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Franklin Co Solid Waste Mgmt Auth
And United Public Svc Employees
Union

LECTIVE BARGAINING AGREEMENT

By and Between

2140 MD
26295 GEN

**COUNTY OF FRANKLIN
SOLID WASTE MANAGEMENT AUTHORITY**
and



UNITED PUBLIC SERVICE EMPLOYEES UNION

RECEIVED July 1, 2000 - June 30, 2003

SEP 20 2001

NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

22

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ARTICLES OF AGREEMENT

Made this 11th day of November, 2000, by and between the County of Franklin Solid Waste Management Authority, (herein after called the "Authority") and United Public Service Employees Union, (herein after called the "Union") acting as representative for and on behalf of bargaining unit employees of the County of Franklin Solid Waste Management Authority.

ARTICLE 1 APPLICABLE LAW

In the event any of the provisions of this Agreement shall be in conflict with any state or federal statute, such state or federal statute shall govern, but the remainder of the Agreement shall not be affected thereby.

ARTICLE 2 RECOGNITION

The Authority recognizes the Union as the sole and exclusive collective bargaining agent for all full-time and part-time employees except the Executive Director and the Secretary to Board/Assistant Treasurer.

ARTICLE 3 PURPOSE

It is the intent and purpose of the parties hereto by this agreement to promote and improve labor and economic relationships between the Authority and its employees as represented by the Union and to set forth herein the basic Agreement covering areas of pay, hours of work, adjustment of grievances, and terms and conditions of employment to be observed between the parties hereto. The parties desire to achieve the highest level of employee performance consistent with safety, good health and sustained effort.

ARTICLE 4 MANAGEMENT RIGHTS

Section 1. The Authority retains the sole right to manage its business affairs and services and to direct the working force, including the right to decide the number and location of its business and service operations, the business and service operations to be conducted and rendered, and the methods, processes and means used in operating its business and services, and the control of the buildings, real estate, materials, parts, tools, machinery and all equipment which may be used in the operation of its business or in supplying its services; to determine how the work required in operating its business and supplying its services shall be performed by employees covered by this agreement; to maintain order and efficiency in all its departments and operations; including the sole right to discipline, suspend and discharge employees for cause, to hire, lay off, assign, transfer, promote and determine various departments, and the right to establish rules pertaining to the operation of its business.

Section 2. The above rights of the Authority are not all inclusive, but indicate the type of matters or rights which belong to and are inherent to the Authority.

Section 3. Nothing contained in this article shall be construed as a waiver of the Union's right to bargain pursuant to the Taylor Law.

ARTICLE 5

UNION SECURITY

Section 1. Membership in the Union shall be voluntary, but since both parties to this agreement recognize that a strong and active Union with full membership participation is desirable to the collective bargaining process, the Authority agrees that there shall be no discrimination, interference, restraint or coercion by the Authority or any of its agents or employees against any employee because of their membership or non-membership in the Union.

Section 2. The Union shall have the right to represent employees in the defined bargaining unit in any and all proceedings under the Public Employees' Fair Employment Act, and under any other applicable rule, regulation or statute, under the terms and conditions of the Agreement, to designate its representative and to appear on their behalf to effect such representation; to direct, manage and govern its own affairs, to determine those objectives free from any interference, restraint, coercion or discrimination by the Authority.

Section 3. The above rights of the Union are not all inclusive, but do indicate the type of matters or rights which are inherent as a bargaining agent.

Section 4. The Union shall have the right to post notices of official business, appropriate state law, non-political notices or communications on bulletin boards maintained on the premises by the Authority. Such notices will be in good taste and not be derogatory.

Section 5. The Union shall have the right to confer with employees on the job for purposes of administering, adjusting or interpreting the terms of this agreement provided prior notification has been given to the appropriate Authority management designee.

Section 6. The Authority agrees that it will permit and pay one representative of the Union who is a regular Authority employee, time while on the job to resolve grievances and time to meet with an Authority representative to resolve and/or discuss differences of opinion regarding the interpretation of the terms of this agreement.

Section 7. The Authority agrees to provide the Union a list of Authority bargaining unit employees upon request.

ARTICLE 6

DUES DEDUCTIONS

Section 1. The Authority shall deduct from the wages of the employees and remit regular membership dues for all employees as who have signed the appropriate authorization permitting such deduction. The Authority agrees to authorize deductions and remittance of such monies exclusively for the Union as the recognized bargaining agent for the employees in Article 2.

Section 2. The Authority agrees to deduct from the wages of all employees and who are not members of the Union, an agency shop fee in the amount of the dues levied by the Union. Such sum shall be remitted to the Union.

Section 3. Deductions and membership dues and agency shop fees shall be made uniformly and

consistently on each pay day of the month. Said funds shall be remitted to the United Public Service Employees Union, 3555 Veterans Highway, Suite H, Ronkonkoma, New York 11779-3020.

Section 4. The Authority shall not be liable by reasons of the requirements of this agreement for remittance or payment for any sum other than that constituting actual deductions made from wages earned by employees.

Section 5. The Union hereby agrees to indemnify the Authority and hold harmless the Authority regarding any claims and suits pertaining to any deductions as set forth in Section 1 and 2 above.

ARTICLE 7 STRIKES

Pursuant to Section 210, Subdivision (1) of the Taylor Law, the Union hereby affirms that it does not assert the right to strike against the Authority, to assist or participate in any such strike or to impose an obligation on its membership to conduct, assist or participate in any such strike.

ARTICLE 8 COMPENSATION

Section 1.

	Effective 7-1-00	Effective 7-1-01	Effective 7-1-02
Landfill Supervisor	15.14	15.67	16.22
Landfill Operator - Team Leader	10.94	11.32	11.72
Landfill Caretaker - Team Leader	10.81	11.19	11.58
Landfill Operator	10.38	10.74	11.12
Landfill Caretaker	10.25	10.61	10.98
Floating Landfill Caretaker	10.25	10.61	10.98
Motor Equipment Operator II	11.08 ✓	11.47 ✓	11.87
Part-time Floating Landfill Caretaker	8.87	9.18	9.50
Scale Operator/Typist	8.87	9.18	9.50
<u>Probationary employees:</u> New probationary employees shall receive fifty cents (.50) per hour less than the applicable wage rate listed above. After the six (6) month probationary period, the employee shall receive the applicable wage rate listed above.			

Section 2. All new employees shall be subject to a six month probationary period and compensated as noted in Section 1.

Section 3. Employees who are authorized to use their own vehicle for Authority business will be paid the rate as provided in the current UPSEU/Franklin County contract (effective January 1, 1998 = \$.31 per mile).

Section 4. If an employee is assigned to a shift other than the day shift, said employee shall receive a shift premium of fifty cents (.50) per hour for all hours worked.

Section 5. Employees called back to work at a time other than their regular shift shall be paid a minimum of three (3) hours of pay at a rate of time and one half.

Section 6. Permanent employees required to work in a higher paid position shall receive compensation at the same rate for the higher paid position.

Section 7. Permanent employees required to work in a lesser paid position shall receive compensation not less than their current paid position.

ARTICLE 9 **HOURS OF WORK AND WORK WEEK**

Section 1. The regularly established work week shall include any hours between 12 midnight Sunday to 12 midnight the following Sunday.

Section 2. The regularly scheduled work week shall be Monday through Saturday consisting of forty (40) hours.

Section 3. An 80-hour pay period will be in effect for all employees covered by this agreement.

ARTICLE 10 **OVERTIME PAY**

Section 1. Employees will be paid time and one-half (1 ½) for all hours over forty (40) hours in any one week.

Section 2. Holiday pay shall be considered as work time for the purposes of calculating overtime.

Section 3. The Authority will endeavor to divide overtime work equally among the employees immediately qualified to do the available work. A listing of overtime hours worked will be furnished upon request to the Union.

Section 4. In the event no employee wants to accept the overtime assignment, the Authority shall have the right to assign the overtime to the least senior employee qualified for the assignment. Such mandatory overtime assignments shall not exceed twelve (12) hours per week. Failure of employees to accept overtime assignments under the established procedure shall be grounds for disciplinary action.

ARTICLE 11

RETIREMENT

The Authority agrees that the one-fiftieth (1/50th) non-contributory retirement plan, retroactive to 1938, shall be in effect for all eligible employees (Tier I and Tier II), effective April 1, 1985. This plan is known as 75-g. Tier III and Tier IV plan for all others.

ARTICLE 12

RETIREMENT SYSTEM ADDRESS

It is agreed that any specific questions regarding membership in the New York State Retirement System shall be directed to the headquarters of the System, Alfred E. Smith Office Building, Albany, New York.

ARTICLE 13

LEAVE OF ABSENCE WITH PAY

Section 1. Each employee shall earn twelve (12) days sick leave for the year accruing from January through December with a maximum accrual of one hundred and twenty-five (125) working days. *1,000 DAYS*

It is understood that sick leave shall be used for personal or family illness only.

It is understood that if an employee repeatedly takes sick leave before or after holidays, vacation, personal leave days, or pay days the Authority may require the employee to justify the sick leave by submitting medical certification.

Section 2. The following vacation schedule shall be in effect:

After one years' service	.....	(10) Ten Days	<i>95 97</i>
After two years' service	.....	(11) Eleven Days	<i>96 97</i>
After three years' service	.....	(12) Twelve Days	<i>97 97</i>
After four years' service	.....	(13) Thirteen Days	<i>97 2000</i>
After five years' service	.....	(14) Fourteen Days	<i>97</i>
After six years' service	.....	(16) Sixteen Days	<i>00</i>
After seven years' service	.....	(17) Seventeen Days	<i>01</i>
After eight years' service	.....	(18) Eighteen Days	
After nine years' service	.....	(19) Nineteen Days	
After ten years' service	.....	(20) Twenty Days	

The employee shall have the right to carry a maximum of five (5) days vacation time from one year into the next year. Vacation to be taken at a time mutually agreeable to the Authority and employee. In the event vacation time over five (5) days is not used by the end of their benefit year the employee will forfeit the unused time.

Section 3. The following paid holiday schedule will be in effect:

- | | |
|------------------------|-----------------|
| New Year's Day | President's Day |
| Martin Luther King Day | Memorial Day |

Independence
Labor Day
Columbus Day
Veteran's Day

Thanksgiving Day
Christmas Day
Floater Day (between Christmas and New Years Day
Employee's Birthday

When an above listed holiday falls on a Sunday, the Monday following shall be observed as the holiday.

If an employee works on an above listed national holiday, he/she shall be compensated at a rate of one and one half times (1 1/2x) their hourly rate, in addition to the paid holiday.

To receive holiday pay, an employee must work their normally scheduled work day before and after the holiday.

Section 4. Employees shall receive four (4) days of paid personal leave per anniversary year. For purpose of this section, an employee shall apply for personal leave at least one (1) working day in advance whenever practicable.

Section 5. Bereavement leave shall be granted for a period not to exceed three working days, including the date of the funeral, because of death in the employee's immediate family. Immediate family is defined as including spouse, parent, grandparent, spouse's parent and/or grandparent, child, brother, sister, legal guardian and foster parent. Employees may use any available paid leave time (personal, sick, vacation) for such leave.

ARTICLE 14 **DISABILITY INSURANCE**

The Authority agrees to deduct the allowable amount provided by New York State Disability Insurance.

ARTICLE 15 **JOB SECURITY**

Section 1.

- (a) Employees will acquire seniority upon the completion of a probationary period of six (6) months. Seniority will then retroactively accrue from the initial date of employment.
- (b) Authority seniority is defined as the length of continuous service in the bargaining unit of the Authority's operations. An employee's effective seniority date is as recorded on their personnel record which is available upon request.
- (c) Loss from Seniority. An employee shall lose his seniority and right to be on a seniority list if:
 - 1. The employee quits.
 - 2. The employee is discharged.
 - 3. The employee is absent for three (3) consecutive working days while regularly employed without notifying the Authority.
 - 4. The employee fails to return to work within five (5) working days of recall from lay-

- off or following any authorized absence.
5. The employee is transferred to a position not covered by this agreement for a period of six (6) months.
- (d) An employee permanently displaced from his job may exercise his seniority in the following manner:
1. The employee may be assigned to an open job.
 2. The employee may be assigned to a job held by a less senior employee provided he has the ability to satisfactorily perform the job.
 3. The employee may displace the employee with the least Authority seniority, provided he has the ability to satisfactorily perform the job.
- (e) Where the ability of two or more employees is considered to be equal, seniority shall be the deciding factor.
- (f) An employee's ability as used in this Section means an employee's immediate capability to perform the job satisfactorily. In determining an employee's capability, the Authority will consider the requirements of the job, the employee's past performance on the jobs he has performed, his dependability, physical fitness and skill.
- (g) Seniority is the sole factor in cases of temporary lay-off. Lay-off is considered temporary if the known duration is fourteen (14) working days or less.
- (h) Employees shall be given at least five (5) working days' notice of any permanent lay-off and employees shall be recalled in reverse order of the layoff, provided the employee to be recalled has the ability to do the available work.
- (i) A promoted or provisionally appointed employees position shall not be filled, except on a temporary basis during the required probationary period. Such an employee shall have the right to his former position at any time during the probationary or provisional period.

Section 2. The Authority agrees to post on the Authority facilities' bulletin boards, openings for any permanent positions for a period of ten (10) days.

The Executive Director will meet with a representative of the Union to review any departmental promotions that were not awarded to the most senior eligible employee, if such meeting is requested within five (5) working days of the assignment.

ARTICLE 16

UNIFORMS

Section 1. The Authority shall provide eleven (11) complete sets of uniforms for all permanent employees who work outdoors. A set of uniforms shall consist of one pair of pants and one long or short sleeved shirt. The Authority shall provide two (2) jackets for all employees.

Section 2. The Authority will maintain a service which provides adequate uniforms and cleaning service.

Section 3. The Authority shall provide up to seventy-five dollars (\$75) per year toward the purchase of safety shoes for each employee.

Section 4. Payment for workplace safety shoes as set forth in Section 3 above shall be on a reimbursement basis.

ARTICLE 17 **DRESS CODE**

Appropriate dress shall be worn on all normal working days. Appropriate dress shall include the wearing of hard hats, safety glasses, ear protection, and safety shoes as required by the Employer.

ARTICLE 18 **HOSPITALIZATION**

Section 1.

The Authority shall continue to pay for ninety percent (90%) of the full cost of healthcare coverage for all employees and their dependents.

Section 2. The Authority shall offer through payroll deduction, dental coverage in the UPSEU Benefit Plan at no cost to the Authority. The employee paid contribution rates per employee per month are as follows:

	Effective July 1, 2000	Effective July 1, 2002
INDIVIDUAL	\$21	\$23
FAMILY	\$35	\$38

ARTICLE 19 **GRIEVANCE AND ARBITRATION**

If any difference should arise between the Authority and the Union or an employee as to the meaning or application of the terms of this agreement, an earnest effort will be made to settle such differences in the following manner.

Section 1. Definitions. As used herein, the following terms shall have the following meanings:

- (a) "Employee" shall mean any person directly employed and compensated by the Authority who is represented by the Union.
- (b) "Grievance shall mean any claimed violation, misinterpretation or equitable application of the existing laws, rules, procedures, regulations, administrative orders or work rules of the Authority or a department thereof, which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees, supervision of employees or rate of compensation (meaning basic salary, longevity, overtime, call-out, shift differential, and out of title pay) provided,

however, that such term shall not include any matter involving retirement benefits or any other matter which is otherwise reviewable pursuant to law or rule or regulation having the full force and effect of law.

- (c) "Department" shall mean any office, or department of the Authority.
- (d) "Immediate Supervisor" shall mean the employee or officer on the next higher level of authority above the employee in the department wherein the grievance exists and who normally assigns and supervises the employee's work and approves his/her time record and evaluates his/her work performance.
- (e) "Days" shall mean all days other than Saturdays, Sunday, and legal holidays. Saturdays, Sundays, and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given within the terms of this Article.
- (f) Union representatives shall be present at each level of discipline and at each level of the grievance procedure.
- (g) The grievance and arbitration procedures set forth herein shall be the method of resolving challenges to disciplinary action for those employees not covered by Civil Service Law Section 75 and 76.

Section 2. Initial Presentation

- (a) An employee who claims to have a grievance shall present the grievance to the immediate supervisor.
- (b) The immediate supervisor shall discuss the grievance with the employee and shall take such investigation as is appropriate.
- (c) The supervisor shall answer the grievance, in writing, within three (3) days of receiving the grievance from the employee.

Section 3. Second Stage

- (a) If an employee presenting a grievance is not satisfied with the decision made by the immediate supervisor, the employee may, within ten (10) days thereafter, request, in writing, a review and determination of the grievance by the Executive Director.
- (b) The Executive Director, may, and at the request of the employee shall, hold a hearing, within ten (10) days after receiving the written request from the employee. The employee and the employee representative may present oral and written statements or arguments.
- (c) Within five (5) days after the close of the hearing, or when a hearing should have occurred, the Executive Director shall communicate the response in writing to the grievant, and to the employee's representative.

Section 4. Third Stage

- (a) If the grievance is not resolved in the second stage above, either the Authority or the Union may refer the matter to the Public Employment Relations Board (PERB) for appointment of an arbitrator in accordance with its rules. The party desiring advisory arbitration shall give written notice to PERB with a copy to the other party no later than ten (10) working days from the Executive Director's reply.
- (b) The arbitrator shall have no authority to add to, subtract from, or in any way modify the terms of this Agreement provided, however, that in the event a dispute arises as to the issues to be determined in the arbitration, said arbitrator is hereby empowered not only to resolve the dispute, but to determine the issues to be decided. The arbitrator's advisory decision shall be submitted to the Authority Board for its final and binding determination.
- (c) Written briefs may be submitted by either party to the Arbitration.
- (d) All fees and expenses of the arbitrator shall be borne equally by the parties. Each party to the arbitration is responsible for the expenses of presenting and defending its own case.

Section 5.

- (a) Generally, the concept of progressive and corrective disciplinary action shall be followed when imposing discipline. That is, discipline is designed to correct the employee's behavior, not merely to punish. Progressive discipline considers lesser punishment for minor infractions with harsher penalties for greater offenses. However, proven theft or unapproved removal or possession of Authority property shall be grounds for termination. The process of progressive discipline shall include counseling, oral reprimand, written reprimand, suspension or discharge.
- (b) Prior to any disciplinary interrogation, the employee shall be advised they are the subject of an investigation and shall be given written notice of their right to Union representation.
- (c) No employee shall be disciplined except for just cause. Such employee shall be served with written notice of the proposed action and the reason for it. Simultaneously, a copy of the notice shall be sent to the Union.
- (d) No disciplinary action shall be commenced more than six months after the Authority Board has knowledge of the alleged acts of incompetency or misconduct.

ARTICLE 20

LETTERS OF REPRIMAND

Section 1. An employee who receives a letter of reprimand must be given the opportunity to initial said letter before it is placed in the personnel file. The employee may appeal said letter by written, signed response. This response shall be placed on the employee's official personnel file

along with the original letter of reprimand and shall be a part of that file for one year from the date of the original letter of reprimand whereupon both the letter of reprimand and the response shall be removed. A copy of the letter is forwarded to the Union.

Section 2. After presentation of a letter of reprimand to any employee, whether initialed or not by the employee, the department head shall send a copy of said letter to the employee's last known home address and a copy to the Union.

ARTICLE 21

MISCELLANEOUS

Section 1. **Copies of Contract.** The Authority agrees to supply the Union with copies of the contract for distribution to each employee.

Section 2. **Bulletin Boards.** The Authority will authorize current bulletin boards for Union use.

Section 3. **Jury Duty.** Any Authority employee who is required to serve as a juror or to appear in court as a witness or to attend court pursuant to subpoena or other order of the court, shall be granted a leave of absence with pay provided that any fees, excluding mileage allowances, received, shall be paid to the Authority in a daily amount not to exceed the daily rate of compensation paid as juror's fees.

Section 4. **Health and Safety.** The Authority and the Union shall continue to make reasonable provisions for the health and safety of its employees during the hours of their employment. A committee will be appointed to meet quarterly or as necessary to periodically review health and safety factors. The committee will be composed of two (2) representatives of the Authority and two (2) representatives for the Union.

Section 5. **Certifications and Seminars** The Authority will continue to pay for all certifications, recertifications and seminars as required by any/all federal state, local or other agency.

ARTICLE 22

GENERAL CONSIDERATIONS

Section 1. No article or section in this agreement shall be in violation of Civil Service Law, the rules and regulations of the New York State Department of Civil Service, or the Judicial Conference of the State of New York, or any other law, local, state or federal.

Section 2. Established work breaks shall be continued as the current practice.

Section 3. In the event that any article or section of this agreement will be determined by a Court of competent jurisdiction to be null, void or unenforceable, such decision shall not affect any of the other provisions. It is further agreed that the parties to this contract will meet within (30) days to negotiate negated clauses.

Section 4. Neither party to this agreement shall make or attempt to make any alteration, modification, change or variation in any of the items expressly and specifically covered by this agreement without written mutual consent.

Section 5. Each employee has the right to examine their personnel file upon application in writing to the Executive Director.

Section 6. Any reference herein to the masculine or feminine gender shall be read to include the opposite gender as well.

ARTICLE 23 **MAINTENANCE OF STANDARDS**

All existing rules, regulations, practices, benefits, and general working conditions previously granted and allowed by the Authority, unless specifically excluded by this Agreement, shall remain in full force and effect. ✍

ARTICLE 24 **SUCCESSORS**

This Agreement shall be binding upon the parties hereto, their successors, administrators, executors and assigns.

ARTICLE 25 **LEGISLATIVE APPROVAL**

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PROMOTE ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS, THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

ARTICLE 26

DURATION

This contract is for a term of three (3) years commencing July 1, 2000 and continues in full force and effect until June 30, 2003 or until a new contract is negotiated. Furthermore, the parties thereto agree that either party may, on or after January 1, 2003 serve notice in writing upon the other party of its desire to begin negotiations for a successor agreement. In such event the parties and/or their representatives shall commence negotiations.

In witness whereof the parties set their hands and seals in agreement on the date first set forth above.

County of Franklin
Solid Waste Management Authority

Brian O. Harte
Brian O. Harte
Chairman

12-01-00
Date

United Public Service Employees Union

Kevin E. Boyce, Jr.
Kevin E. Boyce, Jr.
President

Gary M. Hickey
Gary M. Hickey
Vice President/Regional Director

Negotiating Committee:

James W. Deamer

Robert J. Keenan

11-27-00
Date

fcswma.gmh

COUNTY OF FRANKLIN SOLID WASTE MANAGEMENT AUTHORITY
ALCOHOL AND DRUG POLICY.
Effective July 1, 2000

Purpose:

This policy outlines the County of Franklin Solid Waste Management Authority (CFSWMA) standards on the prohibition of alcohol and drugs in the work place. The CFSWMA has a vital interest in maintaining safe, healthy and efficient work conditions for all employees. The purpose of this policy is to provide guidance to employees, thereby promoting productivity and protecting CFSWMA from liability. It will also provide instruction to supervisors when an employee appears impaired at work. This policy is also intended to comply with all applicable federal regulations governing work place alcohol and drug programs. All of these efforts will contribute to a safer work environment and protect our employees and the public from the risks posed by the use of alcohol and controlled substances.

Policy:

This policy is based upon the CFSWMA continuing efforts to prohibit the use of alcohol and drugs on the job, the Federal Drug-Free Workplace Act of 1989, the CFSWMA's Drug-Free Workplace and the Omnibus Transportation Employee Testing Act (OTETA). The CFSWMA will comply with United States Department of Transportation (USDOT) rules which mandate pre-employment, post-accident, random, reasonable suspicion, return-to-duty and following-up drug and alcohol testing of employees in various positions.

EMPLOYEE RESPONSIBILITIES

It is the policy of the County of Franklin Solid Waste Management Authority that:

1. No employee shall use, sell, distribute, dispense, possess or manufacture any alcoholic beverage or illegal drug or any other intoxicating substance on CFSWMA property, while on duty, or while in a CFSWMA vehicle, a vehicle leased for the CFSWMA business, or privately owned vehicle being used for CFSWMA business during the employee's work hours.
2. No employee shall report to work unfit for duty at the beginning of a shift or upon returning from any break, lunch or rest period, as a result of consuming alcohol, illegal drugs or other intoxicants. Further, no employee shall report to work in a condition that violates the rules set forth in the policy.
3. An employee holding a Commercial Drivers License (CDL) is further prohibited from the use of alcohol four (4) hours prior to operating a Commercial Motor Vehicle (CMV). No Supervisor or Executive Director having knowledge that an employee in such a position has had alcohol within four (4) hours shall permit that employee to operate a Commercial Motor Vehicle.

4. While prescription drugs are not prohibited, they should not render an employee unfit for duty. Situations of this nature shall be brought to the Supervisor's or the Executive Director's attention by the employee, especially if the employee's job responsibilities have an impact on the health and safety of others. An employee is obligated to discuss with his/her health care provider and and/or pharmacist the potential impairment of prescribed drugs. These situations should be addressed confidentially on a case-by-case basis and it may be necessary for the employee's fitness for duty. Failure of the employee to notify the Supervisor or Executive Director of the use of prescription drugs which impairs the ability of the employee to perform his duties may result in discipline.
5. Any work-related accident or injury involving CFSWMA vehicles, equipment and/or property where it can be demonstrated that the use of alcohol, drugs, or intoxicants may have been a contributing factor, will result in formal discipline which can include penalties up to and including termination of employment, in accordance with Section 75 of the Civil Service Law, if applicable or subject to termination pursuant to the discipline and discharge provisions of the current labor contract. Further, an employee shall be required to take post-accident alcohol and drug tests. An employee shall not use alcohol for eight (8) hours following an accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
6. An employee shall notify his/her Supervisor or Executive Director of any drug statute conviction which results from a violation occurring in the workplace no later than five (5) days after the date of such conviction. Failure of the employee to notify the Supervisor or Executive Director may result in discipline including termination.
7. An employee may be directed to undergo a medical examination under Section 72 of the New York State Civil Service Law if the Executive Director has a reasonable suspicion that the employee is not able to perform the essential duties of his or her job as a result of a disability which may be caused by alcohol or a controlled substance. Furthermore, an employee shall be directed to undergo alcohol and/or drug testing when the Supervisor or Executive Director has "reasonable suspicion" to believe the employee violated the alcohol or drug prohibitions of the Policy.

A reasonable suspicion must be based on specific reliable observations about the employee's appearance, speech, or body odors. Some examples would: be unsteady gait, odor of alcohol on the breath, thick or slurred speech, aggressive or abusive language or behavior, disorientation or lethargy. Usually, reasonable suspicion will be based upon a combination of these factors.

8. Refusal to submit to an alcohol or controlled substances test at any time, provided by these rules, will be construed as if a positive test result for controlled substances, or a .04 result for alcohol was obtained.

9. Every employee will receive a training class on the CFSWMA Alcohol and Drug Policy and the signs and effects of drug use in the workplace.
10. Violation of these rules may result in disciplinary action up to and including termination of employment.
11. Employees enrolled in CFSWMA's health insurance plan may use the Substance Abuse Program as set forth therein.

SUPERVISORY RESPONSIBILITIES

It is the policy of the County of Franklin Solid Waste Management Authority that:

1. Supervisors will receive a minimum of one (1) hour of training on alcohol misuse symptoms and indicators used in making determinations for reasonable suspicion testing and a minimum of one (1) hour training on drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.
2. Supervisors are responsible for determining through direct observation, whether an employee is capable of performing his/her assigned duties. Symptoms of being under the influence of alcohol and drugs include incoherent or belligerent speech, smell of alcohol, difficulty working, erratic or unusual behavior uncommon to the employee (See #7 of Employee Responsibilities Section.)
3. Employees who are suspected of being unfit for duty shall not remain at the workplace. Such incidents and situations as described in #1 of the Employee Responsibility Section should be documented in writing immediately and the CFSWMA Executive Director notified. An employee who is impaired should not be allowed to drive home from the workplace. (See #4 for further direction.)
4. Employees who are suspected of being unfit for duty as a result of alcohol or drug use shall be directed for "reasonable suspicion" based drug and/or alcohol testing. Supervisors shall immediately bring their observations to the attention of the CFSWMA Executive Director so that medical examination and/or testing arrangements are coordinated immediately.
5. After reasonable suspicion testing issues have been resolved, the Executive Director shall arrange to send the unfit employee home with a member of the employee's family or friend of the employee or in a taxi at the employee's expense. If all other alternatives are exhausted, the Executive Director may allow an employee who is unfit for duty to be driven home by the Executive Director's designee in a CFSWMA vehicle.
6. The fact that an unfit employee suspected to be under the influence of alcohol or drugs is not allowed to remain at work is not considered a disciplinary suspension. After a

removal is achieved. Supervisors should discuss the specifics of the situation with the Executive Director.

7. When an employee displays dangerous, aggressive or abusive behavior which constitutes a danger to that employee or others and the employee resists voluntarily leaving the workplace, the Supervisor shall immediately bring this to the attention of the CFSWMA Executive Director. The employee may be subject to disciplinary actions. In cases where the employee does not comply with an order to leave the premises, or due to the time of day disciplinary suspension approval could not be obtained and the employee continues to display aggressive and/or abusive behavior which constitutes a danger in the workplace, the Supervisor or Executive Director may have to contact the local law enforcement authorities to remove the employee from the workplace. Law enforcement intervention should only be taken if it is believed an immediate danger to persons or property exists and the other measures described above were unsuccessful in controlling the situation.

MANAGEMENT RESPONSIBILITIES

It is the policy of the County of Franklin Solid Waste Management Authority that:

1. A drug and alcohol free workplace be maintained through the efforts and personal example of management.
2. Appropriate corrective actions be taken with Supervisors who fail to perform their duties and responsibilities as outlined in this policy.
3. The Executive Director and Supervisors shall discuss with subordinate employees any behavior or job performance factors that may indicate the use of drugs, alcohol or other violations of this policy and when appropriate, suggest that employees seek assistance from a substance abuse professional (SAP). The substance abuse professional shall be either a licensed physician or a licensed Certified psychologist, social worker, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with clinical experience in the diagnosis and treatment of alcohol and prohibited drugs-related disorders.
4. The Executive Director shall direct employees to undergo mandatory pre-employment /pre-duty, reasonable suspicion, random, post-accident, return-to-duty and follow-up testing in accordance with the OTETA. The Executive Director should also direct other employees believed to be unfit for duty for a medical examination and possible alcohol and/or drug testing in accordance with Section 72 of the New York Civil Service Law.
5. All employees and Supervisors understand CFSWMA's Workplace Policies and Drug Testing Procedures. All Supervisors will be trained how to recognize behaviors that indicate reasonable suspicion for requesting medical examinations, including drug and/or alcohol tests.

TYPES OF TESTING

Pre-employment Testing: Prior to obtaining employment with CFSWMA, an applicant for employment shall be subject to a controlled substance test. Refusal to submit to such test will foreclose any further action on the applicants employment for at least six (6) months.

Post Accident Alcohol and Controlled Substances Testing: An employee involved in an accident shall be subject to alcohol and controlled substances testing when either: 1.) the accident involved a fatality or serious injury or; 2.) the driver receives a citation under state or local law for a moving traffic violation arising from the accident.

Reasonable Suspicion Alcohol and Controlled Substances Testing: When there is reasonable evidence to suspect that an employee has reported to work, or is working impaired, the employee shall be subject to alcohol and controlled substance testing. (See #7 of Employee Responsibilities Section).

Random Alcohol and Controlled Substance Testing: An employee shall be subject to alcohol and controlled substance testing at any time on a random basis. Random selection shall be determined by the SAP by notifying a Supervisor or Executive Director 24 hours prior to the testing. The Executive Director will keep the information confidential until notification of the Supervisor at the beginning of a shift, which employees shall be required to report for testing. Employees selected for the random testing must proceed immediately to the testing site upon notification of selection. Random controlled substances testing shall be administrated at a minimum annual rate of fifty percent (50%) of the average number of employees. Controlled substances test shall be tested for the presence of, among other substances, marijuana, cocaine, opiates, amphetamines and phencyclidine. Random alcohol testing shall be administered at minimum annual rate of twenty five percent (25%) of the average number of employees.

Return to Duty Testing: An employee who has previously engaged in prohibited conduct regarding alcohol abuse will be required to undergo a return to duty alcohol test. To return to duty, the test must result in a breath alcohol concentration of less than .02. An employee who has previously engaged in prohibited conduct regarding controlled substances abuse will be required to undergo a return to duty controlled substances test. To return to duty the employee must test negative for controlled substances use. An employee who reports to work unfit for duty and is sent home shall be subject to medical examination by a physician at CFSWMA's expense as a condition of returning to work.

Following-up Testing: Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the employee is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional mandating that the employee attend a minimum of six (6) follow-up tests scheduled within one (1) year.

PROCEDURES FOR POLICY ENFORCEMENT

Alcohol Concentration of .02 but less than .04: An employee having a test result of an alcohol concentration of .02 but less than .04 will be immediately removed from duty for a period of twenty four (24) consecutive hours. After the first offense, the employee will be subject to passing the return to duty alcohol test before returning to work. An employee sent home after the first offense will be removed from duty for a period of twenty four (24) consecutive hours and shall receive a letter from the Executive Director recommending that he/she voluntarily obtain assistance through the SAP. Participation in the program shall be subject to passing the return to duty alcohol test before returning to work. An employee sent home after the second offense shall be entitled to use sick leave or vacation. Upon a third offense, the employee will be removed from duty and mandatorily referred to the SAP. The substance abuse professional will determine when an employee is fit to return to work.

After the third offense, the employee shall be subject to passing the return to duty alcohol test before returning to work. An employee sent home after the third offense shall be entitled to use vacation but not sick leave. Upon a fourth offense, an employee will be removed from duty for a period of twenty four (24) consecutive hours, mandatorily referred to a SAP and subject to disciplinary charges including termination of employment, in accordance with Section 75 of the Civil Service Law, if applicable, or subject to termination pursuant to the discipline and discharge provisions of the current labor contract.

Alcohol Concentration of .04 and Greater: An employee having a test result of an alcohol concentration of .04 or greater will be removed from duty and referred to a SAP and return to duty will be determined by the Substance Abuse Professional. An employee sent home shall be entitled to use sick leave or vacation. Failure to participate in the Program will result in disciplinary action including termination of employment, in accordance with Section 75 of the Civil Service Law, if applicable, or termination pursuant to the discipline and discharge provisions of the current labor contract. An employee returning to duty will be subject to a return to duty alcohol test before returning to work and a minimum of six (6) randomly selected follow up tests in a period of one (1) year. Employee shall not lose pay for work time lost because of testing. Upon a second offense of a test result of an alcohol concentration of .04 or greater, the employee will be removed from duty and, the employee will be subject to disciplinary action including termination of employment, in accordance with Section 75 of the Civil Service Law, if applicable, or termination pursuant to the discipline and discharge and discharge provisions of the current labor contract.

Controlled substances: An employee having a positive test result for controlled substances will be removed from duty and referred to a SAP. Return to duty will be determined by the Substance Abuse Professional. An employee sent home shall be entitled to use sick leave or vacation leave. Failure to participate in the Program will result in disciplinary action including termination of employment, in accordance with

Section 75 of the Civil Service Law, if applicable, or termination pursuant to the discipline and discharge provisions of the current labor contract. An employee returning to duty will be subject to a minimum of six (6) mandatory selected follow up test in a period of one (1) year. Employee shall not lose pay for work time lost because of testing. Upon a second offense of a positive test result for controlled substances, the employee will be removed from duty and subject to disciplinary action including termination of employment, in accordance with Section 75 of the Civil Service Law, if applicable provisions of the current labor contract.

In summary, it is the policy of the CFSWMA that all employees remain free of any drug and/or alcohol induced impairment while on duty and refrain from the use of illegal drugs and/or alcohol while on duty.

Nothing herein shall prevent the CFSWMA from taking such disciplinary action against employees in safety sensitive positions or in non-safety sensitive positions, as it would otherwise be permitted to take under the collective bargaining agreement.

Savings Clause: In the event that any portion of this Policy should be found to be invalid by a decision of a tribunal of competent jurisdiction, then such specific portion specified in such decision shall be of no force and effect, but the remainder of this policy shall continue in full force and effect, unless that would lead to unjust or impractical results. Upon the issuance of such a decision, then either party shall have the right immediately to reopen negotiations with respect to a substitute for such portion of the policy involved.

SIGNATORIES

Brion O'Hart

Chairman, County of Franklin Solid Waste Management Authority

12-01-00
Date

Jay M. Huber

Representative, United Public Service Employees Union

11-27-00
Date