

# **SECTION 5: HEALTH AND SAFETY**

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## **5.1 OPERATION OF COUNTY VEHICLES**

### **5.11 Policy:**

The purpose of this policy is to provide rules and information related to the safe operation of county vehicles, and to lessen the possibility of accidents for the protection of county employees.

### **5.12 Coverage:**

*This policy applies to all classified and unclassified positions. Nothing in this policy modifies or waives the "at will" status of an unclassified employee.*

### **5.13 Requirements for Operating County Vehicles:**

When operating a county vehicle, all county employees will:

- A. possess an appropriate and valid Arizona drivers' license;
- B. obey all State of Arizona and Apache County traffic laws;
- C. check the vehicle to ensure that it is in good operating condition by checking oil and water levels, tires, lights, etc. Any unsafe condition in the vehicle shall be reported immediately to the elected official or department head. The vehicle shall not be operated if its condition is determined to be unsafe;
- D. operate all Apache County vehicles safely and in accordance with all traffic laws;
- E. comply with specific equipment safety procedures.

### **5.14 Passengers in County Vehicles:**

Only county employees are authorized to ride in or on a county vehicle of any kind, unless special permission has been received in advance from the County Manager. The County's insurance does not extend to passengers who are not employees, even if prior authorization has been obtained. In the event of an accident, the passenger who is not a county employee shall be covered under the personal policy of the driver.

### **5.15 Verification of Driver Information:**

Elected officials and department heads shall ensure that anyone within his/her chain of command who drives a county vehicle or personal vehicle on county business is properly licensed to do so. Employees whose duties include driving personal or county vehicles for county business are required to inform the county within 24 hours if their license becomes suspended, revoked, cancelled or refused.

## **5.16 Taking County Vehicles Home:**

Consistent with A.R.S. 38-538 et seq., a motor vehicle owned or leased by the County shall be used for business purposes only, and shall not be provided to employees, including Elected Officials, for personal use except as noted herein. For purposes of this section, “use for business purposes” does not include normal commuting to and from the employee’s residence at any time unless the employee is on duty or “on-call” for duty during the time that the employee is at the employee’s residence. An employee will be deemed to be in “on-call” status consistent with the provisions of Policy 2.71(H).

County employees are hereby notified that the County utilizes GPS tracking units, placed randomly in County vehicles, to assist in monitoring the use of County vehicles.

Any personal use of County vehicles must be reported by County employees on an annual basis for the purposes of reporting that use as income to the Internal Revenue Service.

Exemptions: The Apache County Sheriff’s Office, the Apache County Attorney’s Office, and the Apache County Probation Departments are exempt from this provision and may allow take home vehicles for deputies, investigators, or probation officers to the extent their activities are consistent with allowances in A.R.S. § 38-538.03. However, any personal use of County vehicles must be reported by County employees on an annual basis for purposes of reporting that use as income to the Internal Revenue Service.

## **5.2 COUNTY EMPLOYEE DRIVER LICENSE POLICY**

### **5.21 Commercial Driver License Policy:**

County employees who operate commercial vehicles as part of their employment with the county shall:

- A. Have the proper license for the type of commercial vehicle to be driven as described in A.R.S. § 28-3221 at seq.
- B. Have only one driver's license as required by A.R.S. § 28-3226.
- C. Meet all notification requirements of A.R.S. § 28-3227. Specifically, the employee shall:
  1. notify the department of transportation of all-out-of state traffic law violation convictions, except parking violations, within thirty days of the date of conviction;
  2. notify Apache County of all traffic law violation convictions, except parking violations, in writing within ten (10) days of the date of conviction;
  3. notify Apache County of any suspension, revocation, cancellation, loss of privilege or disqualification to drive a commercial vehicle before the end of the business day following the day the employee receives notice of that fact;
  4. at the time of application for employment provide the information required by A.R.S. § 28-3227(D) for the 10 years preceding the application.
- D. In addition to the above requirements, employees who are to operate commercial vehicles must provide the following information in their employment application submitted to Apache County as required by 49 C.F.R. § 391.21:
  1. the name and address of the employing motor carrier;
  2. the applicant's name, address, date of birth, and social security number;
  3. the addresses at which the applicant has resided during the three years preceding the date on which the application is submitted;
  4. the date on which the application is submitted;
  5. the issuing state, number, and expiration date of each unexpired commercial motor vehicle operator's license or permit that has been issued to the applicant;
  6. the nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment which he/she operated
  7. a list of all motor vehicle accidents in which the applicant was involved during the three years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries caused;

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8. a list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted during the three years preceding the date the application was submitted;
  9. a statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;
  10. a list of the names and addresses of the applicant's employers during the last three years preceding the date the application is submitted, together with the dates he/she was employed, and his/her reason for leaving the employ of each employer;
  11. for those drivers applying to operate a commercial motor vehicle meeting the specifications outlined in 49 C.F.R. § 383.5, a list of names and address of the applicant's employers over the last ten years for which the applicant was an operator of a commercial motor vehicle, together with the dates of employment and the reasons for leaving such employment;
  12. a certification on the application that it was completed by the applicant and that all entries thereon are true and correct to the best of the applicant's knowledge and belief, along with a date and signature.
- E. Comply with all state and/or federal rules and regulations in relationship to medical standards and requirements.

Failure to comply with the above shall be cause for termination of employment.

**5.22 Coverage:**

*This policy applies to all classified and unclassified positions. Nothing in this policy modifies or waives the "at will" status of an unclassified employee.*

**5.23 Duties of County Regarding Commercial Drivers:**

When the County employs an individual who will drive a commercial vehicle, the County shall make the following inquiries as required by 49 C.F.R. § 391.23:

- A. An inquiry into the driver's driving record during the preceding three years to the appropriate agency of every state in which the driver held a motor vehicle operator's license or permit during those three years. This inquiry must be made within 30 days from the date of hire, and all responses to the inquiries must be retained by the County as part of the driver's qualification file.
- B. An investigation into the driver's employment record during the preceding three years. This investigation must be made within 30 days from the date of hire. A written record must be made regarding all contacts made during the course of this investigation,

**(5.23 Cont.)**

including the date former employers were contacted, their names and addresses, and any comments made with respect to the driver. These records shall be retained by the County as part of the driver's qualification file.

- C. After hire, the County shall make, at least every 12 months, an inquiry into the driving record of each employee holding a commercial driver's license, to the appropriate agency of every state in which the driver held a commercial motor vehicle license or permit. After the inquiry, the County shall review the driving record to insure that each driver meets minimum requirements for safe driving or is disqualified from driving a commercial vehicle pursuant to 49 C.F.R. §§ 391.15 and 391.25.

**5.24 Arizona Driver's License (Non-Commercial Drivers):**

- A.) All employees who in the course and scope of their employment with the County may be required to operate a motor vehicle (whether county or privately owned) by their Elected Official or Department Head shall hold a valid driver's license. This policy shall presumptively apply unless the Elected Official or Department Head specifically informs the Apache County Human Resources the Department that the employee in question will not operate a vehicle in the course of his/her employment.
- B.) After being hired by the County, but prior to the start of employment, new hires to which the policy applies shall be subject to a check of their driving records by the County. If a newly hired individual does not possess an Arizona Driver's license, the new hire may be required to provide a certified copy of his/her driving record from the state where he/she is licensed. No person shall be eligible to begin employment with the County if any of the following conditions are true:
- 1.) The individual's driving privileges are presently suspended, revoked, or refused;
  - 2.) The driving record of the person indicates any of the following:
    - a.) any convictions for driving under the influence of alcohol or drugs within the last five years;
    - b.) the individual has had his/her driving privileges suspended or revoked for an alcohol or drug related offense within the last five years;
    - c.) the person has been found guilty or responsible for three (3) or more moving violations within the last three (3) years.
    - d.) a conviction for reckless driving or aggressive driving within the last three (3) years.
- C.) After the start of employment Apache County shall, on at least an annual basis, check the driving records of all county employees who may be required to operate a motor vehicle by their Elected Official or Department Head. The County may also check driving records upon receiving information that an event has occurred that might impact an employee's driving privileges.

**(5.24 Cont.)**

- D.) County employees who are subject to this policy shall either be terminated from employment or be restricted from driving a vehicle in the course and scope of county employment upon the occurrence of any of the following events:
- 1.) The individual's driving privileges are presently suspended, revoked, or refused;
  - 2.) The individual has received a license suspension or revocation for an alcohol or drug-related offense within the last five years;
  - 3.) The individual's driving record indicates a conviction for driving under the influence of alcohol or drugs within the last five years;
  - 4.) The individual's driving record indicates the person has been found guilty or responsible for three (3) or more moving violations within a period of three (3) years.
  - 5.) The individual's driving records indicate the person has been found guilty or responsible for the offense or reckless driving or aggressive driving within the last three years.

Employees may be disciplined pursuant this policy whether the event(s) in question arose from operating a vehicle in the course of county employment or whether they occurred during the employee's personal time.

A county employee who drives under the influence of alcohol or drugs during the course and scope of employment must be terminated from employment.

In other circumstances, the decision whether the employee will be terminated from employment or restricted from driving a vehicle in the course and scope of County employment will be made by the Elected Official or Department Head. Among other considerations, the Elected Official or Department Head may consider whether it is possible for the employee to perform his/her duties without being required to drive a vehicle.

- E.) Any copies of driving records the county receives pursuant to this policy shall be stored separately from the employee's personnel file and shall not be disclosed pursuant to a public records request. Copies of driving records are protected from disclosure by the Federal Driver's Privacy Protection Act, 18 U.S.C. §§2721-2725, and Title 28, Chapter 2, Article 5, of the Arizona Revised Statutes.
- F.) Elected Officials and Department Heads may rescind an employee's privilege to drive county vehicles at any time.
- G.) This policy applies to all classified and unclassified positions. Nothing in this policy modifies or waives the "at will" status of an unclassified employee.

## **5.3 DRUG FREE WORKPLACE AND SUBSTANCE ABUSE PREVENTION**

### **5.31 Policy:**

The Board of Supervisors of Apache County is committed to programs that promote safety in the workplace, employee health and well-being and public confidence. Consistent with the spirit and intent of this commitment, Apache County has a zero tolerance policy when it comes to the use, possession, or distribution of drugs and alcohol on the job by employees. Employee abuse of drugs and alcohol adversely affects job performance and employee morale, jeopardizes employee safety and undermines public confidence. The goal of this policy is to establish and maintain a safe workplace and a healthy and efficient workforce free from the effects of drug and alcohol abuse. Employees arrested, charged or indicted for a criminal drug offense will be suspended without pay immediately. Once the case has been resolved, the appropriate personnel action will be taken.

With respect to mandated drug and alcohol testing of CDL operators, the provisions of this policy affecting CDL operators complies with the Omnibus Transportation Employees Drug Testing Act of 1991 and in accordance with Title 49 Code of Federal Regulations, Parts 40, 382 and 391, Subpart H.

### **5.32 Coverage:**

*This policy applies to all classified and unclassified positions. Nothing in this policy modifies or waives the "at will" status of an unclassified employee.*

### **5.33 Employees Subject to Testing:**

The post-accident and "reasonable suspicion" provisions of this policy shall apply to all County employees; additionally the positions noted below are designated as "safety sensitive" and shall be subject to the pre-employment and random testing of this policy.

1. Road maintenance worker
2. Equipment mechanic
3. Automotive mechanic
4. Any position requiring a CDL License

### **5.34 Prohibitions:**

Employee abuse of alcohol or controlled substances compromises the safety of employees and the public it serves. Apache County prohibits the manufacture, use, sale, distribution, presence in the body, and presence on county property of prohibited controlled substances and alcohol by all employees in the workplace and further prohibits:



**(5.34 Cont.)**

1. Alcohol concentration: No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater. No supervisor having actual knowledge that an employee has an alcohol concentration of 0.02 or greater shall permit the employee to perform or continue to perform work assignments.

2. Alcohol on-duty use: No employee shall use alcohol while performing work assignments. No supervisor having actual knowledge that an employee has used alcohol within the previous four hours shall permit an employee to perform or to continue to perform work assignments.

3. Alcohol pre-duty use: No employee shall perform work assignments within four hours after using alcohol. No supervisor having actual knowledge that the employee has used alcohol within four hours shall permit an employee to perform or continue to perform work assignments.

4. Use following an accident: No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

5. Refusal to submit to a required alcohol or controlled substance test: No employee shall refuse to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion of alcohol or controlled substances test, or a follow-up alcohol or controlled substances test. No supervisor shall permit an employee who refuses to submit to such tests to perform or continue to perform work assignments.

6. Controlled substances use:

A. No employee shall report for duty or remain on duty requiring performance of work assignments when the employee uses any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a vehicle or equipment.

B. No supervisor having actual knowledge that an employee has used a controlled substance shall permit the employee to perform or continue to perform work assignments.

C. An employee shall inform his supervisor of any therapeutic drug prescription that may adversely affect his work performance.

7. Controlled substances testing: No employee shall report for duty, remain on duty, or perform work assignments, if the employee tests positive for controlled substances. No supervisor having actual knowledge that an employee has tested positive for controlled substances shall permit the employee to return to duty.

### **5.35 Required Tests:**

1. "Safety sensitive" employees and prospective employees including CDL operators whose positions are designated as "safety sensitive" are subject to alcohol and controlled substances testing under the following circumstances:

- A. Pre-employment testing
- B. Post-accident testing
- C. Random testing
- D. Reasonable suspicion testing

2. Non-safety sensitive employees who do not occupy designated safety sensitive positions are subject to alcohol and controlled under the following circumstances:

- A. Post-accident testing.
- B. Reasonable suspicion testing

3. Controlled substance testing is conducted based on the analysis of a urine sample provided by the employee or potential employee. The controlled substances selected do not have a legitimate medical purpose and are widely abused. Tests for following controlled substances and their metabolites shall be performed: marijuana; cocaine; opiates; phencyclidine (PCP); and amphetamines.

4. Alcohol testing shall be conducted by an evidential breath test (EBT). The EBT test identifies the concentration level of alcohol within the body.

### **5.36 Testing Procedures:**

The procedures and supervisory responsibilities are defined for each required test as follows:

1. Pre-employment testing: Following an offer of employment to a potential employee for any position identified as safety sensitive and prior to the first day of employment, the following shall take place:

- A. The potential employee shall be informed that employment is conditional pending results of a controlled substance test.
- B. The controlled substance test must result in a verified negative. A potential employee who fails a pre-employment drug screen shall not be hired.
- C. Required pre-employment controlled substances testing shall be coordinated by the drug and alcohol program coordinator.
- D. In accordance with 49 CFR part 40.25, newly employed CDL operators must provide the drug and alcohol program coordinator with written consent to acquire his/her previous employer(s) information concerning participation in drug and alcohol testing.

**(5.36 Cont.)**

- E. The drug and alcohol program coordinator must provide to the previous employers of the past two (2) years, a written authorization from the CDL operator for release of the required information. The release of this information may take the form of personal interviews, letters, or any other method that ensures confidentiality. Apache County shall maintain a written, confidential record with respect to each past employer contacted.
- F. The potential employee may not be employed if the information obtained indicated the potential employee has tested positive for drugs, tested at or above 0.04 breath alcohol concentration, or refused to test unless it can be established that he/she has completed the return-to-duty requirements as set forth in 49CFR part 40 Subpart O.
- G. Under no circumstances shall a newly hired operator be allowed to perform safety sensitive duties for more than thirty days following date of hire without confirming the information required in paragraphs E, F and G above.

2. Post-accident testing: When any county employee is involved in an accident, the employee shall submit to drug and alcohol testing. The testing should be done immediately but no later than 32 hours after the accident.

A. Post-accident testing:

Any accident involving human fatality or bodily injury requiring immediate medical treatment away from the scene. Any accident involving damage to a county vehicle (or a vehicle rented in the County's name). Any damage to a vehicle or property resulting from a statutory violation (speeding, reckless driving, etc) or failure of the operator to exhibit reasonable care.

Exceptions: Accidents to a standing or slow-moving vehicle, where the county operator is clearly not at fault.

B. When a required drug or alcohol test has not been administered within the time frames below following the accident, the following actions shall be taken:

Time Elapsed	Action Required
2 Hours	If the employee has not submitted to an alcohol test at this time, the supervisor shall prepare a report stating the reason a test was not promptly administered. The report shall be forwarded to the drug and alcohol program coordinator for filing.
8 Hours	If the employee has not submitted to an alcohol test at this time, the County shall cease attempts to administer alcohol test, and the supervisor is to prepare a report as described above. The report shall be forwarded to the drug and alcohol program coordinator for filing.

**(5.36 Cont.)**

32 Hours                      If the employee has not submitted to a controlled substance test at this time, the County shall cease attempts to administer the test, and the supervisor is to prepare a report as described above. The report shall be forwarded to the drug and alcohol program coordinator for filing.

C.        The following steps shall be followed by the supervisor in all post accident testing:

- 1) All injuries shall be treated first.
- 2) The employee and the supervisor shall cooperate with all law enforcement officers.
- 3) The supervisor must contact the drug and alcohol program coordinator and other designated superiors prior to any action being taken.
- 4) The supervisor will explain to the employee that testing is required to ensure that drugs or alcohol were not a contributing factor in the accident.

(a) If the employee refuses to submit to the required testing, the supervisor shall inform the employee that:

- (i) The refusal to submit to testing will be considered a failure of the testing requirement.
- (ii) Continued refusal to submit to either drug or alcohol testing will result in the employee being placed on administrative suspension with pay pending a review of circumstances. Barring any extenuating circumstances, refusal of testing shall be considered grounds for dismissal.
- (iii) The employee shall be offered transportation home to prevent additional safety and liability concerns associated with driving under the influence.

(b) If the employee agrees to the testing, a supervisor will transport the employee to the designated testing facility collection site. The supervisor will remain at the collection site with the employee but shall not go into the examination room or sample collection room.

- (i) If the employee refuses to cooperate with the testing process such refusal will be considered a failure of the test and the employee will be placed on administrative suspension with pay pending a review of circumstances. Barring any extenuating circumstances, refusal to cooperate shall be considered grounds for dismissal.
- (ii) The employee shall be offered transportation home to prevent additional safety and liability concerns associated with driving under the influence.
- (iii) After the sample collections are obtained, the supervisor shall contact the drug and alcohol program coordinator to determine if the employee should be allowed to return to duty or provided with transportation home.

3. Random Testing: The drug and alcohol program coordinator shall conduct unannounced random selection for both the controlled substance and alcohol testing. A statistically verifiable computer-generated random selection process shall be used to select the appropriate percentage of employees, from each pool, to be tested. In addition, the County may also conduct a 100% test of all eligible individuals all at one time on an annual basis.

**(5.36 Cont.)**

- A. Refusal to submit to either controlled substance testing or alcohol testing: If an employee refuses to submit to the required testing, the refusal shall be considered a failure of the testing requirement. The employee will be placed on administrative suspension, with pay, pending a review of circumstances. Barring any extenuating circumstances, refusal of testing shall be considered grounds for dismissal.
- B. Any selected employee who is absent from duty on the date designated for random testing will not be informed of the selection and will automatically be added to the following testing period.
- C. The testing will be evenly distributed throughout the year. Specimen collection will be done on different days of the week throughout the annual cycle.
- D. Sample collection for random drug testing and breath alcohol testing will be conducted at one or more designated and certified collection sites.

4. Reasonable suspicion testing: Reasonable suspicion of drug or alcohol use by an employee may be established by observation or report of the employee's behavior, admission by the employee, evidence of conduct that shows impairment or shows physical signs of being under the influence. Upon determining that reasonable suspicion exists the employee shall be required to submit to drug and/or alcohol testing.

- A. The decision to require testing for reasonable suspicion will be based upon objective observation by two or more supervisors or county officials, at least one of which has been trained to make such a determination. Once a determination has been made that there is reasonable suspicion to believe that the employee's behavior warrants testing, the following actions must be taken:

- 1) The supervisors and/or county officials must contact the drug and alcohol program coordinator or designee prior to any action being taken.

- 2) If there is agreement that testing is warranted, the supervisors, and/or county officials must inform the employee of their observation. This discussion **MUST TAKE PLACE IN A PRIVATE SETTING**. The supervisors and/or county officials are required to explain that they have reasonable suspicion to believe that this behavior warrants testing.

- B. Refusal to submit: If the employee refuses to submit to the required testing, the supervisors and/or county official will inform the employee that refusal to submit to testing shall be considered a failure of the testing requirement; and the employee will be placed on administrative suspension, with pay, pending a review of circumstances.

Barring any extenuating circumstances, refusal of testing shall be considered grounds for dismissal. The employee shall be offered transportation home to prevent additional safety and liability concerns associated with driving under the influence.

**(5.36 Cont.)**

- C. Agrees to submit: If the employee agrees to the testing, a supervisor will transport the employee to the designated testing facility collection site. The supervisor will remain at the collection site with the employee but shall not go into the examination room or sample collection room.
- (1) If the employee does not cooperate with the testing process, this action will be considered as a failure of the testing requirement, and the employee will be placed on administrative suspension, with pay, pending a review of circumstances. Barring any extenuating circumstances, refusal to cooperate shall be considered grounds for dismissal.
  - (2) The employee shall be offered transportation home to prevent additional safety and liability concerns associated with driving under the influence.
- D. After the sample collection(s) are obtained, the employee shall be placed on administrative leave, with pay, pending the results.
- (1) The supervisor shall document, in writing, the events that led to the testing and the conversations and events that followed the request.
  - (2) If the results of the testing are negative, the employee will be reinstated.
  - (3) If the results of the testing are positive, the employee will be placed on administrative suspension, without pay, pending a review of the circumstances. Barring any extenuating circumstances, a positive controlled substance test shall be considered grounds for dismissal.

## 5.4 CONTROLLED SUBSTANCE TESTING PROCEDURES

### 5.41 Urine Sample Collection:

The County will contract with an approved laboratory to perform all urine sample collections. Collection site personnel shall collect ALL required samples in accordance with FHWA guidelines as outlined in 49 CFR Part 40.

- A. The collection of the specimen shall be accomplished in a private setting without observation unless direct observation is deemed necessary by collection site personnel.
  - 1) The collection rest room must be inspected before and after each collection.
  - 2) Collection site personnel are required to verify employee identification by requesting to see a valid driver's license or identification with a photograph.
  - 3) Employees shall be required to allow collection site personnel to inspect personal belongings that may have been brought to the site.
  - 4) Collection site personnel may ask the employee to remove any unnecessary outer garments (jackets, sweaters, coats, etc.) that might conceal items or substances that could be used to tamper with or adulterate the urine specimen.
  - 5) The employee will be allowed to take his/her wallet into the collection room with him/her.
  
- B. Consistent with federal guidelines, the "split sample" method of collection shall be used.
  - 1) The collection site person shall instruct the employee to provide at least 45 milliliters (ml) of urine under the split sample method into a single collection bottle.
  - 2) Once an adequate specimen has been collected and verified, the collection site person shall divide the specimen into two (2) bottles labeled "primary" and "split" specimen.
  - 3) The collection site person shall seal the samples, fill out the required "Chain of Custody" forms and forward the samples to the testing laboratory.
  
- C. Insufficient amount of urine: Upon receiving the specimen from the donor, the collection site technician shall determine if it has at least 30 milliliters of urine for the primary specimen bottle and an additional 15 milliliters of urine for the split specimen bottle. If the employee is unable to provide a sufficient quantity of urine:
  - 1) The collection site technician shall instruct the employee to drink not more than 24 ounces of fluids and, after a period of up to two (2) hours, again attempt to provide a complete sample using a fresh collection container.
  - 2) The original insufficient specimen shall be discarded and the MRO notified.
  - 3) Failure to provide an adequate sample will be deemed a failed test unless the employee provides sufficient information to the MRO to determine an underlying health-related condition as the cause for the insufficient sample.
  
- D. Failure to comply with the collection site technician directions will be considered a failure of the testing requirements.

**(5.41 Cont.)**

- E. Altered or substituted urine specimen. If the collection site person has reason to believe that an employee may have altered or substituted the urine specimen, the Apache County drug and alcohol program coordinator shall be immediately notified.
- 1) The employee may be subject to disciplinary action and will be placed on administrative suspension, with pay, pending a review of circumstances.
  - 2) The employee shall be offered transportation home.
- F. Both bottles of the split sample (primary and split) provided by the employee shall be shipped in a single shipping container, together with the appropriate chain of custody forms, to the testing laboratory.
- 1) The testing laboratory shall log in the split specimen, with the split specimen bottle seal remaining intact. The laboratory shall store this sample in a secure location.
  - 2) If the result of the testing of the primary specimen is negative, the laboratory may discard the split specimen.
  - 3) If the result of the testing of the primary specimen is positive, the laboratory shall retain the split specimen in storage for sixty (60) days from the date on which the laboratory acquires it. Following the end of the sixty (60) day period, if not informed by the MRO that the employee has requested a test of the split specimen, the laboratory may discard the split specimen.
- G. Laboratory Testing Procedures: As specified by federal regulations, all urinalysis testing shall be conducted by a laboratory that meets the guidelines that have been established by the Department of Health Services (DHHS) in full compliance with 49 CFR Part 40.
- H. Medical Review Officer: The MRO is a licensed physician (MD or DO) selected by the County to review and evaluate the results of verified positive drug test results. The MRO shall have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate test results, including the employee's medical history and any other relevant biomedical information.
1. The MRO shall report to the drug and alcohol program coordinator whether the test is verified positive or verified negative, and may report the drug(s) for which there was a positive test.
    - a.) Employee notification of positive results: If the results of the drug testing are positive, the MRO shall make a determination that the testing process was accurate, and the employee's medical history will be reviewed.
      - (1.) The MRO shall then contact the employee directly by telephone, on a confidential basis, to determine whether the employee wishes to discuss the test results and to provide an opportunity for the employee to explain why the test result was positive. Sometimes, a legitimate medical explanation for the results exists, including legally prescribed medication(s).
      - (i) If, after making reasonable efforts and documenting them, the MRO is unable to reach the employee directly, the MRO shall contact the drug and alcohol program coordinator who shall contact the employee's supervisor to direct the employee to contact the MRO.



**(5.41 Cont.)**

(ii) If, after making all reasonable efforts, the County is unable to contact the employee, the employee shall be deemed to have failed the test and shall be subject to immediate dismissal.

b.) Split specimen: In a verified positive test, the MRO shall notify the employee of the verified positive test. The employee has seventy-two (72) hours in which to request a test of the split specimen at the employee's own expense.

**I. Test Results:**

1. A verified positive drug test requires the removal of the employee from performing a safety-sensitive function without delay pending the results of the test of the split specimen. Therefore, upon notification by the MRO that the primary specimen results are positive, the employee will be placed on administrative suspension, with pay, pending the results of the test of the split specimen. If testing of the split specimen results in a negative finding, the employee shall be reinstated with back pay.
2. If the analysis of the split specimen results in a confirmed positive test as determined by the MRO, the MRO will then notify the County of the results. The County will then inform the employee that the drug test has returned positive, and the employee will be dismissed from county employment.
3. Dilute Specimen: If the MRO reports that a positive drug test was diluted, the test result will be treated as a verified positive test. If the MRO reports that a negative test was dilute, the County will require retaking of the test only if the test was the result of a post-accident or reasonable suspicion examination.

**5.42 Alcohol Testing Procedures:**

1. Alcohol testing may be conducted through the use of a certified breath alcohol technician (BAT) using an evidential breath testing device (EBT). Employees shall be tested for alcohol at locations that prevent unauthorized persons from seeing or hearing test results. The necessary equipment, personnel, and materials for breath testing shall be provided at the locations where testing is conducted.
2. Exception: Post-accident or other unusual circumstances that require a test to be conducted at a location and does not fully meet the requirements. In such a case:
  - A. Visual and aural privacy shall be provided to the employee to the greatest extent possible.
  - B. This test may be conducted by law enforcement personnel. The drug and alcohol program coordinator shall acquire a copy of the alcohol testing results.
3. Prior to and during an EBT: The BAT shall supervise only one employee's use of EBT testing device at a time. The BAT shall not leave the alcohol testing location while the testing procedure for a given employee is in progress

**(5.42 Cont)**

A. Prior to the test the BAT shall instruct the employee step by step through the testing process:

- 1) The BAT will require the employee to provide positive identification (driver's license) if the BAT does not know the employee.
- 2) On request by the employee, the BAT shall provide identification to the employee.
- 3) The BAT shall explain the testing procedures to the employee.
- 4) An individually sealed mouthpiece shall be opened in view of the employee, and the BAT shall instruct the employee how to attach it to the EBT testing device.
- 5) The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT testing device indicates that an adequate amount of breath has been obtained.
- 6) The screen test resulting in a breath alcohol concentration of less than 0.02 shall be determined to be negative.
- 7) The BAT shall show the employee the result of the EBT.
- 8) The BAT shall transmit the result of less than 0.02 to the County in a confidential manner.

4. Confirmation Test: When the first screening test results in an alcohol concentration 0.02 or greater, a confirmation test shall be performed. The purpose of this requirement is to prevent any accumulation of mouth alcohol leading to an artificially high reading.
5. Transmission of alcohol testing records: The BAT shall transmit all results to the county drug and alcohol program coordinator in a confidential manner. All communications concerning the alcohol testing results of employees shall be made solely to the designated county representative. Such transmission may be in writing, in person or by telephone or electronic means, but the BAT shall ensure immediate transmission to the County of results that require the County to prevent the employee from performing a safety-sensitive function(s). All test records shall be confidential and maintained in an area with controlled access.
6. Refusal to test: If an employee refuses to cooperate with any part of the testing process he/she will be placed on administrative suspension, with pay, pending a review of circumstances and will be offered a ride home. Barring any extenuating circumstances, the employee shall be terminated. The BAT shall immediately notify the county drug and alcohol program coordinator or designee. The termination of testing will be considered a failure of the testing requirement, and the employee will be subject to dismissal when:
  - A. The employee refuses to complete and sign the breath testing form.
  - B. The employee refuses to provide breath or does not provide an adequate amount of breath.
  - C. The employee refuses to cooperate with the testing process and prevents the completion of the test.

**(5.42 Cont)**

7. Test results: An employee who is found to have an alcohol concentration of 0.02 or greater shall be placed on administrative suspension, with pay, for a period of not less than 24 hours following administration of the alcohol test. The employee shall be offered transportation home. Barring any extenuating circumstances, the employee will be dismissed from County employment.

**5.43 Maintenance of Records**

1. General Provisions: All records are confidential and shall be filed in an area with controlled access. Except as required by law or unless expressly authorized by the employee through the provision of a signed release, designated employee information that is contained in the records shall not be released.
2. Availability and disclosure of testing information:
  - A. Records of drug testing:
    - 1) Contracts with testing laboratories shall require that the laboratory maintain employee test records in confidence. The contracts shall provide that the laboratory shall disclose information related to a positive drug test of an employee to the employee, the employer, or the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee and arising from a certified positive drug test.
    - 2) An employee who has been subjected to a controlled substances test conducted under this policy shall, upon written request, have access to any records relating to that employee's drug test, and to any records relating to the results of any relevant certification, review, or revocation of certification proceedings.
    - 3) The MRO shall not disclose to any third party medical information provided by the employee to the MRO as part of the testing verification process. The MRO may disclose such information to the County, a DOT agency, or other federal safety agency, or a physician responsible for determining the medical qualifications of the employee under applicable regulations.
  - B. Releasing records of alcohol testing:
    - 1) An employee subject to testing is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his/her alcohol test.
    - 2) Access to all facilities utilized in complying with the requirements of the regulations shall be made open to all regulatory authority.
    - 3) When requested by the Secretary of Transportation, any DOT agency with regulatory authority over the County, or a state agency with regulatory authority over the County, the County shall make available copies of all results of county CDL operator alcohol testing conducted under such requirement and/or authority, and any other information pertaining to the County's alcohol misuse prevention program. The information shall include name of the specific alcohol test, test results, records, and reports.

**(5.43 Cont.)**

4) When requested by the National Transportation Safety Board as part of an accident investigation, the County shall disclose information related to the County's administration of any CDL operator post-accident alcohol tests administered following the accident.

5) The County shall make records available to a subsequent employer upon written request from a covered employee. Disclosure of records to a subsequent employer without a written request from a covered employee is forbidden.

6) The County may disclose information pertaining to a covered employee to that employee or to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee, and arising from the results of an alcohol test administered under the requirement of the law, or from the County's determination that the employee engaged in conduct prohibited by a DOT agency regulation. Such information can be released to include, but not limited to, worker's compensation, unemployment compensation, or other proceedings relating to a benefit sought by the employee.

7) The County shall release information regarding a designated employee's records as directed by a specific, written consent of the employee authorizing release of information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.

3. Records retention: In the case of employees who fail to pass a drug and/or alcohol test, all collection, and test records shall be retained for five (5) years. Such records will only be retained for one (1) year for employees who pass the drug and/or alcohol test.
4. Reporting: The Apache County drug and alcohol program coordinator will maintain information as required and shall submit reports tracking CDL operator testing as required by federal regulations to the DOT.
5. Reviewing records: An employee may request to review their substance abuse records per current county policy.

Health Coverage: The County recognizes that substance abuse is a medical problem that can be treated. The current group health plan provides coverage for such treatment. Employees who voluntarily enter a drug treatment program will not be terminated solely for that reason.

County Notification by Employee of Any Criminal Drug Statute Conviction: As a condition of employment, any employee convicted of a drug statute violation shall notify their department head within no less than five (5) days of such conviction.

Requirements of the County: Once the employee has given notification of conviction of a drug statute violation, the County shall:

- A. Notify any affected grant agencies of the employee's conviction within ten (10) days of the County's receiving notice.
- B. Take appropriate personnel action against such an employee, up to and including termination of employment.

**(5.43 Cont.)**

- C. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this policy.

## **5.5 COMPLIANCE WITH HEALTH AND SAFETY REGULATIONS**

### **5.51 Policy:**

It is the policy of Apache County that all employees, elected officials, and department heads comply with occupational safety and health standards and orders issued pursuant to the Arizona Division of Occupational Safety and Health (ADOSH) and the federal Occupational Health and Safety Act (OSHA).

## **5.6 Smoke Free Workplace**

### **5.61 Policy:**

This policy will establish smoke-free rules for all County and District buildings as well as vehicles owned by the county. These guidelines will also include information pertaining to the establishment of authorized smoking areas near or around county buildings.

All current and future Apache County and District facilities are designated smoke-free buildings.

Smoking is prohibited within a minimum of 20 feet, and a reasonable distance, from any entrance, window and ventilation system of all buildings and facilities; such reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, window, ventilation systems or any other means.

Smoking is prohibited in all Apache County and District vehicles.

“No Smoking signs” compliant with the Smoke Free AZ Act Smoke-Free Arizona Act A.R.S. §36-601.01, will be posted at all building entrances and exits and placed in all county vehicles.

### **5.62 Coverage:**

*This policy applies to all classified and unclassified positions as well as volunteers, contractors, clients, and visitors in county buildings or county vehicles. Nothing in this policy modifies or waives the “at will” status of an unclassified employee.*

### **5.63 Definitions:**

“Smoking” is defined as carrying or possessing any lighted tobacco product, including cigars, cigarettes and pipes.

“County Building” is defined as any current or future building owned, leased, or operated within Apache County.

“County Vehicle” is defined as any vehicles owned or leased by Apache County.

### **5.64 Reporting Procedure:**

An individual out of compliance with this Smoke-Free Workplace Policy will be asked to cease smoking in the no-smoking area. If the informal request goes unheeded, the incident may be reported to the appropriate Elected Official, Department Head or supervisor. All reports shall be treated as confidential to the extent that confidentiality does not interfere with the investigation.

### **5.65 Policy Enforcement:**

Elected Officials and Department Heads are responsible for implementing and enforcing the policy. Employees in violation of this policy will be disciplined in accordance with the Apache County Human Resource Manual section 4.7.