

**Policy Title**

Substance Abuse Policy

**Control Number**

HR003

**Policy Date**

Est 1995

**Revision Date**

03/07/16

**Purpose**

To ensure compliance with federal regulations as outlined under the Drug-Free Workplace Act and by the U.S. Department of Transportation; to identify the conditions by which personnel are subject to drug and alcohol testing; to outline testing procedures; and to enact policy to deter substance and alcohol abuse in the County workplace.

**Scope**

All Scotland County Employees  
All Post-Offer Candidates

**Exception**

The Scotland County Sheriff's Department is subject to a separate policy.

**Policy Statement**

Scotland County Employees are our most valuable resource and our goal is to provide a safe, healthy, satisfying work environment. Our policy is to:

- Assure employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
- Create a workplace free from the adverse effects of drug and alcohol abuse;
- Prohibit the unlawful manufacture, distribution, possession, or use of controlled substances;
- Encourage employees to seek professional assistance anytime personal problems, including drug or alcohol dependency, affects their ability to perform assigned duties.

**Applicability**

This policy applies as follows:

- All applicants who have been offered employment must undergo a post-offer drug screen test as part of the hiring process.
- All employees are subject to post-accident drug and/or alcohol testing if the incident meets the requirements as outlined in this policy.
- All employees in "safety sensitive" positions are subject to random drug screen testing.
- All employees who must maintain a Commercial Driver's License (CDL) as a job requirement are subject to random drug screen testing.

**Prohibited Substances**

The following categories of substances are prohibited by the County.

**Illegal Substances**

Illegal substances are those as defined by federal, state, and local laws, including, but not limited to cannabinoids, cocaine, barbiturates, amphetamines, opiates, phencyclidine (PCP), any designer drugs, or any other similar drugs.



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Illegal substance also includes the misuse of legally prescribed drugs, such as taking another person's prescription medications, over-dosage, or illegally obtaining prescription drugs.

Abuses of over-the-counter drugs (such as cough syrup) or products not intended for human consumption (such as glue, aerosols) are considered illegal substances under this policy.

### **Legal Drugs**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance carrying a warning label which indicates adverse effect to mental function, motor skills, or judgment must be reported to Supervision. The employee must seek medical advice before performing work-related duties.

### **Alcohol**

Alcohol includes any type of intoxicating agent in beverage alcohol, ethyl alcohol, or other alcohol (including methyl and isopropyl alcohol). This covers any medium such as medications, mouthwash, food or candy.

## **Prohibited Conduct**

### **Manufacture, Trafficking, Purchase, Possession, Use**

County employees are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, purchasing, possession, and/or use of prohibited substances on County premises, in County vehicles, in uniform, or on County business. This is inclusive of any drug paraphernalia.

### **Intoxication, Under the Influence**

Employees are expected to report to work fit for duty and free of any adverse effects of drugs or alcohol. This policy prohibits employees from being under the influence of alcohol or substances while on County premises, working, operating County vehicles, or conducting County-related business.

### **Alcohol Use**

No employee should report for duty or remain on duty if his or her ability to perform is adversely affected by alcohol. Employees shall not use alcohol while on duty/working, operating County vehicles, in uniform, on County property, or conducting County-related business. No Employee shall use alcohol within eight (8) hours of reporting for work/duty, or during hours they are "on-call". Due to the nature of services provided by Public Safety Employees, some departments may implement more stringent rules related to alcohol use prior to reporting to duty.



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### **Criminal Drug Conviction**

All employees are required to notify the County of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction. Failure to comply with this provision shall result in termination of employment.

### **Compliance**

Employee compliance with the County's Substance Abuse Policy is mandatory. All employees are subject to drug and/or alcohol testing as a condition of employment.

Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document, or submit with a request for testing shall be removed from duty and subject to disciplinary action, up to and including termination, as defined in the Scotland County Personnel Policy.

Any employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their employment may be terminated on the grounds of failure in personal conduct.

Refusal may include an inability to provide a sufficient specimen or sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.


### **Safety Sensitive Positions**

Safety Sensitive Positions are jobs where an employee holding the position has the responsibility for his or her own safety or the safety of other people. Such positions would be particularly dangerous if the employee is using drugs or alcohol while on the job. An employee occupying a Safety Sensitive Position has to be with a clear mind and diligent while occupying such positions.

Random Drug Screen Testing is allowable for employees in Safety Sensitive Positions. Examples of these positions are: EMT; Law Enforcement carrying guns; CDL required occupations; medical professionals including nurses; prison guards and prison employees with direct contact. The County Safety Sensitive Positions are listed in "*Substance Abuse Policy Appendix A, Safety Sensitive Positions*".

### **Post-Offer Screening**

All applicants who have received an offer of employment will undergo a drug screen test as a condition of employment. Applicants are notified of the County Substance Abuse Policy and sign a consent form prior to the screening.

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Refusal to submit to testing will result in disqualification of further employment consideration. Any applicant with a positive test result will be denied employment.

### **Transfers to Safety Sensitive Positions**

Current employees who are transferring to a Safety Sensitive Position will be required to undergo a drug screen test before actual placement in the position.

A positive test result or refusal to submit to testing will both result in disqualification to transfer. The employee would be subject to disciplinary action, as defined in the Scotland County Personnel Policy.

### **Random Screening**

Employees serving in any of the identified Safety Sensitive Positions are subject to random drug testing. Prior to the screen, the employee will be required to sign a consent form.

Refusal to submit to testing or a positive test result will subject the employee to disciplinary action.

Random drug screenings will be conducted quarterly based on a predetermined percentage, not less than 10%, of the random selection pool for the calendar year. The County Manager will issue an Administrative Technical Bulletin for any changes in percentage. Our third party administrator performs the random selection. The random selection is based on the entire pool population so that each employee has an equal chance of selection without regard to any previous testing.

### **Commercial Driver License (CDL)**

Any positions requiring a CDL are placed into a separate selection pool based on Department of Transportation (DOT) guidelines. The random drug and alcohol screens for this group will be conducted quarterly based on the DOT published rate for the current year. The random selection is based on the entire pool population so that each employee has an equal chance of selection without regard to any previous testing.

### **Post-Accident Screening**

In some situations, employees may be required to take a post-accident drug and/or alcohol test. It is the County's discretion to deem a situation, falling outside of these guidelines, such that drug and/or alcohol testing is required.

Refusal to submit to testing or a positive test result will subject the employee to disciplinary action.



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### **All Employees**

All employees, regardless of position will be required to take a drug test in the following situation:

- Any accident resulting in death/fatality
- Any accident with bodily injury requiring medical attention away from the scene of the accident, or personal injury requiring immediate medical attention.

### **Safety Sensitive Positions**

In addition to the above situation, employees in Safety Sensitive Positions will be required to take a drug test for the following situations:

- Motor vehicle accidents with property damage estimated to exceed \$1000, provided circumstances suggest that an employee may have contributed to the accident.

A Safety Sensitive Position Employee, performing tasks not usually considered safety sensitive in nature, might be excused from a post-accident test, but will be subject to Reasonable Suspicion testing depending upon the circumstance of the accident.

### **Commercial Driver License (CDL)**

In addition to the above situations, employees in CDL positions will be required to undergo both a drug and alcohol test for the following situations involving a Motor Vehicle Accident:

- Human fatality
- Citation and Bodily injury with immediate medical treatment away from the scene
- Citation and Disabling Damage to any motor vehicle requiring tow away

### **Testing Timeliness**

Post-Accident drug and/or alcohol testing should occur as immediately as possible after the accident. Otherwise the following guidelines should be observed. If a required drug and/or alcohol test is not performed within these guidelines, reasons for failure to test must be documented and submitted to Human Resources.

#### Alcohol Testing


Ideally, post-accident alcohol testing should occur within two (2) hours of the accident. However, if the test cannot be performed within eight (8) hours of the accident, it will not be given at all.

#### Drug Testing

Drug testing should be performed within thirty-two (32) hours of the accident. Otherwise, it will not be given at all.

### **Reasonable Suspicion Screening**

All employees are subject to reasonable suspicion drug and/or alcohol testing. A reasonable suspicion referral will be made on the basis of documented objective facts and circumstances

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which are consistent with drug and alcohol use. In general, reasonable suspicion must be based on the following:

- First hand observations seen or heard by supervisors or department heads
- Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
- Observations made just before, during or just after performance of job duties

Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use. The supervisor must reasonably conclude that an employee has consumed, is under the influence, or is impaired while on duty.

The “*Substance Abuse Reasonable Suspicion Determination*” form will be used to guide the supervisor and document all behaviors and observations to support suspected drug and/or alcohol use. Where possible the supervisor should have the employee observed by another member of management prior to the referral.

An employee who is asked to submit to a reasonable suspicion drug and/or alcohol test will be driven to the testing site.

Refusal to submit to testing or a positive test result will subject the employee to disciplinary action.

**Testing Timeliness**

Reasonable Suspicion testing should occur as soon as a determination is made. Otherwise the following guidelines should be observed.

Alcohol Testing

Ideally, reasonable suspicion alcohol testing should occur within two (2) hours of the determination. However, if the test cannot be performed within eight (8) hours of the determination, it will not be given at all.

Drug Testing

Drug testing should be performed within thirty-two (32) hours of the determination. Otherwise, it will not be given at all.

**Testing**

All drug and alcohol testing shall be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment and laboratory facilities that meet federal and state guidelines.

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**Consent**

Prior to testing, employees and applicants will be asked to sign a "Consent and Release" form. By consent, the employee or applicant is willingly submitting to the required drug and/or alcohol test and permitting the release of the test results to the County.

**Test Panel**Drug Testing

The minimum drug screen panel will test for Cocaine, Marijuana (THC), Phencyclidine (PCP), Amphetamines, Opiates, Benzodiazepines, Barbiturates, Methadone, Propoxyphene, and Oxycodone.

A DOT screen panel will test for Cocaine, Marijuana (THC), Phencyclidine (PCP), Amphetamines, and Opiates.

In instances, where there is a reasonable suspicion that an employee is abusing a substance other than the drugs listed, the County reserves the right to test for additional drugs under the County's own authority.

Alcohol Testing

If the initial breath alcohol concentration (BAC) indicates an alcohol concentration of 0.02 or greater, a second test will be performed 15 minutes later to confirm. If the second BAC test indicates an alcohol concentration of 0.02 or greater the employee will be removed from his or her position for eight (8) hours.

**Collection Process**

Employees or applicants submitting to a drug and/or alcohol test will be directed to a certified collection site. Individuals will be required to present proper identification at the site. Chain of Custody protocols will be followed by the collection site and the individual.


The collection site is responsible for the submission of samples to the certified laboratory.

**Medical Review Officer (MRO)**

An independent MRO will review positive drug test results and evaluate the laboratory test results in conjunction with an employee's or applicant's medical history. The MRO may contact the individual prior to release of the results to the County in order to determine if the positive screen is related to prohibited drug use or current medical condition.

**Positive Test Results**Drug Test

A laboratory confirmed positive drug test result will be review by an independent MRO (Medical Review Officer). The MRO will make the final determination a screen is positive.

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Alcohol Test

A confirmed breath alcohol concentration (BAC) of 0.04 or greater will be considered a positive alcohol test.

**Right to Re-Test**

An employee who questions a positive drug screen result may request a re-test of the original sample. Upon notification of a positive drug test result, the employee has 72 hours to make the request for retest to the Medical Review Officer (MRO). All costs for such testing are paid by the employee.

**Employee Assistance and Rehabilitation**

An employee with a confirmed positive drug and/or alcohol test will be removed from his or her position, informed of the rehabilitation program and referred to the Scotland County Employee Assistance Program (Substance Abuse Professional - SAP).

A referral to the Employee Assistance Program or entrance into a Rehabilitation Contract will not preclude any determined disciplinary action.

The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick, vacation or compensatory leave in order to participate in the prescribed rehabilitation program.

If an employee is allowed to return to work, he or she must adhere to the following conditions:


- Follow the rehabilitation program as prescribed by the SAP
- Have a confirmed negative drug and/or alcohol test prior to or at return
- Submit to random follow-up tests

**Re-Entry Agreements**

Employees who re-enter the workforce must consent to a Re-Entry Agreement. The agreement will include, but is not limited to, the following elements:

- A release to work statement from the SAP
- A negative drug and/or alcohol test result(s)
- Unannounced frequent follow-up testing for a period of one to five years with at least six (6) tests performed the first year.
- A statement of expected work-related behaviors
- A statement of expectation to follow specific after-care requirements
- A statement acknowledging that violation of the Re-Entry Agreement is grounds for termination



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The Re-Entry Agreement is a last chance opportunity. An employee with a positive drug and/or alcohol test after such an agreement will not be afforded another Re-Entry opportunity.

### Disciplinary Action

The following are subject to disciplinary action, up to and including termination, in accordance with the Scotland County Personnel Policy. The following are representative and not meant to be an exclusive list:

- Engagement in any of the “Prohibited Conduct” activities expressed in this policy
- Failure to notify of a Criminal Drug Conviction
- Failure or refusal to fully comply with the Substance Abuse Policy
- Intentional falsification of information, test sampling or test results
- Failure to provide sample for testing upon request
- Refusal to submit to a requested test
- Positive results of a test
- Violation of a Re-Entry Agreement

### Special Note

Breathe Alcohol Concentration (BAC) of 0.02 or greater, but less than 0.04, will be considered a “personal conduct infraction” and will be addressed as such under the Scotland County Personnel Policy.

### References

#### Federal/State

N.C. General Statute 95-230, as amended  
 49 CFR Part 40 (Drug and Alcohol Regulations) as amended  
 Federal Drug-Free Workplace Act of 1988, as amended  
 Substance Abuse and Mental Health Services Administration (SAMHSA), as amended

#### Scotland County

Scotland County Personnel Policy  
 Substance Abuse Policy Appendix A, Safety Sensitive Positions (HR003-AA)  
 Substance Abuse Reasonable Suspicion Determination form (HR-F001)  
 Consent and Release; Drug and/or Alcohol Screening (HR-F003)