that in order to continue my employment with Union County, I must abide by the terms of this policy.

Printed Employee Name

Employee #

Employee Signature

Date

Return to:
Union County Human Resources Department