

VII-N. Alcohol and Drugs – Drug Free Workplace (Update Effective 5/17/2023)

The Cullman County Commission hereafter referred to as "Employer" is committed to providing a safe working environment for all employees while serving the citizens of Cullman County. The Employer recognizes that any employee who improperly uses intoxicating substances, including drugs and alcohol, poses a serious threat to themselves, their coworkers, and to the public in general. Even small quantities of narcotics, abused prescription or over-the-counter drugs or alcohol can impair judgment and reflexes. This impairment can have dire results, particularly for employees operating vehicles or potentially dangerous equipment.

It is therefore the policy of the Employer that all employees or any person performing any kind of work for the Employer must report to work completely free from alcohol, illegal or unauthorized drugs or any other substances that may have a mind-altering or intoxicating effect or otherwise impair the employee's judgment, reaction times or functioning.

The Employer also prohibits all employees from using, possessing, manufacturing, distributing or making arrangements to distribute alcohol, illegal or unauthorized drugs, or any other intoxicating substances while at work or on or about any county property.

In order to avoid creating safety problems and violating this policy, employees must inform their supervisor when they are legitimately taking any medication, including prescription drugs or over-the-counter medications, which affect their ability to work. Employees whose job performance may be affected by such medications may be required to provide a fitness-for-duty certification before being allowed to resume their job duties.

Any employees who violates this policy in any way shall be immediately removed from his or her job duties and shall be subject to discipline, up to and including immediate termination.

No part of this policy shall be construed to create a contract of continued employment or to confer upon any employee or applicant a property interest in his or her employment. The Employer maintains the right to change this policy at any time without notice. To the extent that any portion or provision of this policy and procedure conflicts with any applicable federal or state laws or regulation, such federal or state laws or regulations will be controlling. Further, provisions of this policy, specifically including, but not limited to, testing procedures, are subject to change in order to remain consistent with United States Department of Transportation regulations. It is the Employer's intent that it be allowed to choose any testing method that is approved by the United States Department of Transportation.

The Employer has designated the Safety Director as the Drug Program Coordinator. If you have any questions or concerns regarding this policy or its application, please contact him or her at: (256) 775-4948 or (256) 531-7349.

Employees of the Cullman Area Rural Transportation System (CARTS) are subject to ALDOT Substance Abuse Regulations, unless the Employer's policies are more stringent, in which case the Employer's policy would apply. (kept from old policy)

1. Definitions.

- a. "Accident" means any on-the-job accident. "Accident" includes vehicular accidents as well as any acts or omission causing an accident or injury to any person, or damage to any equipment or property belonging to the County, other entity, or individual person(s).
- b. "Administrator" means the person or entity that implements drug testing on employees and applicants.
- c. "Alcohol" means distilled or fermented beverage containing ethyl alcohol, including, but not limited to, beer and wine.
- d. "Chain of Custody" means procedures implemented by the Employer for the identification and integrity of each specimen. The Employer requires the person responsible for policy implementation to track the handling and storage of each specimen from the point of specimen collection to final disposition of the specimen. These procedures include an appropriate drug testing chain of custody form to be used from

time of collection to receipt by the testing laboratory. Chain of custody forms shall document the date and purpose of each time a specimen is handled or transferred and shall identify every individual in the chain of custody.

- e. "Collector" means a person who instructs and assists tested employees and applicants for eligible positions at a collection site and who receives and makes an initial examination of the specimens. The collector shall have successfully completed training to carry out this function or shall be a licensed medical professional or technician who shall be provided instructions for collection under this procedure and certifies completion as required herein. In any case, where a collection is observed or monitored by non-medical personnel, the collector shall be a person of the same gender as the employee or applicant.
- f. "Collection Site" means a place designated by the Employer where employees present themselves for the purpose of providing a specimen to be analyzed for the presence of specified controlled substances and alcohol. The site will possess necessary personnel, materials, equipment facilities and supervision to provide for the collection, security, temporary storage, and transportation or shipment of the samples to a laboratory.
- g. "Controlled Substance" means and substance defined or classified as a controlled substance according to federal or state law. Title II of the Comprehensive Drug Abuse Prevention Act of 1970 (Controlled Substance Act), as it is amended from time to time, provides the basic standard. Controlled substances include, but are not limited to, any and all forms of marijuana and its derivatives regardless of how obtained, and any stimulants or hallucinogens, that are subject to legal prohibitions or restrictions on their sale, transfer, use, or possession.
- h. "County" means Cullman County.
- i. "DOT Employee" is an employee who is subject to the rules and regulations of the United States Department of Transportation regarding drug and alcohol testing because of the job duties that he or she performs.
- j. "Drug Program Coordinator" is the person designated by the Employer to ensure compliance with this Policy, including but not limiting, ensuring that proper testing procedures are followed, ensuring that the lab(s) used by the Employer are properly certified and ensuring that the Medical Review Officer is properly credentialed. The name and contract information of the Drug Program Coordinator will be distributed to all employees.
- k. "Employer" means Cullman County Commission.
- l. "Employer Premises" includes all property owned, leased, used or under the control of Employer, including, but not limited to, the job site of any employee, structures, building offices, facilities, vehicles and equipment of transportation to and from those locations while in the course and scope of County employment.
- m. "Employee" means any and all employees of the Employer.
- n. "Illegal/Unauthorized Drug" means any drug (1) which is legally obtainable but has not been legally obtained or, even if legally obtained, is not being used in accordance with instructions given either by a physician or, if over-the-counter, on the drug's label; or (2) all illegal drugs, including, but not limited to, methamphetamine, cocaine, heroin, etc.
- o. "Intoxicating Substance" means any substance, whether legal or illegal, that may have an intoxicating or mind-altering effect when ingested, snorted, smoked or otherwise introduced into the body. Intoxicating substances include, but are not limited to, "bath salts", nitrous oxide, glues, solvents, cannabidiol (CBD) derivatives, or herbs or other plants such as salvia.
- p. "Legal Drug" means prescribed drugs and over-the-counter drugs which have been legally obtained and are being used appropriately for their intended purpose in accordance with directions given either on the label or by employee's treating physician.
- q. "Possession" means actual or constructive care, custody, control or immediate access.
- r. "Under the Influence" means being unable to perform work in a safe and productive manner; being in a physical or mental condition which creates a risk to the safety and well-being of the individual, other

- employees, the public; and/or having any laboratory evidence of the presence of drugs, alcohol, prohibited or controlled substance in the employee's body.
- s. "Medical Marijuana" refers to marijuana or any of its derivatives that is prescribed in accordance with the laws of a state.
 - t. "Medical Review Officer" (MRO) means a licensed physician (medical doctor) responsible for receiving laboratory results generated by the Employer's drug testing program. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.
 - u. "Random Selection Process" is the process used to ensure that each employee holding a safety-sensitive position has an equal chance of being drug-tested every time that random drug tests are conducted. This process means that some employees may be tested multiple times in any given year.
 - v. "Reasonable Cause" means that the Employer believes the actions or appearance or conduct of an employee on duty are indicative of the use of a controlled substance or alcohol.
 - w. "Safety-Sensitive Employees" are those persons who are subject to random drug and alcohol testing. These employees include, but are not limited to, persons who inspect, service, repair or maintain a vehicle or other heavy equipment, operate or load a vehicle or heavy equipment, use tools, including both power and hand tools, that have the capacity to injure any person and those who are authorized to carry weapons of any kind. An employee is considered to be engaged in a safety-sensitive function at all times from the time that an employee begins work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work.

2. Persons Subject to Testing.

The following employees have been designated by the Employer to submit at any time to be tested for illegal drug abuse and alcohol abuse:

- a. All employees who hold positions or regularly perform duties that have been designated to be "safety-sensitive" by the Employer;
- b. Any employee who, during the course of said employee's employment, is involved in an accident causing physical injury to any person or damage to any property; and
- c. Any employee, regardless of whether he or she holds a safety-sensitive position, whose conduct, behavior or physical symptoms establishes reasonable cause to believe that said employee is under the influence of any drug and/or alcohol while performing his or her job duties or while being physically present on the premises of the Employer's property during any activity sponsored, supervised, or in which the Employer participates.

3. Types of Testing.

Pursuant to Employer's policy and procedures, employee will undergo testing as follows.

- a. **PRE-EMPLOYMENT TESTING:** All employees applying for a position that has been designated as safety-sensitive will be required to submit to a pre-employment drug test before a final offer of employment is extended. All pre-testing offers of employment to such persons are explicitly conditioned on the employee successfully taking and passing the drug test. Pre-employment testing will also be done when an employee transfers from a non- safety-sensitive position to a safety-sensitive position;
- b. **RANDOM TESTING:** All employees holding safety-sensitive positions will be subject to testing on a random basis without advance notice to them;
- c. **REASONABLE CAUSE TESTING:** The Employer may schedule a drug/alcohol test when behavioral observations indicate to the employee's supervisor that any employee may be involved in illegal use of a controlled substance, use of alcohol or abuse of legal drugs. Before testing, the employee's supervisor shall either (1) contact another supervisor to observe the employee's behavior and to concur with the decision to test the employee or (2) review the employee's behavior with another supervisor to obtain concurrence with

the decision to test the employee. The employee shall be promptly escorted to the collection site for testing by the employee's supervisor or designee;

- Employees arrested or convicted for the off-the-job use or possession of illegal or controlled substances shall undergo testing to assist Employer in determining fitness for duty. If the employee tests positive, Employer shall discharge the employee.
- d. POST ACCIDENT TESTING: All employees are required to report all injury or damage related accidents, or any accident in which the driver receives a citation – and submit to a post-accident drug/alcohol test as set out in this policy. Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident shall be subject to testing. The employee's supervisor or his designee shall schedule the drug screening test immediately following an incident reportable or a reportable accident.
- e. RETURN-TO-DUTY TESTING: If you have violated the prohibited drug and alcohol rules, you must comply with the Return-To-Duty process, which will include taking and passing a drug and alcohol test before returning to work. Further, any employee who has violated the prohibited drug and alcohol rules is required to take a drug and/or alcohol test before returning to safety-sensitive functions and is also subject to unannounced follow-up testing at least six (6) times in the first twelve (12) months following a return to active safety-sensitive service.

Any and all drug testing conducted by the Employer will not be used to identify the existence of any disability.

The Employer also reserves the right to search all property, cabinets, tool boxes, vehicles, including personal vehicles brought on the Employer's property, or any other property on Employer's property, under control of any employee or in the personal vehicle of any employee and located on the Employer's property and used by said employee in commuting to work or in that employee's duty as an employee if the Employer has a reasonable suspicion that items prohibited by this policy are contained therein.

4. Safety-Sensitive Employees.

Employees are considered to be "safety-sensitive" when their job duties regularly require them to engage in activities that have the potential to cause physical injury to themselves or others or to cause property damage. Such activities include, but are not limited to:

- a. Maintaining or repairing motor vehicles or heavy equipment, including, but not limited to, bulldozers, tractors and riding mowers;
- b. Maintaining or repairing tools that have the capacity to seriously injure the user or another person, including, but not limited to, chainsaws or weed-eaters;
- c. Regularly operate motor vehicles or heavy equipment as part of his or her job duties, including equipment such as tractors or riding mowers for which licensure is not required by the State of Alabama;
- d. Regularly operate tools that have the capacity to seriously injure the user or another person;
- e. Loading and unloading vehicles or heavy equipment;
- f. Any activity related to the safe operation of a mass transit system, including dispatching vehicles;
- g. Carrying any weapon or object that could reasonably be used as a weapon, including, but not limited to, firearms, knives, machetes, blades, tasers or batons;
- h. Answering emergency calls and/or directing the provision of emergency services; or
- i. Providing emergency medical services.

A list of positions that have been designated as a safety-sensitive by the Employer is attached hereto as Appendix A. Some safety-sensitive positions are specifically subject to regulation by the Department of Transportation (DOT). These positions are indicated by an asterisk. An accredited testing laboratory will maintain two (2) different random testing pools, including one (1) pool for persons specifically subject to regulation by DOT and one (1) pool for all other safety-sensitive employees.

All employees are subject to drug and alcohol testing when there is reasonable cause to believe that they have violated this policy and after any accident involving physical injury or property damage. However, employees who have been designated as safety-sensitive are also subject to pre-employment testing and random testing. Random drug tests can be performed any time a safety-sensitive employee is on duty. An alcohol test can be performed when the safety-sensitive employee is performing a safety sensitive duty, just before or just after the performance of a safety-sensitive duty.

Medical marijuana prescribed pursuant to state law is not a valid medical explanation for a positive test result for a safety-sensitive employee. Employees may not perform safety-sensitive functions while taking medical marijuana. Employees who are prescribed medical marijuana in accordance with State law must inform the Employer of their prescription prior to first use. Reasonable accommodations may be considered for an employee who complies with this procedure, depending on individual circumstances; however, failure to properly report will result in termination for cause.

In addition, employees occupying positions deemed to be “safety-sensitive” must promptly report any arrests, charges or convictions for drug or alcohol related criminal offenses, including both misdemeanors and felonies, to his or her supervisor, Elected Official or Appointed Department Head and the Safety Director. FAILURE TO REPORT SUCH ARRESTS, CHARGES OR CONVICTIONS MAY BE GROUNDS FOR DISCIPLINE, UP TO AND INCLUDING IMMEDIATE DISMISSAL.

5. Necessity of Compliance with Testing Requirements.

All employees are subject to reasonable suspicion and post-accident testing as a condition of their employment. In addition, all safety-sensitive employees will be subject to pre-employment and random drug and alcohol testing using urine, breath, or any other method approved by the Department of Transportation as a condition of their employment.

Any employee who refuses to take a drug and/or alcohol test to which he or she is properly subject shall be considered to have a verified positive test result. Any employee who has a verified positive test result, including by refusal, shall be immediately removed from his or her duties and may be subject to immediate termination. In addition, any employee subject to DOT regulations will receive educational and rehabilitative information and a referral to a Substance Abuse Professional.

Refusals can include a variety of behaviors, including the following:

- a. Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the Employer;
- b. Failure to remain at the testing site until the testing process is complete;
- c. Failure to provide a specimen for any required drug test.
- d. Failure to permit the observation or monitoring of the specimen collection when required to do so;
- e. Failure to provide a sufficient amount of urine when directed without an adequate medical explanation for this failure;
- f. Failure to take a second test when directed to do so by the Employer or collector;
- g. Failure to undergo a medical examination when directed to do so by the MRO or the Employer;
- h. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- i. Failure to follow the observer’s instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- j. Possess or wear a prosthetic or other device that could be used to interfere with the collection process;

- k. Admit to the collector or MRO that the specimen has been adulterated or substituted the specimen;[Added]
- l. Failure to sign step 2 of the alcohol test form.
- m. Leaving the scene of an accident without a valid reason before post-accident tests has been completed. Failure to remain “readily available”.

6. Off-Duty Conduct.

Off-the-job use of drugs, alcohol or any other prohibited substance which results in impaired work performance, including, but not limited to, absenteeism, tardiness, poor work product or harm to the County’s image, tasks or government is prohibited. Employees should realize that these regulations prohibit all illicit drug use, on and off duty.

7. Prescription Drugs and Intoxicating Substances.

The proper use of medication prescribed by a physician is not prohibited; except that safety-sensitive employees may not use medical marijuana; however, the Employer prohibits the misuse of prescribed and/or over-the-counter medications or other intoxicating substances. The Employer requires all employees using a controlled substance or any or any medication that may affect their job performance to notify the Employer’s Medical Review Officer (MRO), or their Drug Program Coordinator of their use. Medications that may be considered to affect job performance include any medication that contains a warning that it may cause drowsiness, dizziness, or otherwise interfere with performance or cognition. A safety sensitive employee may not work using any such medication or any controlled substances unless the employee’s physician certifies that the substances will not adversely affect the employee’s ability to perform his or her job. All employees should also be aware that the use of such medications will not excuse misconduct or violations of policy; however, depending on the circumstances, and employee may be entitled to a reasonable accommodation if they inform their supervisor of their need to use such substances prior to an incident.

Employees should be aware that there is a risk that the use of certain supplements and topical lotions, oils, creams, etc., including but not limited to, products containing CBD oils, may cause a positive drug test result. The use of such products may not provide a medical justification for a positive test result.

8. Pre-Employment.

All safety-sensitive applicants shall undergo drug testing using either urinalysis or any other method approved by the Department of Transportation prior to performing safety-sensitive duties. This requirement also affects employees not in safety-sensitive positions who seek re-classification into a safety-sensitive position. Receipt by the Employer of a negative test result is required prior to performing safety-sensitive duties in a covered position. A cancelled test result is not acceptable and must be retaken. If the applicant has a positive pre-employment drug test, he or she cannot be hired for a safety-sensitive position.

A negative result on a pre-employment test by a job applicant is valid for thirty (30) days. If a current covered employee has not performed a safety-sensitive duty for ninety (90) days or longer and has been removed from the random pool, the employee must submit to a new pre-employment test and receive a negative result before resuming safety-sensitive duties.

Any person who is subject to DOT testing will be required to undergo pre-employment testing if they have been removed from the DOT random testing pool for more than thirty days.

An MRO may report negative pre-employment test results for individuals who are unable to provide sufficient volume due to permanent disability, but has a medical evaluation that indicates no chemical evidence of illegal drug use.

All applicants for safety-sensitive positions will be notified in writing that they will be required to undergo pre-employment/reclassification drug testing prior to their employment and that they will be subject to drug and alcohol testing throughout the period of their employment. Applicants will acknowledge in writing their understanding of these provisions for his or her application and employment. The Employer will retain on file the negative drug test results of all new hires.

In addition to undergoing pre-employment testing, applicants for a safety-sensitive position may be asked to sign forms for release of information from any previous employer for whom the applicant performed safety-sensitive functions. Failure to sign this form will result in not being hired. When a covered applicant has previously failed a pre-employment drug test with a prior employer, the applicant must present proof of having successfully completed a referral, evaluation and treatment plan.

9. Reasonable Cause.

All employees (whether or not safety-sensitive) will be required to submit to screening whenever a supervisor observes circumstances which provide reasonable cause to believe an employee has used a controlled substance or has otherwise violated the substance abuse rules. Examples of circumstances that may establish reasonable cause to warrant testing include supervisor observation, co-worker complaints, performance decline, attendance or behavior changes, involvement in workplace or vehicular accident, or other actions which indicate a possible error in judgement or negligence, or other violations of the drug or other Commission policy. Before testing the employee, another supervisor shall be contacted to observe the employee's behavior and to concur with the decision to test the employee, or the observing supervisor will review the employee's behavior with another supervisor either face to face or via telephone, to obtain concurrence with the decision to test the employee. The documentation of the employee's conduct shall be prepared and signed by the witnesses within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier.

Upon the reasonable suspicion determination being made, the Employer shall ensure that the employee is transported immediately to a collection site for the collection of a specimen sample. The employee shall be counseled not to drive a vehicle and a supervisor shall provide transportation for the employee to the collection site.

All persons designated to make a determination that reasonable suspicion exists to require an employee to undergo testing under this provision shall receive at least sixty (60) minutes of training on both alcohol and controlled substance use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Any employee refusing to submit to reasonable suspicion testing or any employee having a positive drug and/or alcohol test will be terminated.

10. Random Testing.

The Employer will conduct random unannounced screening of all designated employees at unannounced times throughout the year. An accredited laboratory will maintain two (2) computerized random testing pools including one DOT pool and one non-DOT pool. There will be no maximum number of samples that any one individual will be required to provide during the testing schedule in either pool.

Employees will be required to report to the designated collection site for testing as soon as possible, but in no case later than two (2) hours following notification. Failure to report for drug/alcohol screening within two (2) hours of notification will be treated as a positive test result.

11. Post-Accident Testing.

Employees are required to immediately notify the Drug Program Coordinator or designee of any accident resulting in injury or damage to any Employer property or personnel.

Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to an accident shall provide a specimen to be tested in accordance with the Department of Transportation regulations for the use of controlled substances and/or alcohol as soon as possible after the accident, but in no case later than eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing.

Employees will be required to undergo drug and alcohol testing using urine, breath, or any other method approved by the Department of Transportation if they are involved in an accident that results in a fatality. A post-accident test will also be conducted in situations where there is no fatality but the following occurs: (1) an individual requires immediate transport to a medical treatment facility as a result of collision or non-collision; (2) any time one or more vehicles incur disabling damage that prevents any of the vehicles from leaving the scene of the occurrence in their usual manner in daylight after simple repairs; or (3) with respect to any occurrence in which a vehicle including a mass transit vehicle (rail car, trolley car, bus or vessel) is removed from operation. In a non-fatal accident as previously described, post-accident testing will be conducted, unless the operator's performance (and any other covered employees whose performance could have contributed to the accident) can be completely discounted as a contributing factor to the accident as determined by the Employer using the best information at the time of the decision. In addition, drug screening and alcohol screening will be required for any driver receiving a citation for any moving violation resulting from an accident.

After notification of any accident, the County will arrange for the employee to be taken as soon as practicable to the collection site designated by the County. The supervisor or designee will schedule the employee and assure that he or she is tested the same day as the reportable accident, if possible.

If an employee is injured, unconscious or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a specimen sample. A supervisor may elect not to test under these circumstances, but such a decision must be made based upon information received as a result of an investigation of the accident. *Nothing in this document should be construed to require the delay of necessary medical attention for injured people following an accident or prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.*

Any employee subject to post-accident testing must refrain from consuming alcohol or taking any controlled substance for eight (8) hours following the accident, or until he or she submits to an alcohol test, whichever comes first. As stated above, the employee will be tested not to exceed eight (8) hours following an accident for alcohol and not to exceed thirty-two (32) hours post-accident for drug testing. If there is a delay of greater than two (2) hours for an alcohol test, a reason must be given in writing, retained in a file for possible later referral and the employer must still attempt to administer an alcohol test for up to eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing must remain available and follow these guidelines or the Employer may consider the employee to have refused to submit to testing.

The Employer will discipline or terminate any employee who fails to report an accident or submit to substance screening where required by law or this policy. The Drug Program Coordinator shall ensure that an accident report is filed in compliance with Employer's policy and applicable laws and regulations.

12. General Testing Procedures.

The Employer will contract with a properly certified testing laboratory that will ensure that all proper testing procedures are followed in accordance with this Policy and all applicable laws. The following is a list of the general procedures that will be followed for all drug and alcohol testing, regardless of the reason why the test is being performed:

- a. All testing procedures, including collections, will be performed by certified technicians and/or laboratories;
- b. Upon arrival at the collection site, the employee must provide proof of identification. The employee will be required to read and sign the controlled substance testing consent form provided by the Employer. The collector shall witness the signature. Acceptable proof of identification shall be a current driver's license, with photo, other form of picture identification or identification by an Employer representative;
- c. The employee shall complete a drug testing custody and control form;
- d. The Drug Program Coordinator shall notify the employee directly of the results of any positive drug test in order to give the employee an opportunity to challenge the findings. The Employer may, but shall not be required to, reanalyze the employee's original sample to clarify the findings;
- e. Controlled substance testing must follow split sample procedures. Under this provision, an employee whose urine sample has tested positive for a controlled substance has the option of having the other portion of the split sample tested in another laboratory. The employee must notify the Employer within seventy-two (72) hours after notification of a positive sample that he or she desires a retest under this provision;
- f. If a split sample test produces a negative result or if the second portion is not available, the test is considered negative, and no sanctions will be imposed; and
- g. All persons who receive information by the Employer regarding drug tests shall maintain this information on a confidential basis.
- h. In the event that the United States Department of Transportation approves additional and/or alternative testing methods, devices or procedures, including but not limited to, Oral Fluid Testing, the Employer reserves the right to utilize such methods, devices, or procedures as allowed in the applicable regulations.

Both the Employer and the laboratory shall rely, when practical, on the guidance of the Federal Department of Transportation's procedures for transportation workplace drug testing programs.

13. Substances Tested For.

DOT employees will regularly be tested for:

- Marijuana (THC Metabolite);
- Cocaine;
- Amphetamines; (including, when appropriate, amphetamine, methamphetamine, MDMA, and MDA).
- Opiates (including codeine, morphine, heroin, hydrocodone, hydromorphone, oxycodone, and oxymorphone).
- Phencyclidine (PCP); and
- Alcohol

Non-DOT employees may be tested for other substances without advance notice. DOT employees may also be separately tested for other substances without advance notice by the Employer for safety purposes. Such tests will be coordinated with the Drug Program Coordinator.

14. Collection Sites.

The Employer has designated Dr. James Thomas' office located at 1908 Cherokee Ave SW, Cullman AL 35055 as the collection site for all Employer drug and alcohol testing.

15. Collection Procedures.

Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy. The collector seals and labels the specimen, completes a chain of custody document and prepares the specimen and accompanying paperwork for shipment to a drug-testing laboratory. The specimen collection procedures and chain of custody ensures the specimen's security, proper identification and integrity is not compromised.

Split specimen procedures:

- a. Each urine specimen is subdivided into two bottles labeled as a “primary” and a “split” specimen;
- b. Both bottles are sent to a laboratory;
- c. Only the “primary” specimen is opened and used for analysis;
- d. The “split” specimen remains sealed and stored at the laboratory;
- e. If the “primary” specimen confirms the presence of illegal, controlled substances, the employee has seventy-two (72) hours to request in writing the “split” specimen to be sent to another DHHS certified laboratory for analysis;
- f. If it is positive for one (1) or more of the drugs, then a continuation test is performed for each drug using state-of-the-art gas chromatography/mass spectrometry (“GC/MS”) analysis; and
- g. GC/MS confirmation ensures that over-the-counter medications and prescriptions are not reported as positive results.

Any portion of a sample provided during the collection event will be discarded if an employee fails to provide a sufficient specimen by the end of the three-hour wait period.

16. Direct Observation.

Observed collections are required in a number of situations for DOT employees. Any employee subject to a drug test may also be required to undergo observed collection. The purpose of direct observation is to guard against employee attempts to mask the testing process. Observed collections are required in the following circumstances:

- a. All return-to-duty tests;
- b. All follow-up tests;
- c. Anytime the employee is directed to provide another specimen, because the temperature of the original specimen was out of the acceptable temperature range of 90 – 100 degrees Fahrenheit;
- d. Anytime the employee is directed to provide another specimen because the original specimen appears to have been tampered with;
- e. Anytime a collector observes materials brought to the collection site or the employee’s conduct clearly indicates an attempt to tamper with a specimen;
- f. Anytime the employee is directed to provide another specimen, because the laboratory reported to the MRO that the original specimen was invalid, and the MRO determines that there is not an adequate medical explanation for the result; or
- g. Anytime the employee is directed to provide another specimen, because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split sample could not be performed.

The employee who is being observed will be required to raise his or her shirt, blouse or dress/skirt as appropriate, above the waist, lower clothing and underpants and turn around completely at the direction of the observer in order to show that he or she is not wearing any prosthetic device.

Where necessary, an Employer representative or medical personnel may obtain a specimen outside of a designated collection site (such as the emergency room following an accident investigation, etc.).

17. Alcohol Testing Procedures.

All employees are prohibited from possessing, drinking or being impaired or intoxicated by alcohol while at work or on duty. **In addition, safety-sensitive employees are prohibited from consuming any alcohol four (4) hours prior to going on duty.** A Blood Alcohol Concentration (BAC) of 0.04 will be accepted as presumptive evidence of intoxication.

Any employee may be subject to alcohol testing either for reasonable suspicion or post-accident. Safety-sensitive employees are also subject to random alcohol testing. Random testing will be conducted just before, during or after

the employee has performed a safety-sensitive function. Safety-sensitive employees with a BAC of 0.02 will be immediately removed from the safety-sensitive duties for a period of at least twenty-four (24) hours.

All alcohol tests will be conducted using evidentiary breath testing devices approved by the National Highway Traffic Safety Administration by a properly trained person. Any result showing greater than a 0.02 BAC will be repeated.

18. Evaluations and Return of Results.

The MRO will be responsible for reviewing the quantified test results of employees and confirming that the individuals testing positive have used drugs in violation of policy. Prior to making a final decision, the MRO shall give the individuals testing positive an opportunity to discuss the result either face-to-face or over the telephone. If the test result is negative dilute, the MRO may decide that the employee must take another test. If this second test results in a negative dilute result, the test will ordinarily be considered to be a negative and no additional testing will be required unless the MRO so directs.

The MRO shall then promptly tell the Drug Program Coordinator which employees or applicants test positive.

19. Request for Re-Test.

An employee may submit a written request for a re-test of the original specimen within seventy-two (72) hours of receipt of the final test results. Requests must be submitted in writing to the Drug Program Coordinator. The employee may be required to pay the associated costs of re-test in advance but will be reimbursed if the result of the re-test is negative.

20. Release of Test Results.

Except where otherwise specifically required by law, employee drug testing results and records are maintained by the Employer, the drug testing laboratory, and the Medical Review Officer. They cannot be released to others without the written consent of the employee. Exceptions to this confidentiality are limited to DOT agencies when license or certification actions are required or to the decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test.

However, all employees will be required to execute a consent/release for permitting the Employer to release test results and related information to the Department of Industrial Relations or other relevant government agency. Applicants for safety-sensitive positions will also be required to execute a consent/release form permitting the Employer to review records of previous drug and alcohol testing information.

21. Retention of Records.

All records will be maintained so as to preserve confidentiality and prevent unauthorized persons from accessing, releasing or tampering with records. The following records will be maintained:

- a. Records related to the collection process, including:
 - i. Collection of logbooks, if used;
 - ii. Documents relating to the random selection process;
 - iii. Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests;
 - iv. Documents generated in connection with decisions on post-accident drug and alcohol testing; and
 - v. MRO documents verifying existence of a medical explanation of the inability of an employee to provide adequate urine or breath sample.
- b. Records related to test results:
 - i. The employer's copy of the custody and control form;
 - ii. Documents related to the refusal of any employee to submit to a test; and
 - iii. Documents presented by an employee to dispute the result of a test.

- c. Records related to referral and return-to-duty and follow-up testing, including records of any DOT employee's entry into and completion of the treatment program recommended by the substance abuse professional.
- d. Records related to employee training:
 - i. Training materials on drug use awareness and alcohol misuse, including a copy of the employer's policy on prohibited drug use and alcohol misuse;
 - ii. Names of employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training;
 - iii. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion; and
 - iv. Certification that any training conducted under this part complies with the requirements for such training.
- e. Copies of any annual MIS reports submitted to FTA.

The following records will be maintained for no less than five (5) years: records of verified positive drug or alcohol test results, documentation for refusals to take required drug or alcohol tests, referrals to the substance abuse professional and copies of annual MIS reports submitted to FTA.

The following records will be maintained for no less than two (2) years: records related to the collection process and employee training.

The following records will be maintained for no less than one (1) year: records of negative drug or alcohol test results, with the exception that all post-accident testing records will be maintained for at least three (3) years after an accident.

22. Employee Education and Training.

The Employer will provide written information in drug/alcohol use and treatment resources to safety-sensitive employees. The Employer will provide one (1) hour of training for safety-sensitive employees on the dangers of controlled substance use annually. All supervisors of safety-sensitive employees must also attend one (1) hour of training on the signs and symptoms of drug abuse. The training is necessary to assist supervisors in making appropriate determinations for reasonable suspicion testing.

23. Employment Assessment.

Any Safety-sensitive employee or applicant who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended or has refused to submit to a drug or alcohol test (except in the case of an applicant) will be referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. The SAP will follow the protocols and meet the requirements defined in 49 CFR part 40. All employees and applicants will be given contact information for a USDOT qualified SAP if they test positive.

24. Employee Assistance Program (EAP).

The Employer's EAP shall include:

- a. Education and training for employees regarding drugs and alcohol; and
- b. Education and training for supervisors regarding drugs and alcohol, including:
 - i. Effects and consequences of substance use on personal health, safety and work;

- ii. Manifestations and behavioral causes that may indicate substance use;
- iii. Documentation of training provided; and
- iv. A written statement on file and available at the Commission office outlining the EAP.

The Drug Program Coordinator or designee should be contacted for further guidance.

25. Investigation/Searches.

Where a supervisor has reasonable cause to suspect that an employee has violated the substance abuse policy, he or she may inspect vehicles which an employee brings on the Employer's property, lockers, work areas, desks, purses, briefcases, tool boxes or other belongings and at locations where Employer related activities are being conducted without prior notice in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. Where the employee is not present or refuses to remove a personal lock, the Drug Program Coordinator will do so for him or her. The Employer may release any illegal or controlled drugs or paraphernalia to appropriate law enforcement authorities.

All searches should be coordinated with the Drug Program Coordinator or designee.

26. System Contacts.

Designated Employer Representative (DER)

Primary:

Title: Director of Safety & Loss Prevention
 Address: 500 2nd Ave SW
 Cullman, AL 35055
 Phone: (256) 775-4948

Designated Employer Representative (DER)

Alternate:

Title: Asst. Director of Safety & Loss Presentation
 Address: 500 2nd Ave SW
 Cullman, AL 35055
 Phone: (256) 775-4949

SAMHRA Certified Laboratory

Name: MedTox Laboratories, Inc.

Substance Abuse Professional (SAP)

Primary SAP: Lisa Butler
 Agency: Awakening Counseling Services
 Address: 43586 State Hwy 75 – Snead, AL 35962
 Phone: (205) 353-9506
 Backup SAP: Boyd Scoggins
 Agency: Boyd Consultants
 Address: 1914 3rd St SW – Attalla, AL 35954
 Phone: (256) 282-6828

Medical Review Officer (MRO)

Name: Dr. James V. Thomas
 Address: 1908 Cherokee Ave SW
 Cullman, AL 35055

(Attachment A)

SAFETY-SENSITIVE FUNCTIONS

- Maintaining or repairing tools that have the capacity to seriously injure the user or another person, including but not limited to, chainsaws or weed eaters.
- Maintaining or repairing motor vehicles or heavy equipment, including but not limited to, bulldozers, tractors, and riding mowers.
- Driving or operating motor vehicles or heavy equipment as part of his/her job duties, including but not limited to, autos and trucks, or tractors and riding mowers for which licensure is not required by the State of Alabama.
- Operating tools that have the capacity to seriously injure the user or another person.
- Loading and unloading vehicles or heavy equipment.
- Any activity related to the safe operation of a mass transit system, including dispatching vehicles.
- Carrying any weapon or object that could reasonably be used as a weapon, including but not limited to, firearms, knives, machetes, blades, tasers, or batons.
- Answering emergency calls and/or directing the provision of emergency services.
- Providing emergency medical services.

SAFETY-SENSITIVE POSITIONS

All positions were reviewed for safety-sensitive duties, as defined in 49 CFR part 655, to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following are some of the positions that have been determined to be safety-sensitive:

Some Safety-Sensitive Positions

Law Enforcement

Corrections Employees

Courthouse Security Employees

Road & Bridge Employees

Mechanics / Leadmen

Transportation Employees

Solid Waste / Landfill Employees

Emergency Management Employees

Emergency Communications

Facilities / Maintenance employees

Animal Control Employees

Parks & Recreation Employees

Operations Manager

Sanitation Drivers/Collectors & Maintenance

Water Works Employees

And any others deemed by the county