

**ORDER: APPROVE ALCOHOL AND CONTROLLED SUBSTANCE
POLICY FOR CDL DRIVERS**

Motion was made by Robert Blackmon, duly seconded by Mike Roberts,
to approve alcohol and controlled substance policy for CDL drivers.

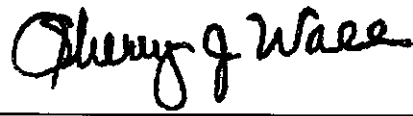
The vote on the motion was as follows:

Supervisor Mike Pickens, voted yes
Supervisor Jeff Busby, voted yes
Supervisor Robert Blackmon, voted yes
Supervisor Chad McLarty, voted yes
Supervisor Mike Roberts, voted yes

After the vote, President Busby, declared the motion carried, this the
18th day of February, 2014.



Jeff Busby, President
Board of Supervisors



Sherry Wall, Chancery Clerk



LAFAYETTE COUNTY ALCOHOL AND CONTROLLED SUBSTANCES POLICY FOR COMMERCIAL DRIVER'S LICENSE

Policy Statement and Summary: These policies are intended to increase safety and to deter and detect the use of controlled substances and alcohol by employees required to possess a commercial drivers license (CDL). This policy is mirroring the requirements of regulations from the Federal Motor Carrier Safety Administration ("FMCSA") and other agencies of the Federal Department of Transportation. The regulations that require this policy and specify most of its contents are found in the Code of Federal Regulations, at 49 CFR Parts 40 and 382. Whenever those regulation's change, the terms of this policy are also changed automatically.

This policy prohibits all use of controlled substances by all CDL employees. These employees are also prohibited from possessing alcohol while on duty and from using alcohol for a period beginning four hours before going on duty and ending when they go off duty. To further this policy, the County will conduct drug and alcohol testing as required in the regulations. Those who test positive in violation of this policy are subject to discipline, including termination.

This written policy will outline in detail the policy the County is adopting to comply with local, State, and Federal regulations. All affected employees and prospective employees must carefully review this policy and sign an agreement to be bound by its terms as a condition of employment. If you have any questions about this policy or how it will affect you contact the County Administrator.

- • **Who is Affected:** The drug and alcohol testing and other requirements of this policy apply to all CDL employees who operate County vehicles or equipment. Also included is any driver of a vehicle with a gross vehicle weight rating of more than 26,001 pounds or a vehicle/trailer combination with a total vehicle weight of at least 26,001 pounds if the vehicle alone has a gross vehicle rating of 10,000 or more pounds or a vehicle is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded. From this point forward in this policy the word "Driver" means employee drivers of commercial motor vehicles who are subject to commercial driver's license requirements.

What does "On Duty" mean: This policy and the federal regulations that require it often use the term "on duty" in conjunction with prohibited conduct or drug and alcohol testing. Whenever used

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in this policy, the term "on duty" has the meaning given to it by the Department of Transportation Regulations found in 49CFR.382 "On Duty" includes all the time a Driver is preparing to work or is working until relieved from all work responsibility. "On Duty" includes time spent awaiting dispatch, inspecting equipment, assisting with loading or unloading a vehicle, as well as time spent repairing, obtaining assistance for, or remaining in attendance with a disabled vehicle. Whenever an employee is "on duty" as defined in this section, that employee is considered to be performing safety-sensitive functions and is subject to all aspects of the County's policies and the regulations on which it is based.

Effective Date: This policy and the testing and other requirements of it go into effect immediately as of March 18, 2013.

Prohibited Conduct: Employees are prohibited from using controlled substances and will be subject to testing for Marijuana, Amphetamines, Opiates, Cocaine, and Phencyclidine (PCP). Employees are prohibited from possessing alcohol while on duty. In addition, employees are prohibited from consuming alcohol while on duty, for a period of four hours before going on duty and for a period of eight hours after being involved in an accident. Employees are also prohibited from refusing to consent to this policy or to an alcohol or drug test under the terms of this policy.

Effects of Violations: Any employee found in violation of this policy through a positive drug or alcohol test or otherwise will be subject to termination and to the disciplinary proceedings outlined in the County's employee handbook. In addition, Federal regulations mandate that a violator cannot again drive a commercial motor vehicle until the Driver has been evaluated by a Substance Abuse Professional (SAP), has successfully completed any treatment or rehabilitation recommended by the SAP and has successfully passed a return to duty drug test, as well as any periodic follow-up tests recommended by the SAP.

Drug and Alcohol Testing: In order to detect and deter violations of this alcohol and controlled substances policy, the County is implementing a drug and alcohol testing program. This program will include pre-employment and reasonable suspicion testing for all employees, post employment random testing and post accident testing for CDL drivers. This testing program parallels FMCSA regulations and non-transportation employees must participate in the testing as a condition of employment in the County. The County has contracted with DATS, LLC-Drug and Alcohol Testing Services, which specializes in drug and alcohol testing services in compliance with Federal Regulations.

Controlled substances testing use a urine specimen provided by the employee. Alcohol testing utilizes a breath testing machine into which the employee will blow. This machine is similar to the "breathalyzer" machines utilized by law enforcement personnel. Testing procedures and security precautions are discussed in detail in Appendix "A" to this Policy. This section will only summarize how testing is done in the most general terms. Employees must be familiar with the detailed statement of procedures set out in Appendix "A" to this Policy.

Controlled substances testing will be limited to test for (1) Amphetamines (2) Cocaine (3) Marijuana (4) Opiates, and Phencyclidine (PCP). The terms "drug" and "controlled substances" are used interchangeably in this Policy and refer to the 5 substances just listed. No controlled substances test will be ruled as a verified positive until the employee's urine specimen has been tested once by a federally certified laboratory and found positive, has been tested again by the laboratory and confirmed positive and then has been reviewed by a Medical Review Officer ("MRO"). The MRO gives the employee an

opportunity to explain any circumstances which might indicate the test is invalid or otherwise does not represent a violation of the County's policy, such as use of prescription medications pursuant to a doctor's orders. The MRO for the County will be a licensed medical or osteopathic doctor with particular knowledge of substance abuse.

Since alcohol is not an illegal substance, the County's policy does not prohibit or test for responsible alcohol use by employees of legal drinking age. Testing will be conducted only at times when the employee is either on duty or is about to come on or off duty, and the testing levels for alcohol are designed to register positive only when an employee has consumed alcohol within four hours of reporting for duty or while on duty.

There are several different circumstances under which employees will be subject to testing. However, all drug and alcohol tests will be conducted according to strict privacy protections and safety / security procedures that are required by Federal law, these are explained in detail in Appendix "A" to this policy.

Pre-employment testing

The County will conduct pre-employment drug testing for employee applicants. Each employee applicant selected for employment must submit to and pass an alcohol and drug screen as directed by the County.

Reasonable Suspicion

The County will also conduct reasonable suspicion testing for both alcohol and drugs. A decision to conduct reasonable suspicion testing must be based on specific observations concerning the appearance, behavior, speech or body odors of an employee consistent with drug or alcohol use.

Like the post-accident testing for alcohol, reasonable suspicion testing for alcohol should be conducted within two hours of the determination to test but in no event later than eight hours after that determination. If it takes more than two hours to get the test, documentation must be maintained explaining the delay and no alcohol test shall be conducted more than eight hours after selection. A written record must be made of the observation leading to the reasonable suspicion test and must be made within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Post-Accident testing

Post-accident testing for drugs and alcohol may be required by the County for each employee if the accident involving an injury or the loss of Human life. If the test is required it must be administered within eight hours following the accident. If a test is not administered within two hours, the County must prepare and maintain a written statement of the reasons for the delay. If the test is not performed within eight hours of the accident, there shall be no further attempts to administer an alcohol test and that records shall reflect why no test was administered. Drug testing, on the other hand, must be conducted within thirty-two (32) hours following the accident.

Employees must remain readily available for testing after an accident, though necessary medical attention will not be delayed. The supervisor will provide instructions to the employee as to how to

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conduct them self after an accident in order to help comply with post-accident testing requirements. This information is summarized in Appendix "B" to this Policy. If a local law enforcement official conducts a drug and/ or alcohol test after an accident in compliance with local, state or federal, law and provides the results of those tests to the County, the results of those tests will satisfy post-accident testing requirements of this policy.

Random Testing

The County will conduct random testing for drug and alcohol. Random tests will be spread reasonably throughout the calendar year. When a person is notified of selection for random testing, he must proceed immediately to the designated testing site. Selection for random testing will be made by DATS using a random number generator computer program. Employees are subject to selection every time, even if that employee has earlier been selected for a random test.

The random testing rate for alcohol will be 10% of the average number of driver positions. This rate means that the Company will conduct a number of tests at least equal to the require percentage of Driver positions. The drug testing requirement is 50% of the average number of driver positions, though a proposed DOT regulation would eventually lower the drug testing percentage rate. As a result of different testing percentages, some drivers chosen for random testing will be tested for both drugs and alcohol while some will be tested only for drugs. Before submitting to testing, drivers will be told whether the test is for drugs, alcohol or both.

The Federal Motor Carrier Safety Administration (FMCSA) may change the random testing rate and the Company will be required to test at whatever rate the FMCSA sets. FMCSA will determine on an industry-wide basis the annual percentage Rate of positives for random alcohol testing. If, in two consecutive calendar years, the positive rate is less than .5%, the rate will decrease to 10% of driver positions. If, however, in a two-year period, the rate for each year is less than 1% but equal to or greater than .5%, the rate of testing will be 25%. On the other hand, the driver position percentage rate may be increased if in any one calendar year the positive rate increases to more than .5%. For example, if the rate were lowered to 10% and then the following calendar year the positive rate was .7%, the testing rate would return to 25% of driver positions. If the positive rate were to increase to 1% or greater, alcohol testing would be conducted at a 50% rate.

Return to Duty Follow-Up

The final testing provided, in the regulations is return to duty testing and follow-up testing. Return to duty testing is required for any driver who has previously violated this policy or a similar policy mandated by the FMCSA, such as by testing positive for drugs or alcohol. If a Driver has tested positive for either, the driver must, in addition to other requirements, pass another test before returning to duty as a commercial motor vehicle driver for any employer. In addition, once back on duty, the driver is subject to unannounced follow-up alcohol and/or controlled substances testing for a period of up to 60 months, all as directed by the Substance Abuse Professional ("SAP") who has evaluated the employee prior to the return to work. (This required evaluation is discussed in more detail below under the heading "SAP Referral and Evaluation")

Effect of a Positive Test or Refusal to Be Tested: A positive test result for alcohol or any of the five controlled substances is a violation of this policy. Any refusal to submit to a test when required by this policy is also treated as a positive test result. Whenever this policy talks about a positive test, it includes a refusal to submit to testing as well as a confirmed and verified positive test result measured in accordance with the procedures and cut-off levels specified in the FMCSA and Department of Health and Human Services regulations.

An employee will be considered to have refused to submit to a test if: (1) the employee refuses to sign a consent form at the time the test is to begin; (2) the employee refuses to co-operate in the testing process; or (3) the employee is unable or unwilling to provide the required minimum breath and/or urine samples and there is no plausible medical explanation for the failure, as determined by the MRO.

As was stated above (under the heading "Effects of Violations"), testing positive is a violation of this policy and will result in discipline up to termination. Any costs related to referrals and evaluations will be the responsibility of the employee. In addition, drivers will be subject to the mandatory SAP Referral and Evaluation Requirements discussed in the next section.

SAP Referral and Evaluation: Any CDL driver who tests positive in this or any other FMCSA testing program must be referred to a Substance Abuse Professional (SAP). The SAP must be a doctor, therapist, or counselor trained, and qualified to evaluate and treat substance abuse (including alcohol abuse) problems. Before a Driver can again drive a commercial motor vehicle for any employer, the Driver must be evaluated by the SAP to determine if the Driver needs rehabilitation, counseling, or other treatment. If so, the Driver must satisfactorily complete the treatment program and must pass a return to duty drug and alcohol test. If the Driver returns to a Driver position, the employee is subject to periodic and unannounced follow-up drug and alcohol testing in addition to the particular employer's normal alcohol and drug testing program.

Special Alcohol Rule: To be considered a confirmed positive alcohol test, the non-transportation employee's level must register .04 or greater. However, a special rule applies to employees whose alcohol level is less than .04 but greater than .02. This result does not trigger all of the effects noted above. Instead, the employee must not perform any safety-sensitive duties until the later of 24 hours or the beginning of his next scheduled shift.

Pre-Employment Screening: As a condition of applying for an employee position, an applicant must consent in writing to a pre-employment drug and alcohol testing.

CDL drivers who test positive for alcohol or drugs are prohibited from applying elsewhere for a job without first completing the required follow-up evaluations and treatments specified in the federal regulations and explained in the preceding section of this policy.

Notification of Test Results to employees: The results of an employee's drug or alcohol test will be reported to him/her by the supervisor. If the test is positive, the employee will be informed which substance or substances for which the test is positive. Employee applicants wishing to have the results of their drug and alcohol test must request them in writing within 60 days of being informed of the disposition of their application for employment.

Access to Records: The County will keep detailed records of its drug and alcohol testing program. However, these records are confidential and can only be released upon written consent of the employee involved or by court order. If an employee makes a claim to a fact finder, such as a workers compensation claim, the County may turn over results of drug or alcohol tests that relate to the claim. An employee may review or obtain copies of his or her own drug and alcohol testing records by requesting them in writing. An employee's supervisor will assist him, upon request, in making an appropriate request for a copy of the records.

APPENDIX "A"

TESTING PROCEDURES AND SAFEGAURDS

Introduction: Lafayette County has contracted with DATS, LLC (Drug and Alcohol Testing Supplies/Services) to provide the County's drug and alcohol testing services, including MRO's. This APPENDIX will outline the procedures an employee can expect when called upon to give a drug and/or alcohol test specimen. If an employee believes that a test was conducted in a manner other than as specified in these procedures, they should inform their supervisor immediately. These procedures are specifically designed to safeguard employee's privacy during testing process and to assure accurate test results.

DATS provides complete alcohol and drug testing resources in the office and onsite locations throughout the State, and also has the capability to conduct testing using mobile units. For controlled substances testing, DATS provides urine specimen collection services, transportation to and receipt of results from federally certified laboratories, and qualified physicians to serve as Medical Review Officer or other consulting physicians to review and evaluate drug testing results. For alcohol testing, DATS uses federally approved and certified evidential breath testing devices ("EBTS") and Breath Alcohol Technicians ("BATs") trained in a program approved by the National Highway Traffic Safety Administration.

Initial Presentation: A person required to give a drug or alcohol testing specimen at a DATS will be treated courteously and with individualized attention to minimize any stress or anxiety associated with the testing procedure. The DATS employee conducting the drug testing specimen collection process is called a Collection Site Person ("CSP") and the DATS employee who conducts alcohol testing is called a Breath Alcohol Technician ("BAT"). DATS' BATs and CSPs will not use language that might be considered offensive or accusatory, but will strive to be courteous at all times to the person to be tested. In addition, DATS BATs, and CSPs will follow the procedures outlined in this policy and procedure statement to assure the integrity and quality of the alcohol and drug testing process, thereby maximizing accurate test results.

A particular CSP or BAT works with only one person to be tested at a time. Prior to beginning the testing process, each person must show proof of identification through a non-transportation employee's license or other picture-bearing identification card. An employee's supervisor may also confirm identification. If positive proof of identification is not possible, DATS will not proceed with the specimen collection or any aspect of alcohol or controlled substance testing.

DRUG TESTING

Since the procedures for alcohol testing are different from those for drug testing they will be discussed separately. Non-transportation employees are subject to both types of tests and will be informed by DATS personnel whether the test is for alcohol, drugs, or both.

Specimen Collection Process: After a non-transportation employee has presented proper proof of identification, the CSP will conduct a short interview to document the relevant information about the person to be tested. (Throughout this policy and procedure statement, the person to be tested is referred to as the "non-transportation employee"). Relevant information from this interview and from

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the complete specimen collection process is documented on a carbonless custody and control form, which identifies the specimen donor, the particulars of the collection process, and transfer of the specimen to the appropriate lab or other facility for testing. If an employee refuses to consent or revokes his consent at any point, DATS will not proceed with the process and the County will consider this a Refusal to Submit and a violation of the County's policy.

After the initial interview, the non-transportation employee will be requested to remove any coat or any other unnecessary outer garments that might conceal materials that could be used to alter or affect the specimen to be given. In any event, the employee will be allowed to retain his or her wallet during the process of urine collection or, if they prefer, their wallet can be securely locked in a storage compartment in the facility.

The specimen is collected in a clean, single use, sealed and securely wrapped container DATS keeps a supply of these containers on hand. Before giving the specimen collection container to the non-transportation employee, the CSP will allow the employee to wash and dry his or her hands in the view of the CSP. The CSP will remain with the employee and observe him to make certain that the employee has no access to water or other substances that might be used to alter the specimen.

The CSP will then give the specimen collection container to the non-transportation employee and place him in the collection room, where the employee will fill the collection container with at least 45 milliliters of urine. If the employee is unable to urinate or is unable to provide the required amount of 45 ml, the specimen collection process must be begun again, and the CSP will assist the employee by providing fluids to drink. Any urine sample collected that is less than 45 ml will be discarded since DATS does not combine urine from two collections to reach the required volume. The employee will be allowed a reasonable time (not to exceed three hours) to consume fluids (not to exceed 40 ounces) and provide a specimen. If the employee is unable to provide a specimen in three hours, a physician will evaluate him to determine if his problem is a medical one or constitutes a refusal to cooperate. The physician will report the results of this evaluation to the County. NOTE: (There will be no such medical evaluation for pre-employment tests unless the County agrees in advance to it)

Unless circumstances require (as outlined below), there will be no direct observation of the non-transportation employee while he is providing the urine specimen. All aspects of the collection process are designed to maintain the modesty and privacy of the employee. No unauthorized persons shall be allowed to be present in the specimen collection area at any time during the procedure. After the employee returns with the specimen in the collection container, he will be allowed to wash and dry his hands.

After the non-transportation employee delivers the containerized specimen to the CSP, the specimen will remain in the view of the employee at all times until it is split into two separate specimen containers, labeled and sealed. The employee will observe the sealing and labeling of the specimen containers by the CSP and the employee will initial the identification labels on the bottles to certify that they contain his specimen. The specimen containers are then sealed in the appropriate mailing envelope or container and remain under the control and supervision of the CSP at all times until the package is prepared for shipment to the laboratory. After the container has been sealed and initialed by the employee, and the custody and control form has been completed by the CSP, the urine specimen collection process is complete.

Split Specimen Collection: Using two separate containers for the non-transportation employee's urine specimen is known as the split specimen collection method. With this method, the specimen is split by the CSP into a "primary" specimen consisting of at least 30 ml and a second "split" specimen containing at least 15 ml of urine. Both are labeled and forwarded to a DHHS certified lab as outlined in the preceding section. All initial and confirmation testing conducted by the certified laboratory will be conducted on the primary specimen only. However, the laboratory must also maintain the split specimen in secure storage.

If a non-transportation employee is informed by the Medical Review Officer that the result of the laboratory's analysis of his primary specimen is positive, the employee has 72 hours from the time he is informed of the verified positive result to request an analysis of the split specimen being held by the laboratory. Any request for analysis of the split specimen made after this 72 hour period will not be honored unless the MRO, in his discretion, determines after discussion with the employee that there were unusual circumstances that caused an excusable delay in requesting the test. Any test of the split specimen pursuant to a employee's request will be at the expense of the employee.

If the non-transportation employee makes a timely or otherwise proper request for a split sample test, the MRO must inform the lab in writing and the lab must immediately forward the split specimen to a second certified laboratory, with the seal intact and with proper chain of custody documentation, as well as a copy of the MRO's request. The second lab will perform the split specimen test and will report the results to the MRO. If the split test does not confirm the results of the first test, the test is cancelled. However, the County and the MRO need not await the results of the split specimen test to initiate administrative action and SAP referral or to take such other actions as are provided for in the County's drug and alcohol testing policy.

Other Security Precautions: In addition to the security precautions inherent in the specimen collection and non-transportation employee identification system outlined above, the following additional precautions are used by DATS to maximize the integrity and accuracy of the drug testing specimen collection process:

- A. Toilet bluing agents are used to tint the water in the toilet located in the collection room where the employee provides the actual specimen. All other sources of water in that area are secured so that the employee cannot obtain access to them. In addition, the employee is not allowed to flush the commode while in the collection room, because flushing may be used to dispose of evidence of materials used to contaminate or tamper with the specimen. If the seal on the commode that secures it against flushing is broken or if flushing sounds are heard from the specimen collection room, that specimen will be considered questionable and the employee must submit to a retest.
- B. While the CSP will remain courteous and respectful of the employee at all times, any unusual or suspicious actions or behavior on the part of the employee will be noted on the custody and control form.
- C. Within four minutes after collection of the specimen, the temperature of the specimen will be measured to make certain that it is within the acceptable range of 32.5° -37.7° centigrade (90.5° -99.8° Fahrenheit). In addition, the CSP will check the color of the urine specimen and look for any evidence of contamination or tampering. Any unusual appearance of the urine or unusual temperature will be noted on the custody and control form.

- D. In any instance where the CSP suspects that the specimen was tampered with, the test specimen will still be sent to the laboratory, but a new test will be scheduled, including a test under direct observation if the County consents to direct observation. (Direct observation testing is discussed below.)
- E. After the specimen has been split, sealed, labeled, and placed in the mailing envelope or other shipping container, it will either be shipped immediately or stored securely in a locked space under the control of DATS and the appropriate CSP. The completed custody and control form, including the chain of custody portions, will be completed and certified by the CSP and placed in the shipping container with the specimen who is being shipped or stored for shipping.
- F. From the time the employee is initially identified until the specimen has been collected, split, labeled, initialed, and sealed, the CSP is not allowed to leave the specimen collection area at any time. If it becomes necessary due to emergency or other unavoidable circumstance for the CSP to leave, any collection begun at that point will be nullified and the test must be begun again.

Direct Observation Testing: Since the DATS drug testing specimen collection process seeks to protect the privacy and modesty of all non-transportation employees tested, direct observation of the person giving the specimen during the time they are providing it is not part of the normal collection procedure. However, under certain circumstances, direct observation specimen collection may be necessary to assure the integrity of the drug testing process. Whenever direct observation testing is required under the guidelines set forth below, the person observing the employee giving the specimen will be of the same gender as the employee. The following guidelines will be used in determining whether direct observation collection is necessary and, in all cases, the decision to conduct direct observation collection will be made only after consultation with and approval by the County or a higher-level supervisor of the CSP.

The following circumstances are the exclusive grounds for direct observation testing:

- A. The employee has presented a urine specimen that falls outside the acceptable temperature range (32.5 -37.7° Celsius; 90.5 -99.8° Fahrenheit) and (a) the employee declines to provide a measure of oral body temperature or, (b) body temperature is measured and it varies by more than one degree Celsius or 1.8° Fahrenheit from the temperature of the specimen;
- B. The last urine specimen provided by the (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and Creatinine concentration below .2 g/L;
- C. The CSP observes conduct clearly and unequivocally indicating an attempt to substitute the specimen (for example, substitute urine in plain view, blue dye in specimen presented, etc.); or
- D. The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted under FMCSA approved follow-up testing upon or after return to service.

Medical Review Officer: DATS uses qualified physicians who serve as Medical Review Officers ("MRO") (for federally required drug testing) and who assist other voluntary drug testing programs (not federally mandated) in evaluating laboratory results of drug testing. These physicians are familiar with the requirements for interviewing employees who test positive to determine whether a particular test result is "confirmed positive," and they also maintain the required drug testing records for blind sampling and composite reporting, as well as individual test results.

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A report on each person tested will be sent to the MRO by the laboratory. This report will identify the drugs tested for, whether positive or negative results were obtained, the specimen number assigned, and the drug testing laboratory specimen identification number.

A positive laboratory test result does not automatically identify an employee, applicant, or independent contractor employee as having used drugs in violation of this policy. Instead, the MRO reviews the laboratory results along with the circumstances of the tested employee to determine whether the test is in fact a "confirmed positive". This review must be performed prior to reporting the test results to the County's administrative officials. The MRO, being a licensed physician with knowledge of substance abuse disorders, examines alternate medical explanations for any positive laboratory test results. This generally includes conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors revealed by the employee. Prior to making a final decision to verify a positive test result for an individual, the MRO gives the individual an opportunity to discuss the test results. The MRO may verify a test as positive without having communicated directly with the employee about the tests in three circumstances:

- 1 The employee expressly declines the opportunity to discuss the test;
- 2 More than five days have passed since the date the employee was contacted by a designated County representative and informed to contact the medical review officer as soon as possible.

If the MRO is unable to reach the individual directly, the MRO will contact the designated official of the County who, in turn, will contact the employee. In the case where the employee has failed to contact the MRO for more than five days since the date the employee was contacted by the designated County representative. The MRO may report the test results as "confirmed positive." However, the MRO may still reopen the verification process if the employee contacts the MRO and presents information that his delay in getting in touch with the MRO resulted from serious illness, injury or other unavoidable circumstances.

The purpose of the MRO interview is to allow the employee to present information concerning a legitimate explanation for the positive laboratory test. If after such action, the medical review officer concludes that there is a legitimate explanation of the positive test, the medical review officer may declare the test to be negative. Otherwise, the result will be verified as a "confirmed positive." Following verification of a positive test result, the medical review officer will refer the case to the County's designated management official empowered to recommend or take administrative action.

The medical review officer is the only person authorized to order a re-analysis of the original sample or a test of the split specimen. Authorization for a split specimen test may be made by the employee within 72 hours of his or her having received actual notice of a positive test. If the retest or split specimen test is negative, the medical review officer will cancel the test. (See section above regarding "Split Specimen Analysis").

The medical review officer will not disclose to any party any medical information provided by the individual as part of the testing verification process. There is an exception to this rule where, in the MRO's reasonable medical judgment, the information indicates that continued performance by the individual of his or her safety sensitive function could pose a significant safety risk. Before obtaining medical information from any individual as part of the verification process, the MRO explains to the employee that any information provided may be disclosed to third parties if continued performance by the employee of his or her safety-sensitive function could pose a significant safety risk.

ALCOHOL TESTING

As noted earlier, alcohol testing is different from drug testing because it involves testing breath with a machine. Thus, no laboratory or urine samples are involved. This section will explain the alcohol testing procedures.

The Testing Machine\EBT: The testing apparatus is a breath machine, referred to as an EBT (evidential breath testing device), and the particular make and model used is certified by the National Highway Traffic Safety Administration (NHTSA) and must appear on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices." This list is referred to in the industry as the CPL, and it is somewhat analogous to the drug testing requirement that labs be listed as certified by the DHHS. All DATS machines will meet these requirements.

The requirements for the EBT are somewhat different for initial screening vs. confirmatory testing, but if the machine meets the requirements for confirmatory testing, it can be used for the initial screening as well. For confirmation testing, the EBT must be able to distinguish between alcohol and acetone at concentrations of a .02 alcohol concentration (measured in terms grams per 211 liters of air). Also, the machine must be capable of printing in triplicate or on three consecutive and identical copies: the test result; the EBT's serial number and manufacturer; the time of the test; and a unique number generated by the EBT to identify the particular specimen being tested. The unique identification number produced by the EBT must also be capable of being read before the test is conducted.

For the initial screening test only, it is permissible to use an EBT that is on NHTSA's CPL list but does not meet all the other requirements just discussed. If such a machine is used, the tester must use a highly stylized log book to track the data for each initial screening test. However, in all cases, confirmation testing for alcohol must be conducted on an EBT meeting all the requirements of the preceding paragraph.

The regulations require that the manufacturer of the EBT develop a Quality Assurance Plan of testing and maintenance for the machine and DATS's personnel will follow that plan to assure proper function of the EBTs used in the County's program. DATS will keep the machines securely stored when not in use. DATS' personnel will conduct testing of calibration, tolerances, and testing intervals, as well as machine inspection and maintenance procedures. DATS is required to keep detailed records of their EBT Quality Assurance Plan.

The BAT: The person who conducts the alcohol testing is called a breath alcohol technician or BAT and this person is the functional equivalent of the CSP who collects drug testing specimen. The DATS' BATs are trained on the type of EBT to be used and are trained at an approved course meeting NHTSA model course requirements. DATS maintains documentation for the County of the proficiency and training of its BATs, along with other required records of compliance with FMCSA regulations.

Testing Procedures: The procedures for alcohol testing are similar to drug testing. For example, the BAT must initially confirm the identity of the person to be tested and the BAT must explain the testing procedure to the employee. The BAT is to work with only one employee at a time. The testing is to be conducted at a location and in a manner that ensures aural and visual privacy. A mobile testing unit (i.e., van) may be used but must meet the privacy requirements. The only exception to the privacy requirement arises in the case of accident scene or other emergency testing, and in that event, DATS will assure that employees are provided as much privacy as the situation will allow.

Initial Screening: After the BAT has identified the employee and has explained the testing procedure, the next step is to fill out the first part of the Breath Alcohol Test form, which includes the employee's consent to be tested. (If the employee refuses to sign, this constitutes a refusal to be tested and is treated as a positive test would be.) After consenting, the employee watches the BAT open an individually wrapped and sealed mouthpiece, which is then attached to the EBT. The employee is instructed to blow forcefully into the mouthpiece, for at least six seconds or until the EBT indicates a valid sampling amount has been obtained.

The EBT will then provide the results of the initial test and the BAT will share these with the employee. (Note: the methods of communicating and documenting these steps will vary depending on whether the machine is fully digital or whether a log book is used.) If the test result is a breath alcohol concentration of less than .02, the test is considered negative and the employee and BAT complete the remainder of the form, sign it and report the result to the County.

If the result of the initial screening test is .02 or greater, it will be necessary to conduct a confirmation test. This second test will use a fully digital EBT meeting the confirmation testing requirements noted earlier above and may be conducted by the same BAT. If a different BAT will perform the confirmation test, the BAT who did the initial testing must sign off in the appropriate place on the form.

Confirmation Testing: Generally, the same BAT will perform the initial and the confirmation test, though this is not required. If a new BAT will perform the confirmation test, the new BAT must re-perform the employee identification steps and must explain the testing procedures to the employee. In addition, the new BAT will need to complete section 1 of the test report form. In all cases, the confirmation test must be performed within twenty minutes of the completion of the screening test.

There is a waiting period between the initial screening test and the confirmation test of fifteen minutes, counted from the conclusion of the screening test. The BAT will instruct the employee not to eat or drink anything during the waiting period and not to belch, if possible. These restrictions, like the waiting period itself, are for the employee's benefit by preventing an inflated or otherwise inaccurate alcohol reading. However, the test will be conducted at the end of the waiting period, regardless whether the employee follows the forgoing instructions. Any failure by the employee to follow instructions will be noted by the BAT in the "Remarks" section of the testing form.

The testing procedures themselves for the confirmation test are identical to the initial test in terms of instructions to the employee, using a new mouth piece and getting a valid specimen. Before administering the test, however, the BAT must conduct an Air Blank test to assure that the EBT registers 0.00 on the Air Blank (a test of room air). If the first Air Blank registers greater than 0.00, one additional Air Blank may be conducted. If the second Air Blank test is 0.00, the test may proceed. If not, the test must not proceed using that machine. That EBT will not be used in FMCSA testing again until it has been checked for calibration and tolerances in accordance with the manufacturer's quality assurance program.

If the EBT confirmation test result is different from the initial test result, the confirmation test result controls. As with the initial test, the BAT will show the result of the confirmation test to the employee and will complete the testing form. Both the employee and the BAT must then sign the testing form. The BAT will then conduct an additional Air Blank test and, if the result is greater than zero, the confirmation test is invalid.

To be considered positive and in absolute violation, an employee's confirmed alcohol level must be .04 or greater. Results between .02 and .04 are not absolute violations but require that the employee be relieved of safety-sensitive duties until the longer of 24 hours or the start of his next shift.

Reporting Results: The result of the alcohol test is reported on a triplicate form, the format of which is required by the FMCSA regulations.

The County has designated Bobby Jones to communicate with DATS's BAT on alcohol testing matters. If the results are initially communicated other than in writing, the BAT and the County's representative must have a system of identification before the information is provided. The initial oral report must be followed by delivery of the County's copy of the testing form and the County is responsible for maintaining this and all other required records in a secure manner.

Miscellaneous Provisions: As with drug testing, any suspicious behavior, failure to cooperate, inability to provide a specimen or other behavior which makes completion of an alcohol test impossible shall terminate the test and shall be documented by the BAT. Similarly, if a test is interrupted or events occur which would render the test invalid, the test must be aborted and started over using new materials and new forms.

If an employee is unable to provide a specimen of air suitable for testing, the County shall be so informed and the County will select a physician to evaluate whether the failure to provide enough air is medically explainable. This is the same requirement as the "shy-bladder" evaluation performed by the MRO under the drug testing regulations and, as in drug testing, the physician's report to the County must be in writing. If there is no valid medical explanation for the failure to provide the specimen, it is treated as a refusal to co-operate and thus a positive test. (NOTE: This medical evaluation will not be conducted if the test is a pre-employment test.)

A breath alcohol test is considered invalid under the following circumstances: failure to observe the 15 minute waiting period; failure of EBT to pass calibration and tolerance tests at the next subsequent check; failure of the BAT to conduct Air Blank testing; failure of the BAT to sign the form or to note in the "remarks" section that the employee failed or refused to sign the form; EBT fails to print a confirmation test result; disparity between the employee identification number or alcohol concentration as between the printed result from and the digital reading on the machine.

APPENDIX "B"

SUMMARY OF POST-ACCIDENT REQUIREMENTS FOR TESTING

If a non-transportation employee is involved in an accident while duty, a post-accident drug and alcohol test is may be required by the supervisor of the County's drug and alcohol program if:

- (a) The accident involves an injury or loss of human life
- (b) The accident involves damage to personal property

The following procedures should be discussed with each non-transportation employee for post-accident testing:

- 1 If you are involved in an accident, you should immediately contact the County supervisor.
- 2 If you cannot make this contact, ask fellow employee(s) or law enforcement officials to make the contact for you.
- 3 If you are involved in an accident involves a loss of human life you may be required to have a drug and alcohol test performed.
4. If you require medical assistance, that assistance is not to be delayed to conduct testing.

APPENDIX "C"

SUMMARY OF INFORMATION ON EFFECTS, MANIFESTATIONS AND METHODS OF INTERVENTION IN ALCOHOL AND DRUG USE/ABUSE

You will be provided a handbook that outlines the effects of drug and alcohol use and misuse. The handbook is used as a training guide for all transportation and non-transportation employees. You will sign a receipt of Acknowledgement of Drug/Alcohol Policy and Consent for Drug Analysis at the end of this report and give to your employer to have in your file. Additional training may be required per your employer.

ACKNOWLEDGEMENT DRUG/ALCOHOL POLICY OF LAFAYETTE COUNTY

By my signature, I (please print) _____ hereby acknowledge that I have read and understand the Drug and Alcohol Policy of Lafayette County, which outlines the County's policy regarding the use or possession of drugs, alcohol, and controlled substance. I understand that the county requires employees to submit urine specimens to be analyzed for the presence of drugs. I realize that the presence of a detectable trace of any unauthorized substance is grounds for termination of my employment. I further realize that my cooperation is voluntary and that refusal to submit a specimen for testing is grounds for my termination.

I further understand that a confirmed positive drug test or alcohol test will not be considered a "handicap" by virtue of that test result and the discharge by employer because of a positive test result will be considered to have been done because of my willful misconduct.

I agree to cooperate and abide by this policy and understand that any failure to do so on my part is grounds for termination.

EMPLOYEE SIGNATURE _____

DATE _____

WITNESS _____

DATE _____

EMPLOYEE CONSENT FOR DRUG ANALYSIS

I, _____, Social Security number _____, do hereby give my consent to LAFAYETTE COUNTY, MISSISSIPPI, AND ITS DESIGNATED County Physicians to perform appropriate tests or examinations on me for drugs and to release the results of the tests or examinations to my employer.

I have taken or am taking the following medications within the past thirty (30) days.

I further agree that upon any change in over-the-counter or prescribed medications which I am now taking, whether determined by me, or as directed by my prescribing physician, I will report such change to the County Personnel Director within seven (7) days of such change so that same can be noted on this form.

NAME OF DRUG	CONDITION FOR WHICH TAKEN	PRESCRIBING PHYSICIAN/OVER COUNTER
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

SIGNATURE OF EMPLOYEE BEING TESTED

DATE

EMPLOYER

DATE

WITNESS

DATE

Revised February 18, 2014
