



## Finance Committee Meeting

### AGENDA

June 2, 2009

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I. CALL TO ORDER

II. MATTERS BEFORE COMMITTEE

1. [Proposed Drug and Alcohol Misuse Policy](#)

III. ADJOURN



## Finance Committee Meeting

### AGENDA

June 2, 2009

**Item:**

Proposed Drug and Alcohol Misuse Policy

**Department:**

**Additional Information:**

**Financial Impact:**

**Budgeted Item:**

**Recommendation / Request:**

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

☐ [Proposed Drug & Alcohol Misuse Policy](#)

☐ [SRCS Drug Plan](#)

☐ [SRCS Alcohol Plan](#)

☐ [DOT Employer Handbook](#)

☐ [DOT Employee Handbooks](#)

PROPOSED

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# **DRUG & ALCOHOL MISUSE POLICY**

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**for**

**CITY OF MONROE, GEORGIA**

**ADOPTED**

**(date)**

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## **Section 1. INTRODUCTION**

It is the intent of the City of Monroe to provide a working environment as free from the use of non-prescribed drugs and alcohol, and the abuse of prescribed drugs as reasonably possible. Given the risks that arise if employees are attempting to perform their duties while using or having used drugs or alcohol, the City of Monroe has adopted the following policy regarding drugs and alcohol which applies to all employees of the City. All employees must abide by the statements within this policy.

## **Section 2. DEFINITIONS**

To better understand this Policy the following definitions apply:

Accident - An unexpected and undesirable event resulting in injury or damage to person or property.

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

Alcohol Use - The consumption of any beverage, mixture, or preparation including medication, containing alcohol.

DOT – Department of Transportation

Drug - Any substance (other than alcohol) that has known mind or function—altering effects on a person, specifically including any psychoactive substance, and including, but not limited to, controlled substances.

Collection Site - A place designated by the employer where individuals present themselves for providing a specimen of their urine or saliva, and/or taking a Breath Alcohol Test to be analyzed for the presence of drugs and alcohol.

Medical Review Officer - A licensed physician (Medical Doctor or Doctor of Osteopathy) responsible for receiving laboratory results generated by an employer's Drug and Alcohol Testing Program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

PHMSA – Pipeline and Hazardous Materials Safety Administration

Random Selection Testing - Unannounced testing.

Reasonable Suspicion/Cause Testing - Testing performed when an employer believes the actions, appearance, or conduct of an employee are indicative of drug and/or alcohol use.

Subscribed Regulatory Compliance Service (S.R.C.S.) – A service of the Municipal Gas Authority of Georgia which offers an alcohol and drug misuse prevention plan that is updated as needed to provide continuous compliance with PHMSA requirements.

Substance Abuse Professional - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified Psychologist, Social Worker, Employee Assistance Professional, or an Addiction Counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of drug and/or alcohol related disorders.

### **Section 3. WHO MAY BE TESTED**

#### **A. WHO IS INCLUDED**

All City employees are subject to testing under this policy. Some employees will also be covered and tested under other plans (i.e.: PHMSA as presented by S.R.C.S. or DOT)

Due to the nature of the City operations and variations necessary to accommodate individual situations, the provisions of this policy may not apply to every employee in every situation. The City reserves the right to rescind, modify or deviate from this or any other policy, guideline or practice as it considers appropriate in its sole discretion, either in individual or city-wide situations with or without notice.

#### **B. AT WILL EMPLOYMENT**

Nothing in this policy or any other policy alters the fact that all employees of the City of Monroe are employed for an indefinite period and that such employment may be terminated with or without cause or notice at the will of either the employee or the employer. Neither this policy nor any related policies, guidelines or practices are employment contracts or parts of any employment contract.

#### **Section 4. PROHIBITED DRUG-RELATED AND/OR ALCOHOL-RELATED CONDUCT**

The manufacture, distribution, dispensation, sale, purchase, use, possession, or reporting to work under the influence of non-prescribed drugs or alcohol is prohibited while on City property or during working hours. The sale, purchase, use or possession of equipment, products and materials which are used, intended for use, or designed for use with non-prescribed controlled substances also is prohibited while on City property or during working hours. Reporting to or being at work with a measurable quantity of intoxicants, non-prescribed controlled substances in blood, urine, or saliva is prohibited. Reporting to or being at work with a measurable quantity of prescribed narcotics or over-the-counter drugs in blood or urine or use of prescribed narcotics or over-the-counter drugs is also prohibited where in the opinion of the City such use prevents the employee from performing the duties of his or her job or poses a risk to the safety of the employee, other persons or property.

##### **A. Alcohol Concentration of 0.02 or Greater**

1. Employees are prohibited from reporting for duty or remaining on duty requiring the performance of job functions while having an alcohol concentration of 0.02 or greater.

##### **B. Pre-Duty Use of Alcohol Within Four (4) Hours**

1. Employees may not use alcohol within four (4) hours prior to performing job functions or, if an employee is called to duty to respond to an emergency within the time period after the employee has been notified to report for duty. If a City of Monroe representative has actual knowledge that an employee has used alcohol within four (4) hours prior to performing job functions or within the time period after the employee has been notified to report for duty, the employee will not be permitted to perform or continue to perform job functions.

##### **C. On-Duty Use of Drugs and/or Alcohol**

1. Employees may not use drugs and/or alcohol while performing job functions. If a City of Monroe representative has actual knowledge that an employee is using drugs and/or alcohol while performing job functions, the employee will not be permitted to perform or continue to perform job functions.

**D. Abuse of Prescription Drugs or Over-The-Counter Drugs**

1. Employees using prescription medication while on the job shall do so in strict accordance with medication directions. It is the employee's responsibility to notify the prescribing physician of the duties required by the employee's position and to ensure that the physician approves the use of the prescription medication while the employee is performing their duties.
2. Employees using over-the-counter drugs are responsible for reading the warning labels or otherwise knowing any potential effect such drugs might have on their ability to perform their jobs.
3. The abuse and/or inappropriate use of legally prescribed drugs or over-the-counter drugs is prohibited. Job performance or attendance deficiencies resulting from abuse and/or inappropriate use shall be cause for disciplinary action. If an employee's behavior or job performance gives rise to reasonable suspicion/cause that the employee is abusing or inappropriately using prescription medication or over-the-counter drugs, the employee may be required to submit to drug testing and to take leave until such time as the employee is cleared to return to work by the employee's physician, the Medical Review Officer and the personnel director.

**E. Illegal Use of Prescribed Drugs**

1. Any prescription drug use that is not prescribed to the employee is considered illegal drug use. (Ex.: Use of wife's, husband's, or someone else's prescription)

**F. Employee Request for Help**

1. In compliance with Georgia State Law 45-23-7, if an employee notifies the City of Monroe of a drug problem and agrees to attend an approved treatment program, that employee will not be terminated solely for the drug dependence for one year if the employee adheres to the treatment program. This option is available only one time during any five year period. This policy does not prevent the restructuring of an employee's duties to take the drug dependence into account.



**G. Convictions**

1. In compliance with Georgia State Law 45-23-4, following a first conviction for the manufacture, distribution, sale or possession of drugs, an employee shall be suspended for two months and the employee must attend an approved drug abuse treatment and education program. Following a second such conviction, the employee shall be terminated and shall be ineligible for public service for five years.

**Section 5. TESTS ADMINISTERED**

**A. Pre-employment Drug and Alcohol Testing**

1. All job applicants being considered for employment shall be required to pass a drug and alcohol screening test prior to being hired. All job applicants shall be informed in advance that such testing shall be required. The prospective employees will be drug and alcohol tested post job offer but pre-employment. Job applicants will be denied employment if they have a confirmed positive test result or refuse the drug and/or alcohol test.

**B. Post-Accident Testing**

1. Following an accident, as defined in the Definitions Section, the City of Monroe will promptly test each surviving covered employee for drug and/or alcohol if that employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a Drug and Alcohol Test under this section will be based on the City of Monroe's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. This also applies to any employee involved in an accident driving his or her private vehicle while on City business.
2. An employee who is subject to Post-Accident Testing and who fails to remain readily available for such drugs and/or alcohol testing, including notifying the supervisor of his/her location if he/she leaves the scene of the accident prior to submission to a Drug and/or Alcohol Test, may be deemed to have refused to submit to testing.

**C. Reasonable-Suspicion/Cause Testing**

1. Reasonable Suspicion/Cause Testing is designed to identify drug and/or alcohol-affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors shall receive training directed toward helping to recognize the conduct and behavior giving rise to reasonable suspicion of drug or alcohol misuse. Supervisors who suspect an employee is under the influence of drugs and/or alcohol shall immediately report their observations. The department head or the highest ranking supervisory staff on duty will make a decision as to whether there is a reasonable suspicion/cause to believe an employee is using or has used drugs and/or alcohol.
2. A determination by the City of Monroe that reasonable suspicion/cause of drug and/or alcohol use exists and to require the employee to undergo a drug and/or alcohol test will be based on specific, stated observations concerning the appearance, behavior, speech, or body odors of the employee at the time. Following the determination the employee shall be transported to the testing site by the employee's supervisor or a designee. Following the test the employee shall be transported home by the employee's supervisor or designee.
3. The City of Monroe will not permit an employee to report for duty or remain on duty requiring the performance of job functions while the employee is under the influence of or impaired by drugs and/or alcohol, as shown by the behavioral, speech, or performance indicators of drug and/or alcohol misuse.
4. Written documentation of specific facts, symptoms or observations that formed the basis for suspicion of drug and/or alcohol use must be completed within the next working day and forwarded to the personnel department.

**D. Return-To-Duty Testing**

1. If a Substance Abuse Professional consulted in the case makes a determination that some form of evaluation and/or treatment is required, then the employee must comply with the recommended provisions in order to be considered eligible to return to duty.
2. Before an employee may return to duty after engaging in prohibited conduct, the City of Monroe will ensure that the employee undergoes a Return-To-Duty Alcohol Test with a result indicating an alcohol concentration of less than 0.02.

**E. Follow-Up Testing**

1. An employee who returns to duty following the determination that assistance in resolving problems associated with drug and/or alcohol misuse will be subject to a reasonable program of Follow-Up Drug and/or Alcohol Testing, without prior notice, for up to sixty (60) months after his or her return to duty.
2. Follow-Up Testing will be conducted just before the employee is to perform, while the employee is performing, or just after the employee has ceased performing a job function.

**F. Random Testing**

1. Employees shall be required to submit to a drug and/or alcohol screening test at random. The City of Monroe shall test at a rate of at least 50% of the employees every calendar year. All persons will be subject to be randomly tested during each random testing date. A person may be randomly tested more than once or not at all during the annual period. All employees will be placed in the random pool. The random test list will be done by computer.

**Section 6. SUBSTANCES FOR WHICH TESTS MAY BE CONDUCTED**

**A.** Alcohol

**B.** Drug

1. The selection of drugs for which an employee may be tested include, but are not limited to:

- a. amphetamines
- b. barbiturates
- c. benzodiazepines
- d. cocaine metabolite
- e. opiates
- f. phencyclidine
- g. marijuana
- h. methadone
- i. propoxyphene
- j. creatinine

**Section 7. WHERE DRUG AND/OR ALCOHOL TESTS WILL BE PERFORMED**

All drug and/or alcohol specimen collections for the City of Monroe will be conducted by a trained professional at a collection site selected by the City of Monroe.

All drug and/or alcohol testing for the City of Monroe will be conducted by a qualified and approved laboratory selected by the collection site.

**Section 8. PENALTY FOR NOT SUBMITTING TO A DRUG AND/OR ALCOHOL TEST**

Any job applicant who refuses to consent to a drug and/or alcohol test shall be denied employment.

Any employee who refuses to submit to a Post-Accident, Reasonable-Suspicion/Cause, Return-To-Duty, Follow-Up or Random Drug and/or Alcohol Test will be terminated from employment.

## **Section 9. DISCIPLINARY ACTIONS**

### **A. POSITIVE TESTS**

1. An employee with a positive test result is subject to disciplinary action up to and including termination.

### **B. POSITIVE ALCOHOL TEST LESS THAN 0.04**

1. When an employee has tested for alcohol in a concentration of 0.02 or greater, but less than 0.04, that employee will be removed from performing any job function and suspended without pay for the remainder of his or her shift and referred to a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.
2. An employee who has been tested for alcohol and had a concentration greater than 0.02 but less than 0.04 will not be permitted to perform job functions or continue to perform job functions until:
  - a. An Alcohol Test is administered and the employee's alcohol concentration measures less than 0.02.
  - b. The start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in this procedure.
3. If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete a Rehabilitation Assessment Program, he or she will be terminated from employment.

### **C. POSITIVE ALCOHOL TEST OF 0.04 OR GREATER**

1. An employee who has tested for alcohol with a concentration of 0.04 or greater will be terminated.

**D. POSITIVE DRUG TESTS**

1. If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete a Rehabilitation Assessment Program, he or she will be terminated from employment.

**Section 10. REQUIRED RECORD KEEPING**

The person assigned to manage the City of Monroe's Drug and Alcohol Testing Program will maintain the Drug Testing and Alcohol Testing Records in accordance with the provisions set out in this policy.

**A. Rules on the Disclosure of Drug and/or Alcohol Information and Records**

1. The City of Monroe will maintain all drug and/or alcohol-related testing information, including all test results and other appropriate records, in a secure manner to prevent the disclosure of such information to unauthorized personnel.
2. The City of Monroe will not release drug and/or alcohol testing information on employees except by law or when expressly authorized by the employee.

**APPENDIX A<sup>1</sup> - CITY OF MONROE**

**CITY OF MONROE  
215 NORTH BROAD STREET  
POST OFFICE BOX 1249  
MONROE, GEORGIA 30655**

**NOTICE OF ALCOHOL AND/OR DRUG TESTING  
“FOR CAUSE” OR “REASONABLE SUSPICION”**

I, the undersigned, do hereby give my consent to the City of Monroe, together with any clinic, doctor, hospital or laboratory designated by the City of Monroe, to perform appropriate tests on me for alcohol and/or drugs.

I give my consent to release to the City of Monroe, or its designated agents, the results of any medical tests or medical procedures to determine the presence and/or level of alcohol and/or drugs.

I further agree, in "For-Cause" or "Reasonable-Suspicion", to submit to a physical assessment by the Substance Abuse Professional assigned, if warranted.

**I realize that my refusal to sign this form constitutes a violation of the stated policy of the City of Monroe, and for that refusal I will not be considered for and knowingly waive any possibility of employment or continued employment with the City of Monroe. A copy of this consent form shall be as valid as the original.**

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Screening Test Number

\_\_\_\_\_  
Date

**APPENDIX A<sup>2</sup> - CITY OF MONROE**

**CITY OF MONROE  
215 NORTH BROAD STREET  
POST OFFICE BOX 1249  
MONROE, GEORGIA 30655**

**NOTICE OF ALCOHOL AND/OR DRUG TESTING  
“FOR CAUSE” OR “REASONABLE SUSPICION”**

I, the undersigned, do hereby give my consent to the City of Monroe, together with any clinic, doctor, hospital or laboratory designated by the City of Monroe, to perform appropriate tests on me for alcohol and/or drugs.

I give my consent to release to the City of Monroe, or its designated agents, the results of any medical tests or medical procedures to determine the presence and/or level of alcohol and/or drugs.

I further agree, in "For-Cause" or "Reasonable-Suspicion", to submit to a physical assessment by the Substance Abuse Professional assigned, if warranted.

**I realize that my refusal to sign this form constitutes a violation of the stated policy of the City of Monroe, and for that refusal I will not be considered for and knowingly waive any possibility of employment or continued employment with the City of Monroe. A copy of this consent form shall be as valid as the original.**

\_\_\_\_\_  
Employee

Witness

\_\_\_\_\_  
Social Security Number

Screening Test Number

\_\_\_\_\_  
Date



## APPENDIX B

### CITY OF MONROE

#### CAUSE OR REASONABLE SUSPICION OF DRUG AND/OR ALCOHOL MISUSE REPORT

Employee Name \_\_\_\_\_

Date \_\_\_\_\_

Witnesses to Incident \_\_\_\_\_

Supervisor Making Report \_\_\_\_\_

Other Supervisor Consulted \_\_\_\_\_

Other Persons or Resources Consulted \_\_\_\_\_

#### Signs and Symptoms:

##### Physical Signs:

- \_\_\_\_\_ Loss of coordination
- \_\_\_\_\_ Shaking or tremors
- \_\_\_\_\_ Slurred Speech
- \_\_\_\_\_ Extreme weight loss
- \_\_\_\_\_ Loss of appetite
- \_\_\_\_\_ "Pinpoint" or constricted pupils
- \_\_\_\_\_ Bloodshot eyes
- \_\_\_\_\_ Blurred vision
- \_\_\_\_\_ Coma or loss of consciousness
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

##### Behavioral Signs:

- \_\_\_\_\_ Irritable
- \_\_\_\_\_ Aggressive or violent actions
- \_\_\_\_\_ Verbally abusive
- \_\_\_\_\_ Unusually sensitive to advice or recommendations
- \_\_\_\_\_ Difficulty sleeping
- \_\_\_\_\_ Loss of concentration
- \_\_\_\_\_ Disoriented as to physical location or identity

**APPENDIX B (CONTINUED)**

**Behavioral Signs:**

- \_\_\_\_\_ Excessively "high" or elated without reason
- \_\_\_\_\_ Emotional response is either inappropriate or lacking
- \_\_\_\_\_ Hallucinations (sees or hears objects or people who are not there)
- \_\_\_\_\_ Extreme changes in social patterns without reason (sudden shift in group of friends)
- \_\_\_\_\_ Withdrawal or depression without reason
- \_\_\_\_\_ Talks about or admits alcohol use
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

**Work Performance:**

- \_\_\_\_\_ Absent without reason
- \_\_\_\_\_ Excessive use of sick leave
- \_\_\_\_\_ Sudden drop in quality of work
- \_\_\_\_\_ Not following instructions from supervisor
- \_\_\_\_\_ Refuses work assignments
- \_\_\_\_\_ Increased number of accidents (worker compensation or vehicle)
- \_\_\_\_\_ Increased number of errors
- \_\_\_\_\_ Increased fights (verbal or physical) with co-workers
- \_\_\_\_\_ Use of alcohol observed by supervisor
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

**Narrative:**

Describe in your own words the occurrence that led to a decision that alcohol testing might be appropriate. A recap of incidents which preceded this one and which might have bearing may be included. However, in order to perform a reasonable-suspicion test, the final incident must be job related and current, that is, within the last few hours. Include the names, dates, places, and specific words or phrases, if possible. The clearer and more detailed the report, the better. (Use additional sheets, if necessary.)



# Anti-Drug Plan

A Component of the  
Master Manuals System  
Developed by the  
Subscribed Regulatory Compliance Service  
of the  
Municipal Gas Authority of Georgia  
104 TownPark Drive  
Kennesaw, Georgia 30144  
(770) 590-1000

## DISCLAIMER AND CONDITIONS OF USE

This Anti-Drug Plan (the "Plan") was developed by the Subscribed Regulatory Compliance Service ("SRCS") of the Municipal Gas Authority of Georgia to assist subscribers to SRCS ("Subscribers") in preventing, in accordance with applicable Federal and State of Georgia Regulations related to natural gas pipeline safety (the "Regulations"), accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities. The Municipal Gas Authority of Georgia has endeavored to completely and accurately address Regulations in this Plan; however, following the suggestions or advice set forth in this Plan may not lead to your compliance with applicable Regulations. **It is the responsibility of the Subscriber to retain the services of qualified legal and technical professionals to confirm (i) the completeness and accuracy of the suggestions and advice set forth in this Plan, and (ii) the applicability of such suggestions and advice to any natural gas system or emergency situation.**

This Plan is intended solely for use by a Subscriber in relation to the operation of its natural gas system. Additional copies of any electronic and hardcopy versions of this Plan provided by the Municipal Gas Authority of Georgia to a Subscriber may be made by the Subscriber solely as necessary for its internal use in relation to the operation of its natural gas system. A Subscriber may not transmit an electronic copy of this Plan to any third party.



This manual should be reviewed and updated as necessary. Any and all modifications/changes shall be communicated to appropriate personnel.

[illegible]



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## ***Section I***

### ***1 Introduction***

- 1.1. Implementation of Anti-Drug Plan effective date: *[enter date implemented]*.
- 1.2. Commencement date of Anti-Drug Program (Check the appropriate box)
  - ☒ *Operators with more than 50 employees, April 20, 1990*
  - ☐ *Operators with fewer than 50 employees, August 21, 1990*
- 1.3. The company has a long standing commitment to maintain the highest standards for employee safety and health and the use of controlled substances is contrary to these high standards. The presence in the body of prohibited substances is not condoned.
- 1.4. The purpose of this plan is to reduce accidents that result from the use of controlled substances and to set forth the procedures for the administration of the Department of Transportation's (DOT) Anti-Drug program as required under 49 CFR Parts 199 and 40.
  - 1.4.1. *49 CFR Part 40 – Procedures for transportation workplace drug testing programs:*
    - 1.4.1.1. These regulations apply to all (truck, rail, and pipeline) employers conducting DOT drug testing of urine specimens pursuant to the regulations issued by the DOT.
    - 1.4.1.2. Part 40 specifies how urine samples are to be collected, the chain of custody to be used, prohibited drugs and testing thresholds, types of laboratory test(s) to be performed, and qualifications and functions of testing laboratories and medical review officers.
  - 1.4.2. *49 CFR Part 199 – Drug Testing:*
    - 1.4.2.1. The purpose of this regulation is to establish programs to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of pipeline facilities subject the 49 CFR Parts 192, 193 (*ref. §199.100*).
- 1.5. These regulations require operators of pipeline facilities to implement and follow an Anti-Drug program for personnel that perform a covered function as defined in *Section I – 3 – Definitions* of this plan.



*S.R.C.S./PHMSA's Anti-Drug Plan April 2009*

## **2 Background**

- 2.1.** 49 CFR Part 199 requires pipeline operators subject to 49 CFR Parts 192, 193, and their contractors shall test their employees for prohibited drugs under the following work related conditions (See **Section II – 5** for detailed breakdown by type of drug test):

**2.1.1.** Pre-Employment

**2.1.2.** Post-Accident

**2.1.3.** Random

**2.1.4.** Reasonable Cause

**2.1.5.** Return-to-Duty

- 2.2.** 49 CFR Part 40 specifies procedures which must be followed by the company when conducting drug testing pursuant to regulations issued by agencies of the DOT





### **3 Definitions**

- 3.1. Accident – An incident reportable under 49 CFR Part 191 involving gas pipeline facilities or liquefied natural gas (LNG) facilities (See definition of “Incident” below).
- 3.2. Administrator – Means the Administrator, Pipeline Hazardous Materials Safety Administration or his/her designee.
- 3.3. Adulterated Specimen – A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- 3.4. Affiliate – Persons are affiliates of one another if, directly or indirectly, one controls or has the power to control the other or a third party controls or has the power to control both. Indicators of control include, but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a public interest exclusion, an organization having the same or similar management, ownership, or principal employees as the service agent concerning whom a public interest exclusion is in effect is regarded as an affiliate.
- 3.5. Blind Sample or Blind Performance Test Specimen – A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.
- 3.6. Cancelled Test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- 3.7. Chain-of-Custody – Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. The procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.



***S.R.C.S./PHMSA's Anti-Drug Plan April 2009***

- 3.8. Collection Container** – A container into which the employee urinates to provide the specimen for a drug test.
- 3.9. Collection Site** – A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.
- 3.10. Collection Site Person** – A person who instructs and assists applicants and employees through the specimen collection process, receives and makes initial inspection of the specimen, and initiates and completes the chain of custody form.
- 3.11. Company** – an organization or commercial enterprise that uses an anti-drug plan.
- 3.12. Confirmation Test** – A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine (PCP).
- 3.13. Confirmed Drug Test** – A confirmation test result received by an MRO from a laboratory.
- 3.14. Consortium/Third Party Administrator (C/TPA)** – A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for the purposes of Part 40.
- 3.15. Continuing Education** – Training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions, designed to keep MROs and SAPs current on changes and developments in the DOT drug and alcohol testing program.
- 3.16. Covered Employee** – Any person who performs on a pipeline or LNG facility an operating, maintenance, or emergency response function regulated by Parts 192 or



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193. Such person may be employed directly by the operator, or by a contractor engaged by the operator. As applied in the regulations, "employee" and "applicant for employment" have the same meaning for the purpose of these requirements. Clerical, truck driving, accounting, or other job functions not covered by Parts 192 or 193 are not subject to the regulations.

- 3.17. Covered Function (Safety Sensitive Function)** – An operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by Parts 192 or 193. For the purpose of this definition, receiving emergency calls of gas leaks is also a covered function.
- 3.18. Designated Employer Representative** – An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs.
- 3.19. DHHS** – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
- 3.20. Dilute Specimen** – A specimen with creatinine and specific gravity values that are lower than expected human urine.
- 3.21. D.O.T., The Department, D.O.T Agency** – These terms encompass all D.O.T. agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.
- 3.22. Drug Program Manager** – Is an individual responsible for the preparation of a drug testing anti-drug plan that complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 and 40. The DPM shall be responsible for providing oversight and evaluation on the plan; providing



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guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling random drug testing and return-to-duty testing; maintaining a locked file system on drug testing results; and overseeing the employee assistance program (EAP). The DPM shall be an individual that is not required to submit to the drug-testing requirements of this plan (e.g. not a covered employee or performing a covered function as defined in the definitions section of this plan).

- 3.23. Employee** – Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.
- 3.24. Employer** – A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.
- 3.25. Fail a Drug Test or Test Positive** – The confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the employee's or applicant's system.
- 3.26. Incident** – As defined by §191.3; means any of the following events:
- (1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility; and,
    - (i) A death, or personal injury necessitating inpatient hospitalization; or
    - (ii) Estimated property damage, including cost of gas lost, to the operator or others, or both, of \$50,000 or more.
  - (2) An event that results in an emergency shutdown of an LNG facility.
  - (3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) above.



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- 3.27. Initial Drug Test** – The test used to differentiate a negative specimen from one that requires further testing for drugs or metabolites.
- 3.28. Initial Validity Test** – The first test used to determine if a specimen is adulterated, diluted, or substituted.
- 3.29. Invalid Drug Test** – The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.
- 3.30. Laboratory** – Any U.S. laboratory certified by DHHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part. (The DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs are available on the internet at <http://www.health.org/workpl.htm>).
- 3.31. Medical Review Officer (MRO)** – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
- 3.32. Office of Drug and Alcohol Policy and Compliance (ODAPC)** – The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of this part.
- 3.33. Operator** – An owner or operator of pipeline facilities.
- 3.34. Pass a Drug Test or Test Negative** – That initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in the employee's or applicant's system.
- 3.35. Pipeline** – All parts of the physical facilities through which product moves in transportation. This includes pipe, valves, and other appurtenances attached to



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pipe, compressor units, metering stations, delivery stations, holders, and fabricated assemblies.

- 3.36. PHMSA** – Means the Pipeline Hazardous Materials Safety Administration
- 3.37. Pipeline Facilities** – Includes new and existing pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of products.
- 3.38. Primary Specimen** – In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.
- 3.39. Prohibited Drug** – The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.
- 3.40. Qualification Training** – The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- 3.41. Refresher Training** – The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- 3.42. Refusal to Submit** – Refusal by an individual to provide a urine sample after receiving notice of the requirement to be tested in accordance with the anti-drug program.
- 3.43. SAMHSA** – Substance Abuse and Mental Health Services Administration, formerly National Institute on Drug Abuse (NIDA), was established by the Department of Health and Human Services in 1986 to regulate laboratories performing analytical tests (drug tests) on human body fluids for employment purposes in the public sector.



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- 3.44. Secretary** – The Secretary of Transportation or the Secretary's designee.
- 3.45. Service Agent** – Any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this part. Service agents are not employers for purposes of this part.
- 3.46. Split Specimen** – In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.
- 3.47. Substance Abuse Professional (SAP)** – A licensed physician (Medical Doctor or Doctor of Osteopathy), or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol disorders (see ***Section VII, 11.2***).
- 3.48. Substituted Specimen** – A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
- 3.49. Verified Test** – A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.



#### **4 *Company Responsibilities***

- 4.1. Drug Program Manager (DPM):** The DPM or other company designated individual shall be responsible for the preparation of a drug testing anti-drug plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 and 40. The DPM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling random drug testing and return-to-duty testing; maintaining a locked file system on drug testing results; and overseeing the employee assistance program (EAP) as it is defined in 49 CFR Part 199.113. The company shall ensure that all covered employees are aware of the provisions and coverage of the anti-drug plan.
- 4.1.1. *Appendix A*** contains the name, address, and phone number of the responsible individual(s).
- 4.2. Supervisors:** Company individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable cause; responsible for requests of second supervisor for substantiation and concurrence for reasonable cause testing, if applicable.
- 4.3. Employees:** Each employee has the responsibility to be knowledgeable of the requirements of the anti-drug plan and to fully comply with the provisions of the plan.





## ***Section II***

### ***5 Drug Testing Requirements***

**5.1. Individuals Subject to Drug Testing:** Any applicant/employee who would perform on a pipeline, an operating, maintenance, or emergency response function regulated by Part 192 or 193 would be subject to drug testing under this program. This does not include clerical, truck driving, accounting, or other functions not subject to Part 192 or 193. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor. All personnel performing a "Covered Function" as defined in the "Definitions" section of this plan is considered a "Covered Employee" and subject to drug testing.

**5.1.1. *Appendix B*** contains a listing of employee/supervisory positions subject to drug testing (job classifications/titles).

**5.2. Substances for Which Testing Must be Conducted:** The company shall test each employee who performs a "Covered Function" as defined in **Section I – 3** of this plan for evidence of the following substances:

- *Marijuana, Cocaine, Opiates, Phencyclidine, Amphetamines*



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- 5.3. Procedure for Notifying Employees:** This Anti-Drug plan shall be included in the appropriate company manual or in a separate manual and shall be made available and accessible to all "Covered Employees" by any of the following methods (ref. §199.101):
- 5.3.1.** By providing each "Covered Employee" with a copy of the Anti-Drug plan; and/or,
  - 5.3.2.** By providing each "Covered Employee" with a summarized version of the Anti-Drug plan; and/or,
  - 5.3.3.** Displaying the Anti-Drug plan or summarized version on an employee bulletin board or other central location where employees may frequently congregate
  - 5.3.4.** If the entire plan is not provided to employees, then the summarized version shall indicate where a complete copy of the S.R.C.S./PHMSA's anti-drug plan is available for review by the employees.
- 5.4. Pre-Employment Testing:** A pre-employment drug test must be conducted before an individual is hired or contracted and when an individual is transferred/promoted from a non-covered to a covered position. This also applies to employees returning from a leave of absence who have not been participating in the anti-drug plan and subject to the random selection process. A negative test result is required prior to performing covered functions.
- 5.5. Post Accident Testing:** The Company shall promptly determine if the employee's performance contributed to the "accident" or cannot be completely discounted as a contributing factor to the accident. If it is determined that an employee's performance contributed the "accident" or cannot be completely discounted as a contributing factor to the accident, those employees shall be drug tested as soon as possible but no later than 32 hours after the accident. The company must take all reasonable steps to obtain a urine specimen from an employee after an accident, as defined above, but any injury should be treated first.



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**5.5.1.** *Appendix C* contains guidance that may be used to guide the supervisor to a satisfactory outcome in a post-accident situation

**5.6.** Random Testing: The primary purposes of random testing are to deter prohibited drug use and to ensure a drug free workforce. DOT regulations require that covered employees shall be subject to drug testing on an unannounced and random basis.

**5.6.1.** Except as provided in *Appendix D*, the minimum *annual percentage rate* for random drug testing shall be *50 percent (See 5.6.4.1 below)* of all covered employees

**5.6.2.** The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this subpart. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the Administrator will publish in the Federal Register the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.

**5.6.3.** When the minimum annual percentage rate for random drug testing is *50 percent (See 5.6.4.1 below)*, the Administrator may lower this rate to *25 percent (See 5.6.4.1 below)* of all covered employees if the Administrator determines that the data received under the reporting requirements of §199.119 for two consecutive calendar years indicate that the reported positive rate is less than 1.0 percent.

**5.6.4.** When the minimum annual percentage rate for random drug testing is *25 percent*, and the data received under the reporting requirements of §199.119



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for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to *50 percent* of all covered employees.

- 5.6.4.1.** See *Appendix D* for a copy of the latest annual drug testing rates – *the minimum annual percentage rate for random drug testing contained in this appendix shall serve as the **MINIMUM** annual percentage rate for drug testing under this plan.*
- 5.6.5.** The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.
- 5.6.6.** The company shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the Administrator. If the operator conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual operator *or* may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under §199.105 or any DOT drug testing rule.
- 5.6.7.** Employees shall remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- 5.6.8.** The process will be unannounced as well as random with the dates for administering random tests spread reasonably throughout the calendar year.



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Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.

**5.6.8.1.** *(From Q&A §199.11 – Obsolete – Random Testing Selection – 09/26/95): Should an employee be selected for a random drug test and that employee is unavailable (i.e. vacation, out sick, etc) to submit a sample for drug testing, the company may:*

**5.6.8.1.1** Place the name back in the pool for later selection on another date; or

**5.6.8.1.2** Maintain the list and test the employee once the individual becomes available (reports back to work).

**5.6.9.** Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.

**5.6.10.** Specimen collection should be conducted on different days of the week throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection.

**5.6.11.** The DPM (or designee), on a pre-determined date, shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.

**5.6.12.** The DPM (or designee) shall ensure that the list of social security numbers, employee identification numbers, or other comparable identification numbers will identify the correct employees who are to be randomly tested during the testing cycle.



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**5.6.13.** It is the intent of this plan to notify employees of their selection for random testing after they have reported for duty.

- The list of employees to be tested will be provided to the appropriate division manager, department head, or supervisor.
- The list of employees selected will be retained by the DPM (or designee) in a secure location.
- The appropriate manager/supervisor will notify the employee to be tested to report to the manager/supervisor's office at a specified time.
- The employee will not be notified of the test until after reporting for duty.
- Employees shall report immediately to the collection site or to the collection site within 30 minutes, plus travel time, once notified by the appropriate company official.

**5.6.14.** If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for the same operator, the employee shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

**5.6.15.** If an operator is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the operator may:

**5.6.15.1.** Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same requires rate; or

**5.6.15.2.** Randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the operator is subject.



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**5.7. Reasonable Cause Testing:** Reasonable cause testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of drug use) to identify drug-affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reasonable cause to believe an employee is using or has used a prohibited drug.

**5.7.1.** The decision to test must be based on a reasonable and articulate belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence by both supervisors can be accomplished by phone, by discussions a few hours later, or by having another supervisor travel to the job site, if only one supervisor is available at that particular job site (*Note: employers with fewer than 50 covered employees, only one (1) supervisor trained in detecting possible drug use symptoms is required to substantiate the decision to test an employee*).

**5.7.2.** In making a determination of reasonable cause, the factors to be considered include, but are not limited to the following:

- Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of drug related behavior on or off the work site.
- Physical signs and symptoms consistent with substance abuse.
- Evidence of illegal substance use, possession, sale, or delivery while on duty.
- Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.



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**5.7.3.** *Appendix E* contains guidance that may be used to guide the supervisor to a satisfactory outcome in a reasonable suspicion situation.

**5.8.** *Return-to-Duty Testing:* An employee who refuses to take or fails a drug test may not return to duty until the employee passes a drug test and the Medical Review Officer (MRO) and the company have determined that the employee may return to duty.

**5.8.1.** An employee returning to duty will be subject to a reasonable program of *follow-up drug testing*. Follow-up drug testing shall, if applicable (see **5.8.3 below**), consist of:

- At least six (6) drug tests in the first (12) twelve months following the covered employee's return-to-duty; and
- Follow-up testing **may** include testing for alcohol as directed by the Substance Abuse Professional, to be performed in accordance with 49 CFR part 40; and
- Follow-up testing shall not exceed (60) sixty months from the date of the employee's return to duty. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after the first (6) six tests have been administered, if the Substance Abuse Professional determines that such testing is no longer necessary.

**5.8.2.** In the event that an employee who refused to be drug tested is considered for return to work, the employee will be required to pass a drug test under this plan before being released by the MRO to return to duty. The employee is then subject to the same follow-up testing requirements.





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**5.8.3.** By checking the appropriate checkbox(es) below, Return-to-Duty testing may or may not be an option under this plan.

- ☒ The company's policy is that employees who refuse to take a drug test for prohibited drugs will be terminated – ***Return-to-Duty Testing NOT an option.***
- ☐ The company's policy is that employees who test positive for prohibited drugs will be terminated – ***Return-to-Duty Testing NOT an option.***
- ☐ The company's policy is that employees who refuse to take a drug test be removed from performance of a covered function and must be evaluated by a Substance Abuse Professional (SAP) and must follow any prescribed treatment plan prior to a Return-to-Duty test (***See Section VII, 11.2***) – ***Return-to-Duty Testing Allowed.***
- ☐ The company's policy is that employees who tests positive for prohibited drugs be removed from performance of a covered function and must be evaluated by a Substance Abuse Professional (SAP) and must follow any prescribed treatment plan prior to a Return-to-Duty test (***See Section VII, 11.2***) – ***Return-to-Duty Testing Allowed.***



### ***Section III***

#### ***6 Use of Employees Who Fails or Refuses a Drug Test***

- 6.1.** Compliance with this drug-testing plan is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions. Additional disciplinary action up to and including termination may result.
- 6.2.** The company will not use, in a covered function covered under this plan, anyone who:
  - 6.2.1.** Fails a drug test as verified by the MRO, or
  - 6.2.2.** Refuses to take a drug test required by this plan
- 6.3.** An employee may be given an opportunity to retain his/her employment, provided they first:
  - 6.3.1.** Have been recommended by the MRO for return to duty,
  - 6.3.2.** Pass a D.O.T. drug test
  - 6.3.3.** Not failed a drug test by this plan after returning to duty,
  - 6.3.4.** If allowed by company policy and procedures entered into and successfully completes a company approved evaluation/rehabilitation program (See **Section II – 5.8.3**).



## ***Section IV***

### ***7 Specimen Collection Requirements***

- 7.1.** Urine specimens shall be collected following the *DOT Urine Specimen Collection Guidelines for the U.S. Department of Transportation Workplace Drug Testing Programs (49 CFR Part 40)*
- 7.1.1.** These guidelines apply only to employers and individuals who come under the regulatory authority of the U.S. Department of Transportation (DOT) and those individuals who conduct urine specimen collections under DOT regulations.
- 7.1.2.** The latest version of the *DOT Urine Specimen Collection Guidelines for the U.S. Department of Transportation Workplace Drug Testing Programs* can be viewed/saved at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc) (Collectors and Service Agents should check this website periodically to ensure that they are following the latest version).
- 7.2.** The procedures contained herein and in the *DOT Urine Specimen Collection Guidelines for the U.S. Department of Transportation Workplace Drug Testing Programs* shall be complied with by the designated collection sites and all covered personnel performing covered functions who report for drug testing.
- 7.3.** An independent medical facility may also be utilized as a collection site provided the other applicable requirements of this section are met (Designated collection site(s) are listed in *Appendix A*).
- 7.4.** A designated collection site shall be any suitable location where a specimen can be collected under conditions set forth in this section, including a properly equipped mobile facility. A designated collection site shall have a secure enclosure within which private urination can occur, a toilet for completion of urination, and a suitable clean surface for writing. The site must also have a source or water for washing hands, which if practicable, should be external to the enclosure where urination occurs.



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- 7.5. Collection site personnel must have completed training on specimen collection procedures or are qualified as a licensed medical professional. If non-medical collection sites are utilized, appropriate training requirements shall be documented.
- 7.6. The direct supervisor of a covered employee shall not serve as a collector in conducting any required drug test unless it is impracticable.
- 7.7. **Appendix F** is reserved for future guidance and supplemental material.



## ***Section V***

### ***8 Drug Testing Laboratories***

- 8.1.** The company shall use a drug testing laboratory certified under DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988 and subsequent amendments.
- 8.2.** The laboratory shall provide services in accordance with Part 40 and Part 199. The name and address of each laboratory used by the company is listed in *Appendix A*.
- 8.3.** The laboratory shall permit inspections by the company, the PHMSA Administrator, or if the company is subject to the jurisdiction of a state agency, a representative of the state agency.
- 8.4.** Laboratory procedures are contained in *Appendix G*.



## ***Section VI***

### ***9 Blind Performance Test Procedures***

- 9.1.** The certified testing lab shall have a quality assurance program to monitor each step of the drug testing process.
- 9.2.** A minimum of 10 percent of all test samples should be quality control specimens supplied by the laboratory's quality assurance section. Each analytical run should include specimens certified to contain no drug (blanks), known standards (controls) and positive specimens (spiked) at or near the cutoff level. Documented procedures to ensure that carryover (contamination from one specimen to another) does not influence the testing of an individual specimen shall also be in place.
- 9.3.** For companies with 2,000 or more covered employees, approximately 80 percent of the blind performance test samples shall be blank (i.e. containing no drugs) and the remaining samples shall be positive for one or more drugs per sample in a distribution such that all drugs to be tested are included in approximately equal frequencies of challenge (Marijuana, Cocaine, Opiates, PCP, Amphetamine). Documentation of the blind sampling rate will be sent to the DPM on a yearly basis.
- 9.4.** Companies with fewer than 2,000 covered employees may also submit blind performance test specimens as provided in **9.3** above. Such companies may also submit only blank samples or may submit two separately labeled portions of a specimen from the same non-covered employee.
- 9.5.** PHMSA shall investigate, or shall refer to the Department of Health and Human Services (DHHS) for investigation, any unsatisfactory performance testing result and, based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. A record shall be made of the investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individual responsible for the day-to-day management and operation of the drug-testing laboratory. PHMSA shall send the document to the company as a report of the unsatisfactory performance-testing incident. PHMSA shall ensure notification of the finding to DHHS.



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- 9.6.** Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mix-up, etc.), the company shall promptly notify PHMSA. PHMSA and the company shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future, and, if there is reason to believe the error could have been systemic, PHMSA may also require review and reanalysis of previously run specimens.
- 9.7.** Should a false positive error occur on a blind performance test specimen and the error is determined to be a technical or methodological error, the company shall instruct the laboratory to submit all quality control data from the batch of specimens which included the false positive specimen to PHMSA. In addition, the laboratory shall retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting shall be documented by a statement signed by the individual responsible for day-to-day management of the laboratory's urine drug testing. PHMSA may require an on-site review of the laboratory which may be conducted unannounced during any hours of operation of the laboratory. DHHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.



## ***Section VII***

### ***10 Review of Drug-Testing Results***

- 10.1.** The company shall have on staff or contract for the services of an MRO (See *Appendix A* for a listing of the MRO for this plan).
- 10.2.** The MRO shall:
- 10.2.1.** Be a licensed physician with knowledge of drug abuse disorders
  - 10.2.2.** Review all negative and positive drug test results and interview individuals tested positive to verify the laboratory report before the company is notified. The review of a negative test may be an administrative process to ensure the chain-of-custody procedures were intact.
- 10.3.** The MRO shall review confirmed positive results. An essential part of the drug-testing program is the final review of confirmed positive results from the laboratory. A positive test result does not automatically identify an employee/applicant as having used drugs in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the MRO prior to the transmission of results to the company administrative officials. The MRO shall review shall include review of the chain-of-custody to ensure that it is complete and sufficient on its face.
- 10.4.** The duties of the MRO with respect to negative results are purely administrative.





## ***11 Qualifications and Responsibilities***

### ***11.1. Medical Review Officer (MRO)***

- 11.1.1.** The MRO shall be a licensed physician with knowledge of substance abuse disorders and may be an employee of the company or a private physician retained for this purpose. The MRO shall not be an employee of the laboratory conducting the drug test unless the laboratory establishes a clear separation of functions to prevent any appearance of a conflict of interest including assuring that the MRO has no responsibility for, and is not supervised by or the supervisor of, any persons who have responsibility for the drug testing or quality control operations of the laboratory.
- 11.1.2.** The role of the MRO is to review and interpret confirmed positive test results obtained through the company testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.
- 11.1.3.** The MRO may require the original specimen be reanalyzed to determine the accuracy of the test result. The MRO may verify that the laboratory report and assessment are correct.



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**11.2. Substance Abuse Professional (SAP)**

**11.2.1.** The company is not required to provide a SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a D.O.T. drug and alcohol regulation. However, if an employee is given the opportunity to return to the performance of a covered function as defined in this plan:

- That employee must receive an evaluation by a SAP; and
- Successfully comply with the SAP's evaluation recommendations

**11.2.1.1.** Payment for SAP evaluations and services is for employers and employees to decide and may be governed by existing management-labor agreements and health care benefits.

**11.2.2.** To be permitted to act as a SAP, a SAP must have one of the following credentials:

- A licensed physician (Doctor of Medicine or Osteopathy);
- A licensed or certified social worker;
- A licensed or certified psychologist;
- A licensed or certified employee assistance professional;
- A State-licensed or certified marriage or family therapist; or
- A drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC); or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC).



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- 11.2.3.** The SAP, upon determination of the best recommendation for assistance, will serve as a referral source to assist the employee's entry into an education and/or treatment program
- 11.2.4.** To prevent the appearance of a conflict of interest, an SAP may not refer an employee requiring assistance to their own private practice or to a person or organization from which the SAP receives payment or to a person or organization in which the SAP has a financial interest. An SAP is precluded from making referrals to entities which they are financially associated, except under the following conditions:
- A public agency (e.g., treatment facility) operated by a state, county, or municipality;
  - The employer or a person or organization under contract to the employer to provide alcohol or drug treatment and/or education services (e.g., the employer's contracted treatment provider);
  - The sole source of therapeutically appropriate treatment under the employee's health insurance program (e.g., the single substance abuse in-patient treatment program made available by the employee's insurance coverage plan); or
  - The sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting area).
- 11.2.5.** Additionally, Substance Abuse Professionals (SAPs) shall follow the regulations outlined in 49 CFR Part 40 SubPart O.



## ***12 Positive Test Results***

- 12.1.** Prior to making a final decision to verify a positive test result, the MRO shall give the individual an opportunity to discuss the test result with him/her.
- 12.2.** The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee. Except as provided in paragraph **12.3** of this section, the MRO shall talk directly with the employee before verifying a test as positive.
- 12.3.** If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact a designated management official who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated management official, such official shall employ procedures that ensure, to the maximum extent practicable, that the requirement of the employee to contact the MRO is held in confidence.
- 12.4.** If, after making all reasonable efforts, the designated management official is unable to contact the employee, the company may place the employee on temporary medically unqualified status or medical leave.
- 12.5.** The MRO may verify a test as positive without having communicated directly with the employee about the test in three circumstances:
- 12.5.1.** The employee expressly declines the opportunity to discuss the test – document this occurrence, including notation of informing, or attempting to inform, the employee of the consequences of not exercising the option to speak with an MRO or DER; or
- 12.5.2.** The designated company representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO (See **12.3** & **12.4** of this section), and more than 72 hours have passed since the date the employee was successfully contacted by the designated company representative; or



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- 12.5.3.** If either the MRO or DER, after making and documenting all reasonable efforts, has been unable to contact the employee within (10) ten days of the date on which the MRO receives the confirmed test result from the laboratory.
- 12.6.** If a test is verified positive under the circumstances specified in **12.5** of this section, the employee may present to the MRO information, within (60) sixty days, documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO declares the test to be negative.
- 12.7.** Following verification of a positive test result, the MRO shall, as provided in the company's policy, refer the case to the DPM (or designee) for action.



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**13 Verification for Opiates**

**13.1.** The MRO shall proceed as follows upon receipt from the laboratory of a confirmed positive opiate result:

- a) If the laboratory detects the presence of 6-acetylmorphine (6-AM) in the specimen, the MRO must verify the test result positive.
- b) In the absence of 6-AM, if the laboratory detects the presence of either morphine or codeine at 15,000 ng/mL or above, the MRO must verify the test result positive unless the employee presents a legitimate medical explanation for the presence of the drug or drug metabolite in his or her system, as in the case of other drugs (see §40.137). Consumption of food products (e.g., poppy seeds) must not be considered a legitimate medical explanation for the employee having morphine or codeine at these concentrations.
- c) For all other opiate positive results, the MRO must verify a confirmed positive test result for opiates only if the MRO determines that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate, or opium derivative (i.e., morphine, heroin, or codeine).

**13.2.** If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the company as negative.



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***14 Results Scientifically Insufficient***

- 14.1.** The MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation the MRO may request reanalysis of the original sample before making this decision. The MRO may request that reanalysis be performed by the same laboratory or that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the DHHS guidelines.
- 14.2.** The laboratory shall assist in this review process as requested by the MRO by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic toxicologist or who has equivalent forensic experience in urine drug testing, to provide specific consultation as required by the company. The company shall include in any required annual report to PHMSA a summary of any negative findings based on scientific insufficiency but shall not include any personal identifying information in such reports.



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**15 Disclosure of Information**

- 15.1.** Except as provided in this paragraph, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process.
- 15.2.** The MRO may disclose such information to the company, DOT or other Federal safety agency, or a physician responsible for determining the medical qualification of the employee under the appropriate DOT regulation, as applicable, only if –
- 15.2.1.** An applicable DOT regulation permits or requires such disclosure;
- 15.2.2.** In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT rule; or
- 15.2.3.** In the MRO's reasonable medical judgment, in a situation in which there is no DOT rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her covered function could pose a significant safety risk.
- 15.3.** Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided in this paragraph and the identity of any parties to whom information may be disclosed.





## ***Section VIII***

### ***16 Retention of Samples***

- 16.1.** Samples that yield positive test results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days.
- 16.2.** Within this 365 day period, the employee or designated representative, PHMSA, or other state agencies with jurisdiction, or the company may request in writing that the sample be retained for an additional period.
- 16.3.** If the laboratory does not receive the request to retain the sample within the 365 day period, the sample may be discarded.



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***17 Retesting of Samples***

- 17.1.** Once an MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of an adulteration or substitution, the MRO must notify the employee of his/her right to have the split sample tested. The MRO shall also notify the employee of the procedures for requesting a test of a split specimen
- 17.2.** The MRO must inform the employee that he/she has 72 hours from the time the MRO provides the notification to him/her to request a test of the split specimen
- 17.3.** The MRO shall tell the employee how to contact the MRO to make this request. The MRO will provide telephone numbers or other information that will allow the employee to make this request (The MRO shall have the ability to receive such calls during the 72 hour period – e.g. use of an answering machine with a “time-stamp” feature when there is no one in the MRO’s office to answer the phone).
- 17.4.** The MRO shall also tell the employee that if he/she makes this request within 72 hours, the employer must ensure that the test takes place, and that the employee is not required to pay for the test from his/her own funds before the test takes place. The MRO must also tell the employee that the employer may seek reimbursement for the cost of the test (*See Section 17.5.1 & 17.5.2 below*).



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**17.5.** The employee/applicant may specify that the specimen be retested by the original laboratory or sent to another certified laboratory.

**17.5.1.** ☐ If the reanalysis of the retest is positive, the employee will be required to reimburse the company for the cost of the shipment and reanalysis of the sample

**17.5.2.** ☒ The company will incur the costs associated with the shipment and reanalysis of the sample

**17.6.** If the employee requests a retest at a second laboratory:

**17.6.1.** The laboratory chosen shall be a laboratory meeting the requirements of *Section V – 8* of this plan.

**17.6.2.** The second laboratory must follow the approved custody and control procedures in transferring a portion of the specimen.

**17.7.** Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.



## ***Section IX***

### ***18 Employee Assistance Program (EAP)***

**18.1.** The EAP will provide education and training on drug use to all covered employees.

The education shall include:

**18.1.1.** Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and/or distributed to employees

**18.1.2.** A community service hot-line telephone number for employee assistance displayed on bulletin boards and/or distributed to employees, and

**18.1.3.** Distribution of the company's policy regarding the use of prohibited drugs to all new employees. The policy shall be displayed in prominent places throughout the company (i.e. bulletin boards, break rooms, locker rooms, etc.).

**18.2.** Supervisory personnel responsible for those employees covered under Part 199 will receive training under the anti-drug plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical behavioral, and performance indicators of probable drug use. If only one supervisor has taken this training, the DPM should also consider taking the 60-minute period of training on the specific, contemporaneous physical behavioral, and performance indicators of probable drug use. This will ensure that all personnel performing covered functions are being monitored.

**18.2.1.** This training shall be for supervisors who may determine whether an employee must be drug tested for reasonable cause.



## ***Section X***

### ***19 Recordkeeping***

**19.1.** The DPM, or designee, shall maintain a locked file system which will contain drug test results. The file shall be maintained as Confidential. Employee files shall be handled on a strict “need-to-know” basis.

**19.2.** Drug tests shall not be included in personnel files. Information regarding an individual’s drug testing result or rehabilitation may be released only upon written consent of the individual, except:

**19.2.1.** Such information must be released regardless of consent to PHMSA, or other government agency as part of an accident investigation;

**19.2.2.** Such information may be disclosed regardless of consent in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test

**19.3.** Statistical data related to drug testing and rehabilitation that is non name-specified and training records may be released to PHMSA or other government agency upon request. *Appendix D-1* contains a copy of the D.O.T. Drug & Alcohol Testing MIS Data Collection Form that can be used to record the statistical data related to drug testing.

**19.4.** The records that must be maintained are:

**19.4.1.** Records that demonstrate the collection process conforms to §199.117 shall be retained for a 3-year period.

**19.4.2.** Employee drug test results that show positive and test type (pre-employment, random test, post-accident test, or post-rehabilitation test), and records that demonstrate rehabilitation (including the MRO’s determination). These records shall be retained for a 5-year period and must include the following information:

**19.4.2.1.** Job classification and functions of employee



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- 19.4.2.2.** Prohibited drugs used
- 19.4.2.3.** Disposition of employee (i.e. rehab, suspension, termination, etc.)
- 19.4.3.** Employee drug tests that demonstrate negative results shall be retained for a period of 1 year.
- 19.4.4.** A record indicating the total number of employees tested and the results of tests separated into categories shall be retained for a 5-year period.
- 19.4.5.** Training records confirming that supervisors and employees have been trained as required under §199.117, and copies of training material used shall be retained for a 3-year period.



## ***Section XI***

### ***20 Contractor Monitoring***

- 20.1.** The company shall include a clause in the gas pipeline contracts that drug testing, education and training shall be addressed by the contractor in accordance with Part 199 and Part 40 for covered functions.
- 20.2.** Contractors shall retain copies of appropriate records required by Part 199 and Part 40. The records and access to the contractor's property shall be readily accessible for inspection by the company, PHMSA, and representatives of those agencies under which jurisdiction the company operates.
- 20.3.** The company will monitor for contractor compliance (See *Appendix H* for Contractor Monitoring Procedures).
- 20.4.** The company can, as an alternative to the above guidance, provide coverage for the contractor's employees by including them in the company's drug-testing program and random pool for the duration of the contract.

## ***Appendix A – Drug Personnel Services***

### ***Drug Program Manager (DPM)***

*Name:* Marsha Jackson

*Address:* 215 N Broad Street, Monroe, Ga 30655

*Telephone #:* 770-266-5116

*Email Address:* mjackson@monroega.gov

### ***Medical Review Officer (MRO)***

*Name:* Anthony Dallas, MD

*Address:* 274 East 10<sup>th</sup> Street, Chattanooga, Tn 37402

*Telephone #:* 423-757-2444

*Name:* Jan Bennett, MD

*Address:* 761 N Cherokee Road, Social Circle, Ga 30025

*Telephone #:* 770-464-4434



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**21 Consortium/Third Party Administrator (C/TPA) (If applicable)**

Name: N/A

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

**22 Designated Employer Representative (DER) (If the same as the DPM above, leave blank)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

**23 Collection Site(s) Utilized Under This Plan**

Name: CareHere Clinic

Address: 215 N Broad Street, Monroe, Ga 30655

Telephone #: 770-266-5199

Name: Tri-County Clinic

Address: 761 N Cherokee Road, Social Circle, Ga 30025

Telephone #: 770-464-4434

**23.1.**

**23.2. DHHS SAMHSA Approved/Certified Laboratories**

Certified Lab being utilized under this plan:

Name: MedTox Labs, Inc

Address: 402 W County Road D, St. Paul, Mn 55112

Telephone #: 800-832-3244

Name: Quest Diagnostics

Address: 3175 Presidential Dr.

Telephone #: Atlanta, Ga 30348

See [\*Appendix A-1\*](#) for the current listing of Department of Health and Human Services (DHHS) Substance Abuse and Mental Health Services Administration's (SAMHSA) approved/certified laboratories. The listing in this appendix is derived from the March 5, 2008 Federal Register in which it states that "A notice listing of all currently certified





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laboratories is published in the Federal Register during the first week of each month.....”

A current listing is also available on the Internet at:

[www.workplace.samhsa.gov](http://www.workplace.samhsa.gov) AND

[www.drugfreeworkplace.gov](http://www.drugfreeworkplace.gov)

***Employee Assistance Program (EAP)***

The S.E.C.S /PHMSA's's policy on drugs and the Anti-Drug Program has been reviewed and provided to “covered employees” performing “covered functions” as defined in ***Section I (3) Definitions.***

Covered employees are provided with a list of ‘hot-line’ numbers and access to educational materials that offer assistance to those individuals that may be experiencing drug-related problems.

***Substance Abuse Professional (SAP)*** *(If applicable)*

Name: NE Ga Employee Assistance Program

Address: The Carson Center, 1435 Oglethorpe Avenue, Athens, Ga 30606

Telephone #: 706-549-6658

Website: [www.negeap.com](http://www.negeap.com)

***Appendix A-1 – List of Certified Laboratories***

See PDF file

***Appendix B – Employee/Supervisory Positions Subject to Drug Testing  
(Job Classification/Titles)***

Natural Gas Apprentice

Natural Gas Division Foreman

Natural Gas Serviceman



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***Appendix C – Post-Accident Guidance Material***

The following guide material listed below may be used to guide the supervisor to a satisfactory outcome in a post-accident situation:

1. Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation? Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with post-accident testing.
2. Isolate and inform the employee. Remove the employee from the covered position or work place. Explain that you have reason to believe their performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident.
3. Transport the employee. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.
4. Document the events. Record the activity performed that supports the determination to conduct a post-accident test. This documentation of the employee's activity should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible.
5. Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. *Remember, a request for urine specimen is not an accusation; it is merely a request for additional objective data.* To the employee



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it may feel like an accusation; so it is important to stress that this is merely a request for additional data.

6. Following collection. After returning from the collection site, the employee should not be allowed to perform covered functions pending the results of the drug test.

***Appendix D – 2009 Drug Testing Percentages***

See PDF file



## Appendix D-1 – Drug &amp; Alcohol Testing MIS Form

## U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM

Calendar Year Covered by this Report:

24

## I. Employer:

Company Name:

Doing Business As (DBA) Name (if applicable):

Address:

E-mail:

Name of Certifying Official:

Signature:

24.2.

Telephone: ( )

24.3.

Date Certified:

Prepared by (if different):

Telephone: ( )

C/TPA Name and Telephone (if applicable): ( )

4.4.

Check the DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

- ☐ FMCSA – Motor Carrier: DOT #: \_\_\_\_\_ Owner-operator: (circle one) YES ☐ or NO ☐ Exempt (Circle One) YES ☐ or NO ☐
- ☐ FAA – Aviation: Certificate # (if applicable): \_\_\_\_\_ Plan / Registration # (if applicable): \_\_\_\_\_
- ☐ PHMSA – Pipeline: (Check) Gas Gathering ☐ Gas Transmission ☐ Gas Distribution ☐ Transport Hazardous Liquids ☐ Transport Carbon Dioxide
- ☐ FRA – Railroad: Total Number of observed/documentated Part 219 “Rule G” Observations for covered employees: \_\_\_\_\_
- ☐ USCG – Maritime: Vessel ID # (USCG or State Issued): \_\_\_\_\_ (If more than one vessel, list separately.)
- ☐ FTA – Transit

## II. Covered Employees: (A) Enter Total Number Safety-Sensitive Employees In All Employee Categories:

## (B) Enter Total Number of Employee Categories:

(C)

Employee Category	Total Number of Employees in this Category

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

1

## III. Drug Testing Data:

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Type of Test	Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11 and 12]	Verified Negative Results	Verified Positive Results ~ For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opiates	Positive For Amphetamines	Refusal Results				Cancelled Results
									Adulterated	Substituted	“Shy Bladder” ~ With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment													
Random													
Post-Accident													
Reasonable Susp./Cause													
Return-to-Duty													
Follow-Up													
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0

## IV. Alcohol Testing Data:

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Type of Test	Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Tests Results	Confirmation Tests With Results 0.02 Through 0.039	Confirmation Tests With Results 0.04 Or Greater	Refusal Results		Cancelled Results
							"Shy Lung" ~ With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment									
Random									
Post-Accident									
Reasonable Susp./Cause									
Return-to-Duty									
Follow-Up									
TOTAL	0	0	0	0	0	0	0	0	0

**PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 2105-0529. The Department of Transportation estimates that the average burden for this report form is 1.5 hours. You may send comments regarding this burden estimate or any suggestions for reducing the burden to: U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, Room 10403, 400 Seventh Street, SW, Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project, 725 Seventeenth Street, NW, Washington, D.C. 20503.

Title 18, USC Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements of representations in any matter within the jurisdiction of any agency of the United States.



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DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM  
INSTRUCTION SHEET**

This Management Information System (MIS) form is made-up of four sections: employer information; covered employees (i.e., employees performing DOT regulated safety-sensitive duties) information; drug testing data; and alcohol testing data. The employer information needs only to be provided once per submission. However, you must submit a separate page of data for each employee category for which you report testing data. If you are preparing reports for more than one DOT agency then you must submit DOT agency-specific forms.

Please type or print entries legibly in black ink.

**TIP** ~ Read the entire instructions before starting. Please note that USCG-regulated employers do not report alcohol test results on the MIS form.

**Calendar Year Covered by this Report:** Enter the appropriate year.

24.1.1.1.1.1

Section I. Employer

24.1.1.1.1.2

24.1.1.1.1.3

**1. Enter your company's name, to include when applicable, your "doing business as" name; current address, city, state, and zip code; and an e-mail address, if available.**

2. Enter the printed name, signature, and complete telephone number of the company official certifying the accuracy of the report and the date that person certified the report as complete.

3. If someone other than the certifying official completed the MIS form, enter that person's name and phone number on the appropriate lines provided.

4. If a Consortium/Third Party Administrator (C/TPA) performs administrative services for your drug and alcohol program operation, enter its name and phone number on the appropriate lines provided.

5. DOT Agency Information: Check the box next to the DOT agency for which you are completing this MIS form. Again, if you are submitting to multiple DOT agencies, you must use separate forms for each DOT agency.

a. If you are completing the form for FMCSA, enter your FMCSA DOT Number, as appropriate. In addition, you must indicate whether you are an owner-operator (i.e., an employer who employs only himself or herself as a driver) and whether you are exempt from providing MIS data. Exemptions are noted in the FMCSA regulation at 382.103(d).

b. If you are completing the form for FAA, enter your FAA Certificate Number and FAA Antidrug Plan / Registration Number, when applicable.

c. If you are completing the form for PHMSA, check the additional box(s) indicating your type of operation.

d. If you are completing the form for FRA, enter the number of observed/documented Part 219 "Rule G" Observations for covered employees.

e. If you are submitting the form for USCG, enter the vessel ID number. If there is more than one number, enter the numbers separately.

24.4.1.1.1.1.3.1 Section II. Covered Employees



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1. In Box II-A, enter the total number of covered employees (i.e., employees performing DOT regulated safety-sensitive duties) who work for your company. Then enter, in Box II-B, the total number of employee categories that number represents. If you have employees, some of whom perform duties under one DOT agency and others of whom perform duties under another DOT agency, enter only the number of those employees performing duties under the DOT agency for whom you are submitting the form. If you have covered employees who perform multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for you), count the employee only on the MIS report for the DOT agency regulating more than 50 percent of the employee's safety sensitive function.

[Example: If you are submitting the information for the FRA and you have 2000 covered employees performing duties in all FRA-covered service categories – you would enter “2000” in the first box (II-A) and “5” in the second box (II-B), because FRA has five safety-sensitive employee categories and you have employees in all of these groups. If you have 1000 employees performing safety-sensitive duties in three FRA-covered service categories (e.g., engine service, train service, and dispatcher/operation), you would enter “1000” in the first box (II-A) and “3” in the second box (II-B).]

***TIP*** ~ To calculate the total number of covered employees, add the total number of covered employees eligible for testing during each random testing selection period for the year and divide that total by the number of random testing periods. (However, no company will need to factor the average number of employees more often than once per month). For instance, a company conducting random testing quarterly needs to add the total of covered employees they had in the random pool when each selection was made; then divide this number by 4 to obtain the yearly average number of covered employees. It is extremely important that you place all eligible employees into these random pools. [As an example, if Company A had 1500 employees in the first quarter random pool, 2250 in the second quarter, 2750 in the third quarter; and 1500 in the fourth quarter;  $1500 + 2250 + 2750 + 1500 = 8000$ ;  $8000 / 4 = 2000$ ; the total number of covered employees for the year would be reported as, “2000”.

*If you conduct random selections more often than once per month (e.g., you select daily, weekly, bi-weekly), you do not need to compute this total number of covered employees rate more than on a once per month basis. Therefore, employers need not compute the covered employees rate more than 12 times per year.]*

2. If you are reporting multiple employee categories, enter the specific employee category in box II-C; and provide the number of employees performing safety-sensitive duties in that specific category.

[Example: You are submitting data to the FTA and you have 2000 covered employees. You have 1750 personnel performing revenue vehicle operation and the remaining 250 are performing revenue vehicle and equipment maintenance. When you provide vehicle operation information, you would enter “Revenue Vehicle Operation” in the first II-C box and “1750” in the second II-C box. When you provide data on the maintenance personnel, you would enter “Revenue Vehicle and Equipment Maintenance” in the first II-C box and “250” in the second II-C box.]

***TIP*** ~ A separate form for each employee category must be submitted. You may do this by filling out a single MIS form through Section II-B and then make one copy for each additional employee category you are reporting. [For instance, if you are submitting the MIS form for the FMCSA, you need only submit one form for all FMCSA covered employees working for you – your only category of employees is “driver.” If you are reporting testing data to the FAA and you employ only flight crewmembers, flight attendants, and aircraft maintenance workers, you need to complete one form each for category – three forms in all. If you are reporting to FAA and have all FAA categories of covered employees, you must submit eight forms.]



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*Here is a full listing of covered-employee categories:*

**24.4.1.1.2      FMCSA (one category): Driver**

**FAA** (eight categories): Flight Crewmember; Flight Attendant; Flight Instructor; Aircraft Dispatcher; Aircraft Maintenance; Ground Security Coordinator; Aviation Screener; Air Traffic Controller

**PHMSA** (one category): Operation/Maintenance/Emergency Response

**FRA** (five categories): Engine Service; Train Service; Dispatcher/Operation; Signal Service; Other [Includes yardmasters, hostlers (non-engineer craft), bridge tenders; switch tenders, and other miscellaneous employees performing 49 CFR 228.5 (c) defined covered service.]

**USCG** (one category): Crewmember

**FTA** (five categories): Revenue Vehicle Operation; Revenue Vehicle and Equipment Maintenance; Revenue Vehicle Control/Dispatch; CDL/Non-Revenue Vehicle; Armed Security Personnel

**24.4.2.      Section III. Drug Testing Data**

This section summarizes the drug testing results for all covered employees (to include applicants). The table in this section requires drug test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion / Reasonable Cause; Return-to-Duty, and Follow-Up.

The categories of type of results are: Total Number of Test Results [excluding cancelled tests and blind specimens]; Verified Negative; Verified Positive; Positive for Marijuana; Positive for Cocaine; Positive for PCP; Positive for Opiates; Positive for Amphetamines; Refusals due to Adulterated, Substituted, "Shy Bladder" with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

***TIP*** ~ Do not enter data on blind specimens submitted to laboratories. Be sure to enter all pre-employment testing data regardless of whether an applicant was hired or not. You do not need to separate reasonable suspicion and reasonable cause drug testing data on the MIS form. [Therefore, if you conducted only reasonable suspicion drug testing (i.e., FMCSA and FTA), enter that data; if you conducted only reasonable cause drug testing (i.e., FAA, PHMSA, and USCG); or if you conducted both under FRA drug testing rules, simply enter the data with no differentiation.] For USCG, enter any "Serious Marine Incident" testing in the Post-Accident row. For FRA, do not enter post accident data (the FRA does not collect this data on the MIS form). Finally, you may leave blank any row or column in which there were no results, or you may enter "0" (zero) instead. Please note that cancelled tests are not included in the "total number of test results" column.

**Section III, Column 1. Total Number of Test Results** ~ This column requires a count of the total number of test results in each testing category during the entire reporting year. Count the number of test results as the number of testing events resulting in negative, positive, and refusal results. Do not count cancelled tests and blind specimens in this total.

[Example: A company that conducted fifty pre-employment tests would enter "50" on the Pre-Employment row. If it conducted one hundred random tests, "100" would be entered on the Random row. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank or zeros entered.]





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**Section III, Column 2. Verified Negative Results** ~ This column requires a count of the number of tests in each testing category that the Medical Review Officer (MRO) reported as negative. Do not count a negative-dilute result if, subsequently, the employee underwent a second collection; the second test is the test of record.

[Example: If forty-seven of the company's fifty pre-employment tests were reported negative, "47" would be entered in Column 2 on the Pre-Employment row. If ninety of the company's one hundred random test results were reported negative, "90" would be entered in Column 2 on the Random row. Because the company did no other testing, those other categories would be left blank or zeros entered.]

**Section III, Column 3. Verified Positive Results ~ For One Or More Drugs** ~ This column requires a count of the number of tests in each testing category that the MRO reported as positive for one or more drugs. When the MRO reports a test positive for two drugs, it would count as one positive test.

[Example: If one of the fifty pre-employment tests was positive for two drugs, "1" would be entered in Column 3 on the Pre-Employment row. If four of the company's one hundred random test results were reported positive (three for one drug and one for two drugs), "4" would be entered in Column 3 on the Random row.]

■ **Section III, Columns 4 through 8. Positive (for specific drugs)** ~ These columns require entry of the by-drug data for which specimens were reported positive by the MRO.

[Example: The pre-employment positive test reported by the MRO was positive for marijuana, "1" would be entered in Column 4 on the Pre-Employment row. If three of the four positive results for random testing were reported by the MRO to be positive for marijuana, "3" would be entered in Column 4 on the Random row. If one of the four positive results for random testing was reported positive for both PCP and opiates, "1" would be entered in Column 6 on the Random row and "1" would be entered in Column 7 of the Random row.]

***TIP*** ~ Column 1 should equal the sum of Columns 2, 3, 9, 10, 11, and 12. Remember you have not counted specimen results that were ultimately cancelled or were from blind specimens. So, Column 1 = Column 2 + Column 3 + Column 9 + Column 10 + Column 11 + Column 12. Certainly, double check your records to determine if your actual results count is reflective of all negative, positive, and refusal counts.

*An MRO may report that a specimen is positive for more than one drug. When that happens, to use the company example above (i.e., one random test was positive for both PCP and opiates), the positive results should be recorded in the appropriate columns – PCP and opiates in this case. There is no expectation for Columns 4 through 8 numbers to add up to the numbers in Column 3 when you report multiple positives.*

**Section III, Columns 9 through 12. Refusal Results** ~ The refusal section is divided into four refusal groups – they are: Adulterated; Substituted; "Shy Bladder" ~ With No Medical Explanation; and Other Refusals To Submit to Testing. The MRO reports two of these refusal types – adulterated and substituted specimen results – because of laboratory test findings.

When an individual does not provide enough urine at the collection site, the MRO conducts or causes to have conducted a medical evaluation to determine if there exists a medical reason for the person's inability to provide the appropriate amount of urine. If there is no medical reason to support the inability, the MRO reports the result to the employer as a refusal to test: Refusals of this type are reported in the "Shy Bladder" ~ With No Medical Explanation category.



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Finally, additional reasons exist for a test to be considered a refusal. Some examples are: the employee fails to report to the collection site as directed by the employer; the employee leaves the collection site without permission; the employee fails to empty his or her pockets at the collection site; the employee refuses to have a required shy bladder evaluation. Again, these are only four examples: there are more.

■ **Section III, Column 9. Adulterated** ~ This column requires the count of the number of tests reported by the MRO as refusals because the specimens were adulterated.

[Example: If one of the fifty pre-employment tests was adulterated, "1" would be entered in Column 9 of the Pre-Employment row.]

■ **Section III, Column 10. Substituted** ~ This column requires the count of the number of tests reported by the MRO as refusals because the specimens were substituted.

[Example: If one of the 100 random tests was substituted, "1" would be entered in Column 10 of the Random row.]

■ **Section III, Column 11. "Shy Bladder" ~ With No Medical Explanation** ~ This column requires the count of the number of tests reported by the MRO as being a refusal because there was no legitimate medical reason for an insufficient amount of urine.

[Example: If one of the 100 random tests was a refusal because of shy bladder, "1" would be entered in Column 11 of the Random row.]

■ **Section III, Column 12. Other Refusals To Submit To Testing** ~ This column requires the count of refusals other than those already entered in Columns 9 through 11.

[Example: If the company entered "100" as the number of random specimens collected, however it had five employees who refused to be tested without submitting specimens: two did not show up at the collection site as directed; one refused to empty his pockets at the collection site; and two left the collection site rather than submit to a required directly observed collection. Because of these five refusal events, "5" would be entered in Column 12 of the Random row.]

***TIP*** ~ *Even though some testing events result in a refusal in which no urine was collected and sent to the laboratory, a "refusal" is still a final test result. Therefore, your overall numbers for test results (in Column 1) will equal the total number of negative tests (Column 2); positives (Column 3); and refusals (Columns 9, 10, 11, and 12). Do not worry that no urine was processed at the laboratory for some refusals; all refusals are counted as a testing event for MIS purposes and for establishing random rates.*

**Section III, Column 13. Cancelled Tests** ~ This column requires a count of the number of tests in each testing category that the MRO reported as cancelled. You must not count any cancelled tests in Column 1 or in any other column. For instance, you must not count a positive result (in Column 3) if it had ultimately been cancelled for any reason (e.g., specimen was initially reported positive, but the split failed to reconfirm).

[Example: If a pre-employment test was reported cancelled, "1" would be entered in Column 13 on the Pre-Employment row. If three of the company's random test results were reported cancelled, "3" would be entered in Column 13 on the Random row.]



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**TOTAL Line. Columns 1 through 13** ~ This line requires you to add the numbers in each column and provide the totals.

**24.4.3.****24.4.4.      Section IV. Alcohol Testing Data**

This section summarizes the alcohol testing conducted for all covered employees (to include applicants). The table in this section requires alcohol test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion / Reasonable Cause; Return-to-Duty, and Follow-Up.

The categories of results are: Number of Screening Test Results; Screening Tests with Results Below 0.02; Screening Tests with Results 0.02 Or Greater; Number of Confirmation Test Results; Confirmation Tests with Results 0.02 through 0.039; Confirmation Tests with Results 0.04 Or Greater; Refusals due to "Shy Lung" with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

***TIP*** ~ Be sure to enter all pre-employment testing data regardless of whether an applicant was hired or not. Of course, for most employers pre-employment alcohol testing is optional, so you may not have conducted this type of testing. You do not need to separate "reasonable suspicion" and "reasonable cause" alcohol testing data on the MIS form. [Therefore, if you conducted only reasonable suspicion alcohol testing (i.e., FMCSA, FAA, FTA, and PHMSA), enter that data; if you conducted both reasonable suspicion and reasonable cause alcohol testing (i.e., FRA), simply enter the data with no differentiation.] PHMSA does not authorize "random" testing for alcohol. Finally, you may leave blank any row or column in which there were no results, or you may enter "0" (zero) instead. Please note that USCG-regulated employers do not report alcohol test results on the MIS form: Do not fill-out Section IV if you are a USCG-regulated employer.

**Section IV, Column 1. Total Number of Screening Test Results** ~ This column requires a count of the total number of screening test results in each testing category during the entire reporting year. Count the number of screening tests as the number of screening test events with final screening results of below 0.02, of 0.02 through 0.039, of 0.04 or greater, and all refusals. Do not count cancelled tests in this total.

[Example: A company that conducted twenty pre-employment tests would enter "20" on the Pre-Employment row. If it conducted fifty random tests, "50" would be entered. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank or zeros entered.]

**Section IV, Column 2. Screening Tests With Results Below 0.02** ~ This column requires a count of the number of tests in each testing category that the BAT or STT reported as being below 0.02 on the screening test.

[Example: If seventeen of the company's twenty pre-employment screening tests were reported as being below 0.02, "17" would be entered in Column 2 on the Pre-Employment row. If forty-four of the company's fifty random screening test results were reported as being below 0.02, "44" would be entered in Column 2 on the Random row. Because the company did no other testing, those other categories would be left blank or zeros entered.]



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**Section IV, Column 3. Screening Tests With Results 0.02 Or Greater** ~ This column requires a count of the number of screening tests in each testing category that BAT or STT reported as being 0.02 or greater on the screening test.

[Example: If one of the twenty pre-employment tests was reported as being 0.02 or greater, "1" would be entered in Column 3 on the Pre-Employment row. If four of the company's fifty random test results were reported as being 0.02 or greater, "4" would be entered in Column 3 on the Random row.]

**Section IV, Column 4. Number of Confirmation Test Results** ~ This column requires entry of the number of confirmation tests that were conducted by a BAT as a result of the screening tests that were found to be 0.02 or greater. In effect, all screening tests of 0.02 or greater should have resulted in confirmation tests. Ideally the number of tests in Column 3 and Column 4 should be the same. However, we know that this required confirmation test sometimes does not occur. In any case, the number of confirmation tests that were actually performed should be entered in Column 4.

[Example: If the one pre-employment screening test reported as 0.02 or greater had a subsequent confirmation test performed by a BAT, "1" would be entered in Column 4 on the Pre-Employment row. If three of the four random screening tests that were found to be 0.02 or greater had a subsequent confirmation test performed by a BAT, "3" would be entered in Column 4 on the Random row.]

**Section IV, Column 5. Confirmation Tests With Results 0.02 Through 0.039** ~ This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.02 through 0.039.

[Example: If the one pre-employment confirmation test yielded a result of 0.042, Column 5 of the Pre-Employment row would be left blank or zeros entered. If two of the random confirmation tests yielded results of 0.03 and 0.032, "2" would be entered in Column 5 of the Random row.]

**Section IV, Column 6. Confirmation Tests With Results 0.04 Or Greater** ~ This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.04 or greater.

[Example: Because the one pre-employment confirmation test yielded a result of 0.042, "1" would be entered in Column 6 of the Pre-Employment row. If one of the random confirmation tests yielded a result of 0.04, "1" would be entered in Column 6 of the Random row.]

***TIP*** ~ Column 1 should equal the sum of Columns 2, 3, 7, and 8. The number of screening tests results should reflect the number of screening tests you have no matter the result (below 0.02 or at or above 0.02, plus refusals to test), unless of course, the tests were ultimately cancelled. So, Column 1 = Column 2 + Column 3 + Column 7 + Column 8. Certainly, double check your records to determine if your actual screening results count is reflective of all these counts.

*There is no need to record MIS confirmation tests results below 0.02: That is why we have no column for it on the form. [If the random test that screened 0.02 went to a confirmation test, and that confirmation test yielded a result below 0.02, there is no place for that confirmed result to be entered.] We assume that if a confirmation test was completed but not listed in either Column 5 or Column 6, the result was below 0.02. In addition, if the confirmation test ended up being cancelled, it should not have been included in Columns 1, 3, or 4 in the first place.*



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**Section IV, Columns 7 and 8. Refusal Results** ~ The refusal section is divided into two refusal groups – they are: Shy Lung ~ With No Medical Explanation; and Other Refusals To Submit to Testing. When an individual does not provide enough breath at the test site, the company requires the employee to have a medical evaluation to determine if there exists a medical reason for the person's inability to provide the appropriate amount of breath. If there is no medical reason to support the inability as reported by the examining physician, the employer calls the result a refusal to test. Refusals of this type are reported in the "Shy Lung ~ With No Medical Explanation" category.

Finally, additional reasons exist for a test to be considered a refusal. Some examples are: the employee fails to report to the test site as directed by the employer; the employee leaves the test site without permission; the employee fails to sign the certification at Step 2 of the ATF; the employee refuses to have a required shy lung evaluation. Again, these are only four examples; there are more.

■ **Section IV, Column 7. "Shy Lung" ~ With No Medical Explanation** ~ This column requires the count of the number of tests in which there is no medical reason to support the employee's inability to provide an adequate breath as reported by the examining physician; subsequently, the employer called the result a refusal to test.

[Example: If one of the 50 random tests was a refusal because of shy lung, "1" would be entered in Column 7 of the Random row.]

■ **Section IV, Column 8. Other Refusals To Submit To Testing** ~ This column requires the count of refusals other than those already entered in Columns 7.

[Example: The company entered "50" as the number of random specimens collected, however it had one employee who did not show up at the testing site as directed. Because of this one refusal event, "1" would be entered in Column 8 of the Random row.]

***TIP*** ~ Even though some testing events result in a refusal in which no breath (or saliva) was tested, there is an expectation that your overall numbers for screening tests (in Column 1) will equal the total number of screening tests with results below 0.02 (Column 2); screening tests with results 0.02 or greater (Column 3); and refusals (Columns 7 and 8). Do not worry that no breath (or saliva) was tested for some refusals; all refusals are counted as a screening test event for MIS purposes and for establishing random rates.

**Section IV, Column 9. Cancelled Tests** ~ This column requires a count of the number of tests in each testing category that the BAT or STT reported as cancelled. Do not count any cancelled tests in Column 1 or in any other column other than Column 9. For instance, you must not count a 0.04 screening result or confirmation result in any column, other than Column 9, if the test was ultimately cancelled for some reason (e.g., a required air blank was not performed).

[Example: If a pre-employment test was reported cancelled, "1" would be entered in Column 9 on the Pre-Employment row. If three of the company's random test results were reported cancelled, "3" would be entered in Column 13 on the Random row.]

**TOTAL Line. Columns 1 through 9** ~ This line requires you to add the numbers in each column and provide the totals.



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***Appendix E - Anti-Drug Reasonable Suspicion Guidance Material***

The following guide material listed below may be used to guide the supervisor to a satisfactory outcome in a reasonable suspicion situation:

7. Verify the reasonable suspicion decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable cause referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was substance abuse related? On what basis did they reach their conclusion? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with reasonable cause testing.
8. Isolate and inform the employee. Remove the employee from the work location. Explain that there is reasonable cause to believe the employee's performance is being affected by some substance. Ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for a urine sample. If there is still a reasonable belief that drugs are a factor in the situation/incident, a request for testing should be made; if no reasonable belief is determined then no request for testing should not be made. If the decision to test is made, inform the employee that they are being requested to accompany the appropriate official to the specimen collection site to provide a urine specimen. Inform the employee of the consequences of refusal to submit to testing.
9. Review your findings. Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable cause decision must be made by two of the employee's supervisors. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable cause determination.
10. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns





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- for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.
11. Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable cause test. This documentation of the employee's conduct should be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.
  12. Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to provide a urine specimen is not an accusation; it is merely a request for additional objective data. To the employee it may feel like an accusation; so it is important to stress that this is merely a request for additional data.
  13. Following administration of drug test. After returning from the collection site, the employee shall not perform duties pending the receipt of the drug test results. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable cause belief that they may be under the influence of a drug. **If the employee insists on driving, the proper local enforcement authority may be notified that an employee who the company believes may be under the influence of a drug is leaving the company premises driving a motor vehicle.**

*Appendix F*

Reserved



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***Appendix G – Laboratory Procedures***

**A. Testing.**

1. Initial Test - The initial test shall use an immunoassay which meets the requirement of the Food and Drug Administration for commercial distribution.
2. Confirmatory Test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed in this paragraph for each drug. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."

**B. Reporting Results.**

1. The laboratory shall report test results to the company's MRO within an average of 5 working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the employer, and the drug testing laboratory specimen.
2. The laboratory shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.
3. The MRO may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of test results to the company. The MRO may reveal the





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quantitation of a positive test result to the company, the employee, or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.

4. The laboratory may transmit results to the MRO by various electronic means (e.g., telex-printer, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory and employer must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.
5. The laboratory shall send only to the MRO the original or a certified true copy of the drug testing custody and control form (copy 1), which, in the case of a report positive for drug use, shall be signed (after the required certification block) by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.
6. The laboratory shall provide to the company official responsible for coordination of the drug-testing program a quarterly statistical summary of urinalysis testing of the company's employees and shall not include in the summary any personal identifying information. Confirmation data shall be included from test results reported within that quarter. Normally this summary shall be forwarded not more than 14 calendar days after the end of the month covered by the summary. The summary shall contain the following information:
  - a. Number of specimens received for testing;
  - b. Number of specimens confirmed positive for:
    - i. Marijuana metabolite
    - ii. Cocaine metabolite
    - iii. Morphine, codeine
    - iv. Phencyclidine
    - v. Amphetamine
    - vi. Methamphetamine
  - c. Number of specimens for which a test was not performed.
7. Quarterly reports shall not include data from which it is reasonably likely that information about individuals' tests can be readily inferred. If necessary, in order to prevent the disclosure of such data, the laboratory shall not send a report until data are sufficiently aggregated to make such an inference unlikely. In any quarter in which a report is withheld for this reason, the laboratory will so inform the employer in writing.



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8. Unless otherwise instructed by the company in writing, all records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of 2 years.

**C. Long-Term Storage.**

Long-term frozen storage (-20°C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. Drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens confirmed positive, in their original labeled specimen bottles. Within this 1-year period, an employer (or other person designated in a DOT agency regulation) may request the laboratory to retain the specimen for an additional period of time, but if no such request is received the laboratory may discard the specimen after the end of 1 year, except that the laboratory shall be required to maintain any specimens known to be under legal challenge for an indefinite period.

**D. Re-Testing Specimens.**

Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

**E. Subcontracting.**

Drug testing laboratories shall not subcontract and shall perform all work with their own personnel and equipment. The laboratory must be capable of performing forming testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine, and amphetamines) using the initial immunoassay and confirmatory GC/MS methods specified in this appendix. This paragraph does not prohibit subcontracting of laboratory analysis if specimens are sent directly from the collection site to the subcontractor, the subcontractor is a laboratory certified by DHHS as required in this appendix, the subcontractor performs all analysis and provides storage required under this appendix, and the subcontractor is responsible to the company for compliance with this appendix and applicable DOT regulations as if it were the prime contractor.

**F. Inspections.**

DOT, any company utilizing the laboratory, DHHS, or any organization performing laboratory certification on behalf of DHHS reserves the right to inspect the laboratory



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at any time. Company contracts with laboratories for drug testing, as well as contracts for collection site services, shall permit the company and the DOT of jurisdiction (directly or through an agency) to conduct unannounced inspections.

**G. Documentation.**

The drug testing laboratories shall maintain and make available for at least 2 years documentation of all aspects of the testing process. This 2-year period may be extended upon written notification by DOT or by any company for which laboratory services are being provided. The required documentation shall include personnel files on all individuals authorized to have access to specimens; chain-of- custody documents; quality assurance/quality control records; procedure manuals; all test data (including calibration curves and any calculations used in determining test results); reports; records on performance testing; performance on certification inspections; and hard copies of computer-generated data. The laboratory shall maintain documents for any specimen known to be under legal challenge for an indefinite period.

**H. Protection of Employee Records.**

1. Employer contracts with laboratories shall require that the laboratory maintain employee test records in confidence, as provided in DOT regulations.
2. The contracts shall provide that the laboratory shall disclose information related to a positive drug test of an individual to the individual, the employer, or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a certified positive drug test.

***Appendix H – Contractor Monitoring***

**A. Objective.**

In order to assure a contractor's compliance with DOT's regulations, the following procedures are to be followed in determining compliance with the drug testing regulations as set forth in 49 CFR Part 199 and Part 40.

**B. Procedures for Determining Compliance.**

1. Qualifying Potential Contractor: Qualifications of the potential contractor as it pertains to drug testing policies/procedures is assured by requesting the potential contractor to submit a copy of its anti-drug plan for review and compliance with PHMSA/DOT regulations. After review of the anti-drug plan is completed, written



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correspondence to the contractor will advise it whether or not the plan is acceptable or in need of further additions, deletions, revisions or clarifying language. The review of the contractor plan shall be completed utilizing the criteria established in the PHMSA Headquarters Drug Inspection form and the DOT Part 40 Drug Inspection forms. Addenda made to the contractor's plan shall be attached to the previously submitted plan. Upon approval of the addendums, a letter of acceptance is then sent to the contractor. The contractor is now eligible to bid on company contract work that would be covered under Part 199 and Part 40.

2. Monitoring Contractor's Compliance: The contractor is required to provide information on his/her employees who will perform covered functions for the operator. This information will include the name and job title of the employees who will perform any work or functions covered by Part 199 under that contract. A list of each contractor's covered employees may be distributed to appropriate company field management.

3. All contractors will be required to submit drug testing statistical information on a periodical basis which may be based on the duration of the contract. Typically, this requirement will be on a monthly or quarterly basis. The company may require a more frequent schedule for submission of drug testing data should they determine a need for such statistics.

4. The company shall maintain a complete file on each contractor's statistical drug testing reports. The company shall make available these reports when requested by the PHMSA Administrator, agency designated representative, or representatives of those state agencies under which jurisdiction the company operates.

NOTE: This is only one method of "monitoring" the contractor's compliance with the requirements set forth in 49 CFR Part 199.115.





# Alcohol Misuse Prevention Plan

A Component of the  
Master Manuals System  
Developed by the  
Subscribed Regulatory Compliance Service  
of the  
Municipal Gas Authority of Georgia  
104 TownPark Drive  
Kennesaw, Georgia 30144  
(770) 590-1000

## DISCLAIMER AND CONDITIONS OF USE

This Alcohol Misuse Prevention Plan (the "Plan") was developed by the Subscribed Regulatory Compliance Service ("SRCS") of the Municipal Gas Authority of Georgia to assist subscribers to SRCS ("Subscribers") in preventing, in accordance with applicable Federal and State of Georgia Regulations related to natural gas pipeline safety (the "Regulations"), accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities. The Municipal Gas Authority of Georgia has endeavored to completely and accurately address Regulations in this Plan; however, following the suggestions or advice set forth in this Plan may not lead to your compliance with applicable Regulations. **It is the responsibility of the Subscriber to retain the services of qualified legal and technical professionals to confirm (i) the completeness and accuracy of the suggestions and advice set forth in this Plan, and (ii) the applicability of such suggestions and advice to any natural gas system or emergency situation.**

This Plan is intended solely for use by a Subscriber in relation to the operation of its natural gas system. Additional copies of any electronic and hardcopy versions of this Plan provided by the Municipal Gas Authority of Georgia to a Subscriber may be made by the Subscriber solely as necessary for its internal use in relation to the operation of its natural gas system. A Subscriber may not transmit an electronic copy of this Plan to any third party.





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Date: \_\_\_\_\_

The personnel listed below have been made aware of the S.R.C.S./PHMSA's alcohol misuse prevention plan and acknowledge that they have read and understand that they are subject to the requirements of this plan.

*Procedure for Notifying Covered Employees:* This AMPP shall be included in the appropriate company manual or in a separate manual and shall be made available and accessible to all "Covered Employees" by any of the following methods:

- By providing each "Covered Employee" with a copy of the AMPP; and/or,
- By providing each "Covered Employee" with a summarized version of the AMPP; and/or,
- Displaying the AMPP or summarized version on an employee bulletin board or other central location where employees may frequently congregate

If the entire plan is not provided to employees, then the summarized version shall indicate where a complete copy of The S.R.C.S./PHMSA's AMPP is available for review by the employees.

<b><i>Name</i></b>	<b><i>Signature</i></b>



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## ***Section I***

### ***1 Introduction***

- 1.1. Implementation of Alcohol Misuse Prevention Plan effective date: **enter date implemented**.
- 1.2. Commencement date of Alcohol Misuse Prevention Plan (Check the appropriate box)
  - ☒ Operators with more than 50 employees, January 1, 1995
  - ☐ Operators with fewer than 50 employees, January 1, 1996
- 1.3. The company has a long standing commitment to maintain the highest standards for employee safety and health and to help prevent accidents/injuries resulting from the misuse of alcohol by employees who perform covered functions.
- 1.4. The Alcohol Misuse Prevention Plan contained herein sets forth the requirements of 49 CFR Part 199 and 40.
- 1.5. The use or possession of alcoholic beverages while on company property, or in any company vehicle, or on company time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.
- 1.6. **Those areas of the plan that appear in bold and underlined print reflect this company's independent authority to require additional provisions with regard to the alcohol testing procedures.**
- 1.7. These regulations require operators of pipeline facilities to implement and follow an Alcohol Misuse Prevention Plan (AMPP) for personnel that perform a covered function as defined in *Section I – 3 – Definitions* of this plan.
- 1.8. The privacy/confidentiality of any covered employee subject to this plan must be maintained at all times.
- 1.9. Alcohol materials supplied to covered employees may also include information on additional company mandated policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the company's authority independent of the federal regulations under 49 CFR Part 199 and 40.



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***2 Background***

- 2.1. 49 CFR Part 199 Subpart C requires pipeline operators subject to 49 CFR Parts 192, 193, and their contractors to test their employees for misuse of alcohol under the following work related conditions (See **Section III – 6** for detailed breakdown by type of alcohol test):
  - 2.1.1. Post-Accident
  - 2.1.2. Reasonable Suspicion
  - 2.1.3. Return-to-Duty
  - 2.1.4. Follow-Up
- 2.2. 49 CFR Part 40 specifies procedures which must be followed by the company when conducting alcohol misuse testing pursuant to regulations issued by agencies of the D.O.T.



### ***3 Definitions***

- 3.1. Accident – An incident reportable under 49 CFR Part 191 involving gas pipeline facilities or liquefied natural gas (LNG) facilities (See definition of “Incident” below).
- 3.2. Administrator – Means the Administrator, Pipeline Hazardous Materials Safety Administration or his/her designee.
- 3.3. Air Blank – A reading by an evidential breath testing (EBT) device of ambient air containing no alcohol.
- 3.4. Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
- 3.5. Alcohol Concentration – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test conducted under the federal regulations.
- 3.6. Alcohol Program Manager (APM) – Is an individual responsible for the preparation of an alcohol misuse prevention plan which complies with the requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 and 40. The APM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (return-to-duty, or follow-up, etc.); maintaining a locked file system on all alcohol test results; and overseeing the referral of employees for evaluation and treatment as it is defined in 49 CFR Part 199. *The APM shall be an individual that is not required to submit to the alcohol-testing requirements of this plan (e.g. not a covered employee or performing a covered function as defined in the definitions section of this plan).*
- 3.7. AMPP – Alcohol Misuse Prevention Plan
- 3.8. Alcohol Use – The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- 3.9. Breath Alcohol Technician (BAT) – An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.



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- 3.10. Canceled or Invalid Test** – a test that is deemed to be invalid as listed in Appendix F of the AMPP.
- 3.11. Company** – an organization or commercial enterprise that uses an AMPP.
- 3.12. Confirmation Test** – A second test following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.
- 3.13. Consortium/Third Party Administrator (C/TPA)** – A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for the purposes of Part 40.
- 3.14. Continuing Education** – Training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions, designed to keep MROs and SAPs current on changes and developments in the DOT drug and alcohol testing program.
- 3.15. Covered Employee** – Any person who performs on a pipeline or LNG facility an operating, maintenance, or emergency response function regulated by Parts 192 or 193. Such person may be employed directly by the operator, or by a contractor engaged by the operator. As applied in the regulations, "employee" and "applicant for employment" have the same meaning for the purpose of these requirements. Clerical, truck driving, accounting, or other job functions not covered by Parts 192 or 193 are not subject to the regulations.
- 3.16. Covered Function (Safety Sensitive Function)** – An operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by Parts 192 or 193. For the purpose of this definition, receiving emergency calls of gas leaks is also a covered function.
- 3.17. Designated Employer Representative** – An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required



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decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs.

- 3.18. DHHS** – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
- 3.19. D.O.T., The Department, D.O.T Agency** – These terms encompass all D.O.T. agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.
- 3.20. Employer** – A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.
- 3.21. Evidential Breath Testing Device** – An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices.
- 3.22. Incident** – As defined by §191.3; means any of the following events:
- (1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility; and,
    - (i) A death, or personal injury necessitating inpatient hospitalization; or
    - (ii) Estimated property damage, including cost of gas lost, to the operator or others, or both, of \$50,000 or more.
  - (2) An event that results in an emergency shutdown of an LNG facility.
  - (3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) above.



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- 3.23. Missed Test** – Any test that is not administered within 8 hours time period. These tests must be reported to PHMSA annually and must be submitted with the annual Management Information System (MIS) Data Collection forms.
- 3.24. Office of Drug and Alcohol Policy and Compliance (ODAPC)** – The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of this part.
- 3.25. Operator** – An owner or operator of pipeline facilities.
- 3.26. Performing (a covered function)** – when a safety-sensitive function is being carried out by an employee. This would be considered any person who is actually carrying out the function, ready to carry out the function or immediately available to carry out the function.
- 3.27. PHMSA** – Means the Pipeline Hazardous Materials Safety Administration
- 3.28. Pipeline** – All parts of the physical facilities through which product moves in transportation. This includes pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, delivery stations, holders, and fabricated assemblies.
- 3.29. Pipeline Facilities** – Includes new and existing pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of products.
- 3.30. Prohibited Conduct** – any one who has an alcohol concentration of 0.04 or greater, who has used alcohol within 4 hours of reporting for duty and anyone who has used alcohol on-duty.
- 3.31. Qualification Training** – The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- 3.32. Refresher Training** – The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can be provided by



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any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

- 3.33. Refusal to Submit (to an alcohol test)** – a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of 49 CFR Part 199 and the company's alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.
- 3.34. Screening Test (or initial test)** – an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
- 3.35. Screening Test Technician (STT)** – an individual who has successfully completed an approved Department of Transportation non-evidential training course and who will conduct alcohol screening tests in accordance with Part 199 and 40.
- 3.36. Secretary** – The Secretary of Transportation or the Secretary's designee.
- 3.37. Service Agent** – Any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this part. Service agents are not employers for purposes of this part.
- 3.38. Substance Abuse Professional (SAP)** – a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.



#### ***4 Company Responsibilities***

- 4.1. Alcohol Program Manager (APM):** The APM or other company designated individual shall be responsible for the preparation of an alcohol misuse plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 Subpart C and 49 CFR Part 40. The APM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (return-to-duty, or follow-up, etc.); maintaining a locked file system on all alcohol test results; and overseeing the referral of employees for evaluation and treatment as it is defined in 49 CFR Part 199.243.

**4.1.1. *Appendix A*** contains the name, address, and phone number of the responsible individual(s)

- 4.2. Supervisors:** Company individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable suspicion; and post-accident testing if determined that it is applicable.
- 4.2. Employees:** The company shall ensure that each employee is notified and aware of the provisions of the AMPP and is knowledgeable of the requirements of the AMPP. Each employee must fully comply with the provisions of the plan.





## ***Section II***

### ***5 Employee/Supervisor Alcohol Testing Provisions***

**5.1. Individuals Subject to Alcohol Testing:** Any applicant/employee who performs on a pipeline, an operating, maintenance, or emergency response function regulated by Part 192 or 193 is subject to alcohol testing under this program. This does not include clerical, truck driving, accounting, or other functions not subject to Part 192 or 193. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor. All personnel performing a "Covered Function" as defined in the "Definitions" section of this plan is considered a "Covered Employee" and subject to alcohol testing.

**5.1.1. *Appendix B*** contains a listing of employee/supervisory positions subject to alcohol testing (job classifications/titles).

**5.2. Procedure for Notifying Covered Employees:** This AMPP shall be included in the appropriate company manual or in a separate manual and shall be made available and accessible to all "Covered Employees" by any of the following methods:

**5.2.1.** By providing each "Covered Employee" with a copy of the AMPP; and/or,

**5.2.2.** By providing each "Covered Employee" with a summarized version of the AMPP; and/or,

**5.2.3.** Displaying the AMPP or summarized version on an employee bulletin board or other central location where employees may frequently congregate

**5.2.4.** If the entire plan is not provided to employees, then the summarized version shall indicate where a complete copy of the S.R.C.S./PHMSA's AMPP is available for review by the employees.

**5.3. Employee Notification Criteria:** The company shall provide written educational materials to personnel performing covered functions explaining the alcohol misuse requirements and the company's policies and procedures on how they will comply with those requirements.



### ***Section III***

#### ***6 Alcohol Tests Required***

**6.1.** Alcohol testing must be performed for any of the following (See 6.1.1, 6.1.2, 6.1.3, 6.1.4 below):

##### **6.1.1. Post-Accident**

**6.1.1.1.** The company shall promptly determine and test each surviving covered employee for alcohol if that employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer an alcohol test under this section shall be based on the company's determination, using the best available information at the time of the determination, that the employee's performance could have not have contributed to the accident.

**6.1.1.1.1** *Appendix C* contains guidance that may be used to guide the supervisor to a satisfactory outcome in a post-accident situation.



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- 6.1.1.2.** Each employee shall be required to submit to an alcohol test within 2 hours of the accident. If a test is not administered within 2 hours, the company will prepare and maintain on file a record stating why the test was not administered. If a test is not administered within 8 hours following the accident the company shall cease all attempts to conduct an alcohol test and shall prepare and maintain on file written documentation indicating why the alcohol test was not conducted.
- 6.1.1.3.** An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the company or company representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the company to have refused to submit to testing.
- 6.1.1.4.** The employee must remain available for alcohol testing and may not consume any alcohol for 8 hours following the accident or until the alcohol test has been conducted. Notwithstanding the previous statement, employees should seek and obtain emergency medical care whenever necessary or a covered employee should not be prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident.



### **6.1.2. Reasonable Suspicion Testing**

**6.1.2.1.** Reasonable suspicion testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of alcohol misuse) to identify alcohol affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reasonable suspicion to believe an employee is using or has used alcohol.

**6.1.2.2.** The company's determination that reasonable suspicion exists to require a covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who has received at least 60 minutes of training in detecting the symptoms of alcohol misuse.

**6.1.2.2.1** *Appendix D* contains guidance that may be used to guide the supervisor to a satisfactory outcome in a reasonable suspicion situation.

**6.1.2.3.** The supervisor's observation must be made just before, during, or just after the employee is performing a covered function.

**6.1.2.4.** The supervisor who makes such a determination that reasonable suspicion exists shall not be authorized to conduct the breath alcohol test on that employee.

**6.1.2.5.** In making a determination of reasonable suspicion, the factors to be considered include, but are not limited to the following:

- Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a



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change in an employee's prior pattern of work performance, especially where there is some evidence of alcohol related behavior on or off the work site.

- Physical signs and symptoms consistent with alcohol abuse.
- Evidence of prohibited alcohol use, possession, sale, or delivery while on duty.
- Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.



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- 6.1.2.6.** If a reasonable suspicion test is not administered within 2 hours following the determination, the company shall prepare and maintain on file a record stating the reasons why the test was not promptly administered. If the required test is not administered within 8 hours of the determination, the company shall cease all attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Upon request such records shall be made available to PHMSA.
- 6.1.2.7.** The company shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall the employee be permitted to perform or continue to perform covered functions until:
- An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
  - The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in the AMPP.
- 6.1.2.8.** Except as provided above, the company shall not take any action under 49 CFR Part 199 against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. However, this does not prohibit the company from taking any disciplinary action otherwise consistent with local and/or state laws.



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**6.1.3. Return-to-Duty Testing**

**6.1.3.1.** By checking the appropriate checkbox below, Return-to-Duty testing may, or may not be an option under this plan.

☒ The company's policy is that employees who refuse to submit to a post-accident, reasonable suspicion, or follow-up alcohol test will be terminated ***(Return-to-Duty Testing NOT an option)***.

☐ The company's policy is that employees who refuse to submit to a post-accident, reasonable suspicion, or follow-up alcohol test be removed from performance of a covered function and must be evaluated by a Substance Abuse Professional (SAP) and must follow any prescribed treatment plan prior to a Return-to-Duty test. The Return-to-Duty alcohol test must result in an alcohol concentration less than 0.02. ***(Return-to-Duty Testing Allowed)***.



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**6.1.4. Follow-Up Testing**

- 6.1.4.1.** Following the determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, the employee will be subject to unannounced follow-up alcohol testing as directed by a substance abuse professional. An employee who returns to duty shall be subject to a reasonable program of follow-up alcohol testing, without prior notice, for up to 60 months after his/her return to duty.
- 6.1.4.2.** The employee shall be subject to at least six, unannounced alcohol follow-up tests during the first 12 months following his/her return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the initial six tests have been completed, if the substance abuse professional makes the determination that such testing is no longer warranted.
- 6.1.4.3.** The company may require a covered employee to submit to alcohol follow-up testing when the substance abuse professional has reason to suspect alcohol misuse.
- 6.1.4.4.** Follow-up testing shall be conducted just before the employee is to perform, while an employee is performing or just after the employee has ceased performing a covered function.





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**6.2. Provisions Governing Retesting of Covered Employees:**

**6.2.1.** A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform covered functions until:

**6.2.1.1.** The employee's alcohol concentration measures less than 0.02 in another alcohol test administered in compliance with this plan; or

**6.2.1.2.** The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the alcohol test.

**6.2.2.** Except as provided above, the company shall not take any action under 49 CFR Part 199 against a covered employee based solely on test results showing an alcohol concentration less than 0.04. However, this does not prohibit the company from taking any disciplinary action otherwise consistent with local and/or state law.



## ***Section IV***

### ***7 Alcohol Prohibited Conduct***

- 7.1. General: The company shall provide guidance to all covered employees regarding the various types of alcohol prohibited conducts. A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with alcohol misuse.
- 7.2. Alcohol Concentration: A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. If a company representative has actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, the employee shall not be permitted to perform or continue to perform covered functions.
- 7.3. Pre-Duty Use: The company shall prohibit a covered employee from using alcohol within 4 hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. If the company has actual knowledge that a covered employee has used alcohol within 4 hours prior to performing covered functions or within the time period after the employee has been notified to report for duty, the employee shall not be permitted to perform or continue to perform covered functions.
- 7.4. On-Duty Use: The company shall prohibit a covered employee from using alcohol while performing covered functions. If a company representative has actual knowledge that a covered employee is using alcohol while performing covered functions, the employee shall not be permitted to perform or continue to perform covered functions.



## ***Section V***

### ***8 Use of Employee who Refuses Alcohol Test:***

- 8.1. General:** Refusal to submit to a post-accident, reasonable suspicion or follow-up alcohol test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.
- 8.2. Additional Requirements:** **The company may impose such additional disciplinary actions as they deem appropriate. This may include removal from performing covered functions, suspension (with or without pay), and even termination. (Some examples of various types of disciplinary action are outlined in Section VI).**



## ***Section VI***

### ***9 Disciplinary Actions***

- 9.1. General:** A covered employee who has engaged in prohibited conduct as described in §199.215 through 199.223 (alcohol concentration, on-duty use, pre-duty use, use following an accident and refusal to submit to an alcohol test) shall not be permitted to perform covered functions or continue to perform covered functions.
- 9.2. Required Referrals and Evaluations:** No covered employee who has violated the rules on alcohol misuse or refuses to submit to testing can perform any covered function unless and until that employee has:
- 9.2.1.** Been evaluated by a SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol use.
  - 9.2.2.** Completed any treatment recommended by the SAP.
  - 9.2.3.** Been evaluated by a SAP to ensure that the employee has properly followed the treatment program.
  - 9.2.4. Entered into a company approved evaluation/rehabilitation program and successfully completed the program.**
    - 9.2.4.1.** NOTE: Rehabilitation is not mandated by DOT regulations; rehabilitation is based on individual company policy. The company may spell out the provisions for such evaluations/rehabilitation in this AMPP or may reference another company publication which would provide detailed information on its program (***See Section VI 9.3 below***).
  - 9.2.5.** Undergone a return-to-duty alcohol test with resulting alcohol concentration of less than 0.02
- 9.3. Evaluation, Treatment, & Rehabilitation:** The company may provide for evaluation, treatment, and rehabilitation – (Check the appropriate box(s) below):



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- 9.3.1.** ☐ The company offers rehabilitation and treatment for covered employees that has violated the rules on alcohol misuse or has refused to submit to testing as stated in this AMMP.

**9.3.1.1.** Evaluation, treatment, and rehabilitation are provided by:

- ☐ The company, or
- ☐ The company's SAP under contract; or
- ☐ A SAP not affiliated with the company

*NOTE:* A SAP cannot refer an employee to that SAP's private practice, to a person or organization from which the SAP receives remuneration or in which the SAP has financial interests.

- 9.3.2.** ☐ The company DOES NOT offer rehabilitation and treatment for covered employees that have violated the rules on alcohol misuse or have refused to submit to testing as stated in this AMMP.

- 9.4.** Levels of Disciplinary Actions: See *Appendix E* for the levels of disciplinary actions that the company may impose.



## ***Section VII***

### ***10 Alcohol Testing Requirements***

**10.1.** Designated alcohol testing sites shall comply with the procedures contained in

*Appendix F*

**10.1.1.** These procedures address the applicable requirements contained in 49 CFR Part 40.

**10.2.** The alcohol testing site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the testing and processing of alcohol test results. An independent medical facility may also be utilized as an alcohol testing site provided the other applicable requirements of *Appendix F* are met.

**10.3.** An alcohol testing site shall be any suitable location where a breath alcohol test can be collected under conditions set forth in *Appendix F*, including a properly equipped mobile facility. A designated alcohol testing site shall provide for privacy during the testing period and completion of all necessary record procedures.



## ***Section VIII***

### ***11 Alcohol Testing Equipment***

- 11.1. General:** The company shall use only approved evidential breath testing devices and non-evidential devices for conducting the alcohol testing provisions required in the AMPP. These devices are listed on NHTSA's conforming products list (CPL).
- 11.2. Screening Devices:** The company shall utilize either non-evidential devices or EBTs listed on the CPL for screening tests.
- 11.3. Confirmation Devices:** The company shall utilize an EBT listed on the CPL for confirmation testing that has the capabilities listed below. The EBT shall also be able to distinguish alcohol from acetone; be capable of testing an air blank prior to each collection of breath, and performing an external calibration.
- 11.3.1.** Capable of being attached independently or by direct link to a separate printer, print a result in triplicate (or three consecutive identical copies) of each breath test;
- 11.3.2.** Capable of assigning a unique and sequential number to each completed test so that the number can be read by the BAT and the employee before each test and be printed out on each copy of the result;
- 11.3.3.** Capable of printing out the manufacturer's name of the device, serial number and time of the test.
- 11.4. NHTSA Conforming Products List:** All devices that will be used by the company for alcohol testing are NHTSA approved evidential breath alcohol testing devices. NHTSA has model specifications for evidential breath testing devices. NHTSA periodically publishes an updated Conforming Products List, which states which devices have met NHTSA standards.
- 11.5. Quality Assurance Plans for Evidential Breath Testing Devices:** Each EBT used shall have an approved quality assurance plan (QAP) to include the following:
- Methods for conducting external calibration.
  - Minimum intervals for performing external calibrations
  - Tolerance on an external calibration check.



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- Inspection, maintenance, and calibration requirements.





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**11.5.1.** Each QAP is submitted to NHTSA for approval. Records demonstrating that the EBTs are subject to required external calibration checks will be maintained. An EBT will be taken out of service if any external calibration check results in a reading outside the tolerance for the EBT set forth in the QAP. The EBT will not be used again until it has been serviced and has had an external calibration check resulting in a reading within the tolerance for the EBT.

**11.5.2.** The company will ensure that required inspections, maintenance and calibration checks are conducted by the manufacturer or maintenance representative. When the EBT is not being used it will be stored in a secure location.

**11.6. Quality Assurance Plans for Non-Evidential Screening Devices:** Each Non-Evidential Screening Device used shall have an approved quality assurance plan (QAP) to including the following:

**11.6.1.** The plan shall designate the method or methods to be used to perform quality control checks; the temperatures at which the non-evidential screening device shall be stored and used, as well as other environmental conditions (e.g., altitude, humidity) that may affect the performance of the device; and, where relevant, the shelf life of the device.

**11.6.2.** The QAP shall prohibit the use of any device that does not pass the specified quality control checks or that has passed its expiration date.

**11.6.2.1.** The manufacturers' instructions on or included in the package for each saliva testing device shall include directions on the proper use of the device, the time frame within which the device must be read and the manner in which the reading is made.

**11.6.2.2.** The employer and its agents shall comply with the QAP and manufacturer's instructions for each non-evidential screening device it uses for alcohol screening tests.



## ***Section IX***

### ***12 Breath Alcohol Technician & Screening Test Technician Guidance***

#### **12.1. Breath Alcohol Technician (BAT):**

- 12.1.1.** The BAT shall receive sufficient training and be certified to proficiency in the specific operation of the EBT device he/she uses in the required alcohol testing procedures as outlined in the AMPP. These procedures include the following:
- 12.1.1.1.** Each BAT used by the company shall be able to demonstrate by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.
  - 12.1.1.2.** The company shall ensure that only courses of instruction that are equivalent to the NHTSA, as amended, model course may be used to train BATs to proficiency. Upon request to NHTSA, they will review a BAT instruction to determine equivalency.
  - 12.1.1.3.** The company shall ensure that the course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) to be used by the company.
  - 12.1.1.4.** The company shall ensure that any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of the EBT to be used by the company. The BAT training shall also include practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in the maintenance and calibration of the particular EBT.



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- 12.1.1.5.** The company shall ensure the BAT(s) receive sufficient additional training to ensure proficiency concerning any new or additional devices or changes in technology for equipment used by the company.
- 12.1.1.6.** The company or its designated agent, who are involved in conducting alcohol testing, shall establish documentation regarding the training and proficiency testing of any BAT it uses to test employees. The documentation shall be maintained in accordance with the requirements of the AMPP.
- 12.1.2.** The company may authorize a BAT qualified supervisor of an employee to conduct an alcohol test for that employee if another BAT is unavailable to perform the required test in a timely manner. However, the supervisor who makes a determination that reasonable suspicion exists shall not be authorized to conduct the alcohol test on that employee.
- 12.1.3.** The company may permit law enforcement officers who have been certified by state or local governments to conduct alcohol tests if they are deemed to be qualified to perform as a BAT. In order for a test to be accepted under the DOT requirements, the officer must have been certified by a state or local government to use the EBT that was used for the appropriate test.
- 12.2. Screen Test Technician (STT):**
  - 12.2.1.** The STT shall receive sufficient training and be certified to proficiency in the specific operation of the non-evidential screening device he/she uses in the required alcohol testing procedures as outlined in the AMPP. These procedures include the following:
    - 12.2.1.1.** Each STT used by the company shall be able to demonstrate by successful completion of a course of instruction which is either the Department of Transportation's (DOT) model course or a course of instruction determined by the DOT to be equivalent.



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- 12.2.1.2.** The non-evidential training must involve changes, contrasts, or other readings that are indicated on the device in terms of color. The STT shall, in order to be proficient, be able to discern correctly changes, contrasts, or readings.
- 12.2.1.3.** The STT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that he or she will be using.
- 12.2.1.4.** The employer or its agent shall document the training and proficiency of each STT it uses to test employees and maintain the documentation.
- 12.2.1.5.** Anyone meeting the requirements of a BAT may act as a STT, provided that an individual has demonstrated proficiency in the operation of the non-evidential screening device he or she will be using.



## ***Section X***

### ***13 Disclosure of Alcohol Information/Records***

- 13.1.** The company shall maintain all alcohol related testing information including all test results and other appropriate records in a secure manner to prevent the disclosure of such information to unauthorized personnel.
- 13.2.** The APM or designee shall maintain a locked file system which will contain the alcohol testing information and records. This file shall be maintained as confidential. Employee files shall be handled on strict "need to know" basis.
- 13.3.** Alcohol test results shall not be included in personnel files.
- 13.4.** The company shall not release covered employee information that is contained in records as required to be maintained by the provisions of the AMPP and in accordance with federal requirements except as required by law or when expressly authorized or required by 49 CFR Parts 199 and 40.
- 13.5.** A covered employee 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 tests. The company shall promptly provide the requested records. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.
- 13.6.** The company shall permit access to all facilities utilized in complying with the requirements of 49 CFR Parts 199 and 40 to the Secretary of Transportation or any DOT or state agency with regulatory authority over the company.
- 13.7.** The company shall make available copies of all results for alcohol testing and any other information pertaining to the administrative process of the operator's AMPP as required by 49 CFR Parts 199 and 40 when requested by the Secretary of Transportation or any DOT or state agency with regulatory authority over the company. When specified by the agency the information shall include name-specific alcohol test results, records, and reports.
- 13.8.** When requested by the National Transportation Safety Board as part of an accident investigation, the company shall disclose information related to its administration of any post-accident alcohol tests administered following the accident under investigation.



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- 13.9.** The company shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent regulated employer is permitted only as expressly authorized by the terms of the employee's written request.
- 13.10.** The company may disclose required information pertaining to a covered employee to the employee or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol test administered as required by the AMPP and the regulations set forth in 49 CFR Parts 199 and 40 or from the company's determination that the covered employee engaged in prohibited alcohol conduct including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.
- 13.11.** The company shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by a regulated entity receiving the information is permitted only in accordance with the terms of the employee's consent.



## ***Section XI***

### ***14 Employee Assistance Program (EAP)***

**14.1.** The EAP will provide education and training on alcohol misuse to all employees.

The education shall include:

- 14.1.1.** Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees.
- 14.1.2.** A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees; and,
- 14.1.3.** Distribution of the policy regarding the alcohol misuse to all employees or the policy shall be displayed in prominent places throughout the company (i.e., employee bulletin board, break room, locker rooms).



## ***15 Supervisor Training***

- 15.1.** Supervisory personnel responsible for those employees covered under Part 199 will receive training under the alcohol misuse prevention plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, speech, and performance indicators of probable alcohol misuse. This training shall be for supervisors who may determine whether an employee must be alcohol tested for reasonable suspicion.





## ***Section XII***

### ***16 Recordkeeping Procedures***

- 16.1.** The company's APM or designee shall maintain the alcohol testing records in accordance with the provisions set out in the AMPP. These records will be maintained in a secure location with controlled access. Records shall be maintained for the specified periods of time as required in 49 CFR Parts 199 and 40.



## ***17 Record Retention Provisions***

**17.1.** The following types of records shall be maintained for a minimum period of **5 years.**

- 17.1.1.** Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
- 17.1.2.** Documentation of refusals to take required alcohol tests.
- 17.1.3.** Calibration documentation of each EBT used in alcohol testing, including records of the results of external calibration checks.
- 17.1.4.** Employee referrals and evaluations.
- 17.1.5.** Management Information System (MIS) annual alcohol misuse report data.
- 17.1.6.** Documents pertaining to "missed tests."

**17.2.** The following types of records shall be maintained for a minimum period of **2 years.**

- 17.2.1.** Records related to the collection process (except calibration of EBT devices).
- 17.2.2.** Records related to training.
- 17.2.3.** Records of the inspection and maintenance of each EBT used in employee testing.
- 17.2.4.** Documentation of the company's compliance with the Quality Assurance Plan (QAP) for each EBT it uses for alcohol testing under the AMPP.
- 17.2.5.** Records of the training and proficiency testing of each BAT/STT used in employee testing.

**17.3.** The following types of records shall be maintained for a minimum period of **1 year.**

- 17.3.1.** Records of all test results below 0.02.



## ***18 Maintenance of Specific Types of Records***

**18.1.** The following types of records related to the collection process shall be maintained:

- 18.1.1.** Calibration documentation for EBT devices.
- 18.1.2.** Documentation of BAT/STT training.
- 18.1.3.** Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
- 18.1.4.** Documents generated in connection with decisions to administer post-accident alcohol tests.
- 18.1.5.** Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for alcohol testing.

**18.2.** The following types of records related to test results:

- 18.2.1.** The company's copy of the alcohol test form, including the results of the test.
- 18.2.2.** Documents related to the refusal of any covered employee to submit to a required alcohol test.
- 18.2.3.** Documents presented by a covered employee to dispute the result of an alcohol test administered under the AMPP.

**18.3.** Records related to other violations outlined in the AMPP.

**18.4.** The following types of records related to referrals and evaluations:

- 18.4.1.** Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
- 18.4.2.** Records concerning a covered employee's compliance with the recommendations of the SAP.

**18.5.** Records related to the company's MIS annual alcohol misuse testing data and "missed test" information. The company shall submit the required alcohol misuse



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MIS testing data and "missed test" information to PHMSA as prescribed by the regulations.

**18.6.** The following types of records related to education and training of employees and supervisors:

- 18.6.1.** Materials on alcohol misuse awareness, including a copy of the company's policy on alcohol misuse.
- 18.6.2.** Documentation of compliance with the requirements of 199.231.
- 18.6.3.** Documentation of training provided to supervisors for the purposes of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.
- 18.6.4.** Certification that any training conducted under the AMPP complies with the requirements of 40 CFR Part 199 and 40.



## ***Section XIII***

### ***19 Contractor Monitoring***

**19.1.** The company may:

**19.1.1.** Cover contractor employees under operator's plan; or,

**19.1.2.** May provide in contract that contractor must establish and implement alcohol breath testing, education, and training in accordance with Part 199 and Part 40 for covered functions.

**19.2.** Contractors shall retain copies of appropriate alcohol testing records as required by 49 CFR Part 199 and Part 40. The records and access to the contractor's property shall be readily accessible for inspection by the company, PHMSA, and representatives of those state agencies under which jurisdiction the company operates.

**19.3.** Confirmation of contractor compliance/monitoring - Refer to *Appendix G* for specific guidance in how to develop an effective contractor compliance and monitoring program.

**19.4.** The company can, as an alternative to the above guidance provide coverage for the contractors employees by including them in the company's alcohol testing program for the duration of the contract or work project. When contractor employees are covered under the company's AMPP, the contractor shall ensure that their employees comply with all the provisions contained in the company's AMPP.



***Appendix A – Alcohol Personnel and Services***

***Alcohol Program Manager (APM)***

*Name:* Marsha Jackson

*Address:* 215 N Broad Street, Monroe, Ga 30655

*Telephone #:* 770-266-5116

*Email Address:* mjackson@monroega.gov

***Substance Abuse Professional (SAP) or Third Party Provider Network***

*Name:* NE Ga Employee Assistance Program

*Address:* The Carson Center, 1435 Oglethorpe Avenue, Athens, Ga 30606

*Telephone #:* 706-549-6658

*Website:* www.negeap.com

***20 Breath Alcohol Technician (BAT) or Screening Test Technician (STT)***

*Name:* Tri-County Clinic

*Address:* 761 N Cherokee Road, Social Circle, Ga 30025

*Telephone #:* 770-464-4434

***Employee Assistance Program (EAP)***

The S.R.C.S./PHMSA's policy on alcohol misuse has been reviewed and provided to "covered employees" performing "covered functions" as defined in ***Section I (3)***

***Definitions.***

Covered employees are provided with a list of 'hot-line' numbers and access to educational materials that offer assistance to those individuals that may be experiencing alcohol-related problems.

***Appendix B – Employee/Supervisory Positions Subject to Alcohol Testing***

Natural Gas Apprentice

Natural Gas Division Foreman

Natural Gas Serviceman



### ***Appendix C – Post-Accident Guidance Material***

The following guide material listed below may be used to guide the supervisor to a satisfactory outcome in a post-accident situation:

1. Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation. Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with post-accident testing.
2. Isolate and inform the employee. Remove the employee from the covered position or work place. Explain that you have reason to believe their performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident.
3. Transport the employee. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test.
4. Document the events. Record the activity performed that supports the determination to conduct a post-accident test. This documentation of the employee's activity should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible.
5. Denial should be an expected reaction. If a person knows he/she will test positive, he/she may give many explanations and protestations, wanting to avoid submission to an alcohol test. If he/she is not under the influence of alcohol, vehement denial also would be expected. Listen to the employee and carefully



evaluate the employee's explanation. Remember, a request for an alcohol test is not an accusation; it is merely a request for additional objective data.

6. Following administration of alcohol test. After returning from the collection site, the employee should not be allowed to return to performing any covered functions if their alcohol test result is positive and if any disciplinary action is pending.

### ***Appendix D – Reasonable Suspicion Guidance Material***

The following guide material listed below may be used to guide the supervisor to a satisfactory outcome in a reasonable suspicion situation:

7. Verify the reasonable suspicion decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable suspicion referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was alcohol related? On what basis did they reach their conclusion? Before proceeding further, obtain concurrence or approval from the manager/department head or designee to proceed with reasonable suspicion alcohol testing.
8. Isolate and inform the employee. Remove the employee from the work location. Explain that there is reasonable suspicion to believe the employee's performance is being affected by alcohol. Ask the employee to explain the suspected behavior and to describe the events that took place from his/her perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for the employee to submit to an alcohol test. If there is still a reasonable suspicion that alcohol is a factor in the situation, a request for testing should be made; if no reasonable belief is determined then a request for testing should not be made. If the decision to test is made, inform the employee that they are being requested to accompany the appropriate company official or representative to the specimen collection site to





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conduct an alcohol test. Inform the employee of the consequences of refusal to submit to alcohol testing.

9. Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable suspicion decision must be made by a supervisor who has received the required training. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable suspicion determination.
10. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the alcohol test result.
11. Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion alcohol test. This documentation of the employee's conduct should be prepared and maintained on file to document the request for reasonable suspicion alcohol testing.
12. Denial should be an expected reaction. If a person knows he/she will test positive, he/she may give many explanations and protestations, wanting to avoid alcohol testing. If he/she is not under the influence or affected by alcohol, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to submit to an alcohol test is not an accusation; it is merely a request for additional objective data.
13. Following administration of alcohol test. After returning from the collection site, the employee should not be allowed to return to performing any covered functions if their alcohol test result is positive. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable suspicion belief that he/she may be under the influence of alcohol. **If the employee insists on driving, the proper local enforcement authority may be notified that an employee who the company**



**believes may be under the influence of alcohol is leaving the company premises driving a motor vehicle.**

### ***Appendix E – Levels of Disciplinary Actions***

Disciplinary actions as set forth below will be taken under each of the described circumstances:

- **Refusal to report for assessment with a substance abuse professional:**
  - *If an employee refuses to report for assessment, evaluation, and/or referral for treatment with a substance abuse professional, he/she will be terminated.*
- **Refusal to enter or successfully complete a rehabilitation program:**
  - *If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete such a rehabilitation assessment program, he/she will be terminated.*
- **Repeat usage:**
  - *In all cases of an employee having an alcohol concentration of 0.04 or greater, and who has tested a second time, at alcohol concentrations 0.04 or greater, will be terminated.*
- **Refusal to submit to an alcohol test:**
  - *An employee who refuses to provide an adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with the requirements of this AMPP, or who engages in conduct that clearly obstructs the testing procedure, will be terminated.*
- **On duty use of alcohol:**
  - *On duty use or possession of alcohol on company time or on company premises will result in termination.*
- **Results of an alcohol (confirmation) test indicating an alcohol concentration of 0.04 or greater:**
  - *When an employee has tested for alcohol in a concentration of 0.04 or greater (check the box that applies):*



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- ☒ *The employee will be terminated*
- ☐ *The employee will be removed from performing a covered function and shall be suspended for 10 working days without pay and shall be referred to a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.*
- ***Results of an alcohol (confirmation) test indicate an alcohol concentration of 0.02 or greater, but less than 0.04:***
  - *When an employee has tested for alcohol in a concentration of 0.02 or greater, but less than 0.04 (check the box that applies):*
    - ☐ *That employee will be terminated*
    - ☒ *That employee will be removed from performing a covered function and suspended without pay for the remainder of his/her shift.*
- ***Results of a second alcohol (confirmation) test at anytime that indicate an alcohol concentration of 0.02 or greater, but less than 0.04:***
  - *When an employee has an alcohol test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04, on a second test:*
    - ☒ *Not applicable*
    - ☐ *The employee will be removed from performing covered functions and shall be suspended for five working days without pay and referred to a substance abuse professional, and must follow all the recommendations of the assessment. Any subsequent test at 0.02 or greater will result in termination from the company.*
- ***Results of a second alcohol (confirmation) test (specify an allotted amount of time) indicate alcohol concentration 0.02 or greater, but less than 0.04 after an alcohol test which had produced an alcohol concentration of 0.04 or greater:***
  - *When an employee has an alcohol test conducted and the alcohol concentration is 0.02 or greater, but less than 0.04 after having had a prior alcohol concentration 0.04 or greater:*



- ☒ *Not applicable*
- ☐ *That employee will be removed from performing covered functions and shall be suspended for 20 working days and referred to the substance abuse professional and any subsequent alcohol concentration 0.02 or greater will result in immediate termination.*

## ***Appendix F – Evidential Breath Testing & Non-Evidential Collection Procedures***

### ***I. Scope***

1. The evidential and non-evidential testing procedures set forth in this appendix address all the requirements as set forth in 49 CFR Part 40 and specifies the required form and disposition of such testing forms.

### ***II. Alcohol Testing Form***

1. The BAT/STT shall utilize the Breath Alcohol Testing form provided by company. The alcohol testing form must comply with the provisions as contained in 49 CFR Part 40 with regard to the information that must be contained on the form. The form must address the specific requirements contained in § 40.225. The company may not modify or revise the form.
2. The company may utilize a DOT Breath Alcohol Testing form or a form that is directly generated by an EBT and may omit the space for affixing a separate printed result to the testing form. The form shall provide triplicate or three consecutive identical copies with copy 1 (white copy) being retained by the company, copy 2 (green copy) shall be provided to the employee, and copy 3 (blue copy) shall be retained by the BAT/STT.
3. The breath alcohol testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, provided that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.



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***III. Breath Testing Locations***

1. The company shall ensure that there are sufficient breath testing sites or the availability of BATs/STTs located within a reasonable proximity to each of the company's work locations.
2. The company shall conduct the testing in a location that affords visual and aural privacy to the employee being tested. All necessary equipment, personnel, and materials for conducting the alcohol testing shall be provided at the testing site.
3. A mobile collection facility, such a van that is equipped for alcohol testing, that meets the requirements set forth in the AMPP may be utilized.
4. No unauthorized persons shall be permitted access to the testing site when the EBT remains unsecured, or to prevent such individuals from seeing or hearing a test result.
5. In some circumstances the company may have to conduct such alcohol testing outdoors at the scene of an accident that does not meet the requirements as specified in post-accident provisions of the AMPP. In these situations the BAT/STT shall provide the necessary visual and aural privacy to the employee to the greatest extent practicable.
6. The BAT/STT shall supervise only one employee's use of the EBT at a time. The BAT/STT shall not leave the alcohol testing site while the testing process is in progress.

***IV. Breath Alcohol Testing Preparations***

1. When an employee arrives at the alcohol testing site, the BAT/STT shall ensure that the individual is positively identified as the employee selected for alcohol testing (e.g., through presentation of photo identification or identification by the company's representative). If the employee's identity cannot be established, the BAT/STT shall not proceed with the alcohol test. If the employee requests, the BAT/STT shall show proper identification to the employee.
2. The BAT/STT shall explain the alcohol testing process to the employee.
3. If the employee fails to arrive at the assigned time, the BAT/STT should contact the appropriate authority to obtain guidance on any action to be taken.



***V. Screen Test Procedures for Evidential Breath Testing and Non-Evidential Breath Testing Devices***

1. The BAT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The BAT shall select an individually-sealed mouthpiece and it shall be opened in full view of the employee and attach it to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT instrument indicates that an adequate amount of breath has been obtained.
4. If the EBT does not meet the requirements listed under Section VIII of the AMPP, the BAT shall show the employee the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, time and quantified result in Step 3 of the form.
5. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
6. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
7. If the result of the screening alcohol test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then sign the certification and fill in the date in Step 4 of the form. If the employee does not sign the certification in Step 4, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the "Remarks" section of the form.



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8. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the company representative and the employee shall be so advised.
9. At this point, no further testing is authorized. The BAT shall transmit the result of less than 0.02 to the APM or other appropriate company representative in a confidential manner. The company shall receive and store the information so as to ensure that confidentiality is maintained as required in the AMPP.
10. If the result of the screening test is an alcohol concentration of 0.02 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will upon completion of the alcohol test provide the employee with Copy 2 of the breath alcohol testing form.

***VI. Screening Test Procedures for Non-Evidential Saliva Devices***

1. STT will inform the employee of the procedures for the non-evidential testing. The STT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The STT shall check the expiration date of the saliva testing device, show the date to the employee. In the event, the date has passed the device is not be used and a new device should be obtained for use.
3. The STT shall open an individually sealed package containing the device in the presence of the employee.
4. The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated as provided in the manufacturer's instruction for the device.



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5. If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate, the STT shall insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instruction for the device the STT shall wear a surgical grade glove while conducting the test.
6. The STT shall place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT shall insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.
7. If the procedures of steps 3 through 5 are not followed successfully (e.g., the swab breaks, the STT drops the swab on the floor or another surface, the swab is removed or falls from the device before the device activated), the STT shall discard the device and swab and conduct a new test using a new device. The new device shall be one that has been under the control of the employer or STT prior to the test. The STT shall note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If steps 3 through 5 are not successfully followed on the new test, the collection shall be terminated and an explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.
8. If steps 3 through 5 are completed successfully, but the device is not activated, the STT shall discard the device and swab and conduct a new test, in the same manner as stated above. In this case, the STT shall place the swab into the employee's mouth to collect saliva for the new test.
9. The STT shall read the result displayed on the device two minutes after inserting the swab into the device. The STT shall show the device and its reading to the employee and enter the result on the form.
10. Devices, swabs gloves and other materials used in saliva testing shall not be reused, and shall be disposed of in a sanitary manner following their use.





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11. In any case in which the result of the screening test is an alcohol concentration of less than 0.02 the STT shall date the form and sign the certification and fill in the date in Step 4 of the form.
12. If the employee does not sign the certification in Step 4 of the form it shall not be considered a refusal to be tested.
13. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
14. If the STT who performed the screening test is a different individual from that who will serve as the BAT during the confirmation test, then the STT will provide the employee with Copy 2 of the form and the BAT will follow the procedures for a confirmation test.
15. If the confirmation test will be conducted at a different site from the screening test the employer or its agent shall ensure that:
  - a. The employee is advised not to eat, drink, put any object or substance in his/her mouth and to the extent possible not to belch during the waiting period before the confirmation test. This time period begins with the completion of the screening test.
  - b. The employee is advised that he or she must not drive, perform a safety-sensitive duty or operate heavy equipment, as noted in block 4 of the alcohol testing form.
  - c. The employee is under observation of a BAT, STT, or other employer personnel while in transit from the screening test site to confirmation test site.
16. The STT shall enter, in the "Remarks" section of the form, a notation that the screening test was performed using a saliva device.
17. Following the completion of the screening test, the STT shall date the form and sign the certification in Step 3 of the form.

**VII. Confirmation Test Procedures**

1. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT will require the employee to provide



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- positive identification such as photo ID card or identification by a company representative. The BAT will, upon request of the employee being tested, provide such identification.
2. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/she mouth and, to the extent possible, not belch during the waiting period just prior to the confirmation test being conducted. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 30 minutes of the completion of the screening test. The time the employee spends in transit between the screening test and confirmation test, the employee is under direct observation, counts toward the mandatory 15 minute deprivation period. If the BAT conducts the confirmation test more than 30 minutes after the result of the screening test has been obtained the BAT shall note in the "Remarks" section of the form the time that elapsed between the screening and the confirmation test and the reason why the confirmation test could not be conducted within 30 minutes of the screening test. The BAT shall explain to the employee that the reason for this is to prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions. The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided, the BAT shall note the observations in the "Remarks" section of the form.
  3. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall then complete step 1 on the form and the employee shall then complete Step 2 by signing the certification. If the employee should choose not to sign the certification, the BAT shall then make an appropriate notation in the "Remarks" section indicating the employee's refusal to take the alcohol test. The BAT shall note in the "Remarks" section that a different BAT conducted the screening test.



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4. The BAT shall open, in the presence of the employee, a new individually-sealed mouthpiece and attach the mouthpiece to the EBT in accordance with the manufacturer's instructions. The BAT will then instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
5. The BAT shall ensure, prior to the confirmation test being administered to the employee, that the EBT shall register 0.00 on an air blank. If the reading is greater, the BAT shall conduct one more air blank. Should the EBT again register greater than 0.00, the testing shall not proceed using that EBT. An EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within the accepted tolerance limits. Alcohol testing using another EBT may proceed.
6. In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result on which any action by the company may be taken in order to comply with the requirements of the AMPP and any applicable federal requirements.
7. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
8. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
9. After the confirmation test is completed, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then be instructed to sign the certification and fill in the date in Step 4. If the employee should elect to not sign the certification or to provide his/her initials in the log book entry for the test conducted, it shall not be considered as a refusal to be tested. The BAT shall then note the employee's failure to sign or initial the log book entry in the "Remarks" section of the testing form.



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10. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and employee shall initial or sign the notation on the testing form. The test shall be considered "invalid" and the company representative and the employee shall be so advised.
11. The BAT shall transmit all alcohol testing results to the APM or other designated company representative in a confidential manner. All communications by BATs shall be to the APM or designee only and may be provided in writing, in person, or by telephone or electronic means. The BAT shall ensure that immediate transmission of test results to the company is conducted in order for the company to prevent the employee from performing any covered functions.
12. Should the initial transmission not be accomplished in writing, but via telephone notification, the APM or designee shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing to the APM or designee the company's copy of the breath alcohol testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

***VIII. Refusals to Test and Uncompleted Tests***

1. Refusal by an employee to complete and sign Step 2 of the breath alcohol testing form, to provide breath or a saliva sample, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT/STT in the "Remarks" section of the form. The testing process shall be terminated and the BAT/STT shall immediately notify the company APM or designee.
2. If a screening or confirmation test cannot be completed or if an event occurs to invalidate the test, the BAT/STT shall, if practicable, begin a new screening or confirmation test using a new breath alcohol testing form with a new sequential test number.

***IX. Inadequate Amount of Breath for EBTs and Non-EBT Devices***



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1. If the employee is unable, or alleges that he/she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT or STT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT or STT shall immediately inform the APM.
2. If the employee attempts and fails to provide an adequate amount of breath, the BAT or STT shall so note in the "Remarks" section of the testing form and shall immediately inform the APM. The APM shall direct the employee to obtain, as soon as practical after the attempt, an evaluation from a licensed physician who is acceptable to the company concerning the employee's medical ability to provide an adequate amount of breath.
3. If the physician determines, in his/her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the company APM a written statement of the basis of his/her conclusion.
4. If the physician, in his/her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for his/her conclusion to the company APM.

***X. Inadequate Amount of Saliva for Non-Evidential Testing Devices***

1. If an employee is unable to provide sufficient saliva to complete a test on a saliva screening device (e.g. the employee does not provide sufficient saliva to activate the device) the STT shall conduct a new test using a new device as described in Section VI "Screening Test Procedures for Non-Evidential Saliva Devices #7."



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- a. If the employee refuses to complete the new test, the STT shall terminate testing and immediately inform the employer. This constitutes as a refusal to test.
2. If a new test is completed, but there is an insufficient amount of saliva to activate the device the STT shall immediately inform the employer, which shall then immediately initiate an alcohol test to be administered to the employee using an EBT.

***XI. Invalid Tests***

1. A breath alcohol test shall be invalid under the following circumstances:
  - a. The EBT does not pass its next external calibration check. This invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test. This would not invalidate any negative tests conducted.
  - b. The BAT does not observe the minimum 15-minute waiting period prior to conducting the confirmation test.
  - c. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to the administration of an alcohol test.
  - d. The BAT does not sign the breath alcohol testing form.
  - e. The BAT fails to note in the remarks section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test results.
  - f. An EBT fails to print a confirmation test result.
  - g. The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.
2. An alcohol test using a non-evidential saliva screening device shall be invalid under the following circumstances:
  - a. The result is read before two minutes or after 15 minutes from the time the swab is inserted into the device.



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- b. The device does not activate.
  - c. The device is used for a test after the expiration date printed on its package.
  - d. The STT fails to note in the remarks section of the form that the screening test was conducted using a saliva device.
3. An alcohol test using a non-evidential alcohol testing device shall be invalid under the following circumstances:
- a. The STT has failed to note in the remarks section of the form that the employee has failed or refused to sign the form following the recording on the form of the test result.

***Appendix G – Contractor Alcohol Monitoring Procedures***

***I. Objective***

- 4. In order to assure a contractor's compliance with DOT's regulations, the following procedures are to be followed in determining compliance with the alcohol misuse testing regulations as set forth in 49 CFR Part 199 Subpart B and 49 CFR Part 40 Subpart C.

***II. Procedures for Determining Compliance***

- 1. *Qualifying Potential Contractor(s)*: Qualifications of the potential contractor as it pertains to alcohol testing policies/procedures is assured by requesting the potential contractor to submit a copy of its AMPP for review and compliance with PHMSA/DOT regulations. After review of the AMPP is completed, written correspondence to the contractor will advise it whether or not the AMPP plan is acceptable or in need of further additions, deletions, revisions or clarifying language. The review of the contractor plan shall be completed utilizing the criteria established in the PHMSA Alcohol Misuse Inspection form. Addenda made to the contractor's plan shall be attached to the previously submitted AMPP. Upon approval of the addendum, a letter of acceptance is then sent to the contractor. The contractor is now eligible to bid on company contract work that would be covered under Parts 199 and 40.



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2. Monitoring Contractor Compliance: The contractor may be required to provide information on their employees who will perform covered functions for the operator. This information may include the name and job title of its employees who will perform any work or functions covered by Part 199 under that contract. A list of each contractor's covered employees may be distributed to appropriate company field management personnel and job sites.
3. Statistical Submission: All contractors will be required to submit AMPP testing statistical information on a periodical basis which may be based on the duration of the contract. Typically this requirement will be conducted on a monthly or quarterly basis. The company may require a more frequent schedule for submission of data should they determine a need for such statistics.
4. Statistical Record Retention: The company shall maintain a complete file on each contractor's statistical drug testing data reports. The company shall make available these reports when requested by the PHMSA Administrator, designated representative, or representatives of those state agencies under which jurisdiction the company operates.

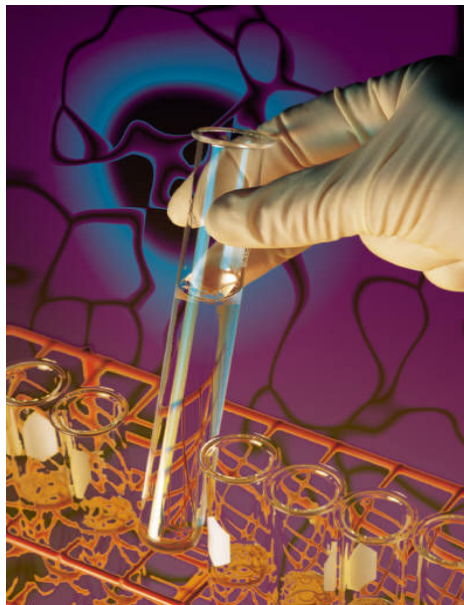




# U.S. Department of Transportation Office of the Secretary



*Office of Drug and Alcohol Policy and Compliance*



## **What Employers Need To Know About DOT Drug and Alcohol Testing** *[Guidance and Best Practices]*



U.S. Department of Transportation  
Office of the Secretary



*Office of Drug and Alcohol Policy and Compliance*

# What Employers Need To Know About DOT Drug and Alcohol Testing *[Guidance and Best Practices]*

If you employ safety-sensitive workers who must have Department of Transportation (DOT) drug and alcohol tests, or you manage a DOT drug or alcohol testing program, this publication can help you understand how to run an excellent program that meets DOT requirements.

This is not a legal document that adds to or makes any official interpretations of DOT rules. This publication is for educational purposes only. This booklet is a companion to our earlier publication for employees, “What Employees Need to Know About DOT Drug & Alcohol Testing.”

For questions about the rules, please contact the Office of Drug and Alcohol Policy and Compliance at 202.366.3784 or e-mail us from our website at <http://www.dot.gov/ost/dapc/question.html>. You can find contact information about DOT Agency and United States Coast Guard drug and alcohol program managers on our website at: <http://www.dot.gov/ost/dapc/oamanagers.html>.



# What Employers Need To Know About DOT Drug and Alcohol Testing *[Guidance and Best Practices]*

U.S. Department of Transportation  
Office of the Secretary  
Office of Drug and Alcohol Policy and Compliance

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## Introduction: "Tell me why this program is so important!"



The transportation industry drug and alcohol testing program is a cornerstone of the Department of Transportation's efforts to have Americans reach their destinations safely. None of us wants pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, or bus drivers to have drugs and alcohol "on board."

The transportation industries have been able to steadily reduce the number of crashes and accidents directly linked to drug and alcohol use by safety-sensitive employees. Yet, some safety-sensitive transportation employees continue to use illicit drugs and misuse alcohol despite efforts to deter them from doing so.

As a result, I want all of us to step-up our efforts to make sure transportation employees are drug and alcohol free. We can do this by making sure employees are properly educated on the personal and professional consequences of drug use and alcohol misuse. Supervisors must be appropriately trained to identify signs and symptoms of drug and alcohol use. Employers must have strong drug and alcohol testing programs. Employees must be removed from safety-sensitive duties immediately after they violate drug and alcohol testing rules. It is also very important that employees are not returned to safety-sensitive duty until they are referred for evaluation and have successfully complied with treatment recommendations.

The Nation is counting on all of us to get this right, and failure simply isn't an option.



**Mary E. Peters**  
**Secretary of Transportation**  
U.S. Department of Transportation  
January 2008

# DOT Guidance and Best Practices Overview



**Section I.** DOT Program Implementation and Regulations

**Section II.** Identifying Employees Needing To Be Tested

**Section III.** Program Policies and Assigning Responsibilities

**Section IV.** Selecting Service Agents and Their Roles

- *Collectors*
- *Breath Alcohol Technicians*
- *Screening Test Technicians*
- *Laboratories*
- *Medical Review Officers*
- *Substance Abuse Professionals*
- *Consortia/Third Party Administrators*

**Section V.** Employee and Supervisor Education and Training

**Section VI.** Drug and Alcohol Testing Requirements

**Section VII.** Employer Actions When Employees Violate the Rules

**Section VIII.** Record Keeping and Data Collection Requirements

**Section IX.** Program Compliance and Inspections / Audits

## Section I. DOT Program Implementation and Regulations

### *As an employer, do I have to do DOT testing?*

Yes, if you or your employees are subject to the DOT drug and alcohol testing regulations. The DOT Agencies and U.S. Coast Guard (USCG) have regulations that require certain employers to comply with drug and alcohol testing rules. To see if your company is covered, you can go to a feature on our website called, “Am I Covered?” at: [http://www.dot.gov/ost/dapc/odapc/v3\\_slide0001.htm](http://www.dot.gov/ost/dapc/odapc/v3_slide0001.htm). The following chart sets out the general types of employers our rules cover:

	<b>DOT Agency</b>	<b>Regulation</b>	<b>Industry</b>
<b>FMCSA</b>	Federal Motor Carrier Safety Administration	49 CFR Part 382	Motor Carrier
<b>FAA</b>	Federal Aviation Administration	14 CFR 121 Appendices I & J	Air Carriers or operators and certain contract air traffic control towers
<b>FRA</b>	Federal Railroad Administration	49 CFR Part 219	Rail
<b>FTA</b>	Federal Transit Administration	49 CFR Part 655	Public Transportation
<b>PHMSA</b>	Pipeline and Hazardous Materials Safety Administration	49 CFR Part 199	Operators of pipeline facilities and contractors performing covered functions for the operator
<b>USCG</b>	US Coast Guard [Department of Homeland Security]	46 CFR Parts 4 & 16	Maritime



You can find these regulations at: <http://www.dot.gov/ost/dapc/oamanagers.html>.



## *What is 49 CFR Part 40 and how is it different from the DOT Agency and USCG regulations?*

49 CFR Part 40, or “Part 40” as we call it, is a DOT-wide regulation that states how to conduct testing and how to return employees to safety-sensitive duties after they violate a DOT drug and alcohol regulation. Part 40 applies to all DOT-required testing, regardless of what DOT agency-specific rule applies to an employer. For example, whether you are an airline covered by FAA rules or a trucking company covered by FMCSA rules, Part 40 procedures for collecting and testing specimens and reporting of test results apply to you.

Each DOT Agency-specific regulation spells out who is subject to testing, when and in what situations for a particular transportation industry.

## *Where can I get a copy of Part 40?*

You can obtain a copy of Part 40 by contacting our office at 202.366.3784 or from our website at: [http://www.dot.gov/ost/dapc/NEW\\_DOCS/Part40\\_complete\\_20080109.doc](http://www.dot.gov/ost/dapc/NEW_DOCS/Part40_complete_20080109.doc).

## *Is there a website that gives me easy access to all the DOT’s program requirements?*

Yes. Most things you and others who help you with your program need to know about the drug and alcohol testing requirements are available on our website at: <http://www.dot.gov/ost/dapc>. There is also an “Employer Page” at: <http://www.dot.gov/ost/dapc/employer.html>.



## Section II. Identifying Employees Needing To Be Tested

### *Who are safety-sensitive employees and why are they tested?*

Pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, locomotive engineers, and bus drivers are just some of the transportation workers that we depend upon to be as clear-headed and as alert as possible at all times. As a safety agency, the DOT can demand nothing less. Use of illegal drugs and misuse of alcohol are not compatible with performing these vital functions. The history of our program began with some fatal accidents that illegal drug use or alcohol misuse helped to cause. Congress passed a law – the Omnibus Transportation Employees Testing Act of 1991 – that requires DOT Agencies to test safety-sensitive transportation workers.

This table lists the types of safety-sensitive duties subject to DOT drug and alcohol testing:

<b>Transportation Industry</b>	<b>Safety-Sensitive Duties</b>
<b>Commercial Motor Carriers (FMCSA)</b>	Commercial Drivers License (CDL) holders who operate a Commercial Motor Vehicle.
<b>Aviation (FAA)</b>	Flight crew, flight attendants, flight instructors; air traffic controllers at facilities not operated by the FAA or under contract to the U.S. military; aircraft dispatchers; aircraft maintenance or preventative maintenance personnel; ground security coordinators and aviation screeners.
<b>Railroad (FRA)</b>	Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/helpers, utility employees, signalmen, operators and train dispatchers.
<b>Public Transportation (FTA)</b>	Operators of revenue service vehicles, CDL-holding operators of non-revenue service vehicles, vehicle controllers, revenue service vehicle mechanics, firearm-carrying security personnel.
<b>Pipeline (PHMSA)</b>	Persons who perform operations, maintenance, or emergency response function on a pipeline or LNG facility regulated under part 192, 193, or 195.
<b>Maritime (USCG) [Follows Part 40 for drug testing, <u>not</u> alcohol testing.]</b>	Crewmembers operating a commercial vessel.



## Section III. Program Policies and Assigning Responsibilities

### *Do I need to have written policies that explain my program?*

Yes. The DOT Agencies and USCG require employers covered under their regulations to have policies in place that fully explain their drug and alcohol program. Not only must you have policies, but you must also make them available to employees covered under your DOT program.

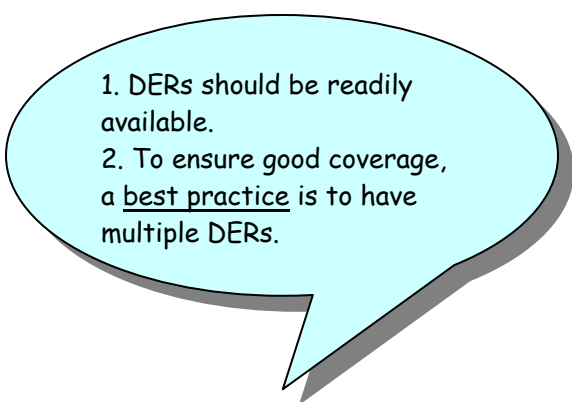


You can find DOT Agency and USCG policy requirements at [Appendix A](#).

### *What is a DER and what does a DER do?*

The Designated Employer Representative (DER) is your key employee for many drug and alcohol program functions. The DER must be a company employee. DERs cannot be contractors or service agents. The only exception is when C/TPAs function as DERs for owner-operator truck drivers.

The DER gets test results from the Medical Review Officer (MRO) and Breath Alcohol Technician (BAT) and takes immediate action to remove employees from their safety-sensitive duties when they violate drug and alcohol testing rules, such as test positive or refuse a test. A company may have more than one DER to ensure adequate coverage on all shifts and at all locations, with perhaps a drug and alcohol program manager to coordinate the entire program and assure consistency among DERs. As an employer, you must give your service agents the DER contact information in case they need to speak directly with the DER without delay.

- 
1. DERs should be readily available.
  2. To ensure good coverage, a best practice is to have multiple DERs.

The DER should have knowledge of and authority to make decisions about the testing process and answer questions about it. Again, the primary job of the DER is to ensure the appropriate and timely removal of an employee from safety-sensitive duties.

### *What are my options in administering my DOT drug and alcohol testing program?*

There are three general ways in which you can run your DOT drug and alcohol testing program:

**Option 1:** Administer the program internally. You would have on your own staff urine specimen collectors and Screening Test Technicians (STTs) / BATs, MROs, and Substance Abuse Professionals (SAPs) and support staff to run the program. The testing laboratory would be the only part of your program outside your own organization.

**Option 2:** Outsource some of the program functions to service agents. For example, you could have your own MRO and SAP but contract with urine specimen collectors and STTs / BATs to perform the collections, while keeping a support staff to run the program.

**Option 3:** Outsource all of the program's functions to a vendor, called a "consortium" or a "third-party administrator" (C/TPA), with only a DER and the DER's support staff, if any, remaining in-house.



**NOTE:** As an owner-operator in the motor carrier industry, FMCSA regulations require you to belong to a C/TPA to ensure your compliance with random testing.

### *Can I have my own company testing program in addition to my DOT testing program?*

You may have your own "company authority" testing program. Under a non-DOT program, you could test for other drugs of your choosing. Therefore, you would not be prohibited by DOT from testing for additional drugs under your own authority – under your non-DOT company policy testing. Nor would DOT prohibit you from using non-urine specimens under your non-DOT program.

1. In your drug and alcohol testing policy, you must be very clear about which requirements are under DOT authority and which are under your company authority.
2. You must also keep DOT test records separated from your company-authority test records.

However, you would need to follow Part 40 and the appropriate DOT Agency and USCG regulations and totally separate your DOT testing from your non-DOT company policy testing. For example, if you conduct DOT and non-DOT tests of an employee following an accident, you must ensure that the DOT urine collection for drugs and DOT test for alcohol are accomplished first. Then you would let the employee know the DOT portion was completed and that you will now be conducting a company policy test. In addition,

you must not use the Federal Drug Testing Custody and Control Form (CCF) or the DOT Alcohol Testing Form (ATF) for your non-DOT testing. You would use non-Federal and non-DOT forms.



## Section IV. Selecting Service Agents and Their Roles

### *What is a service agent and how can a service agent assist me?*

A service agent is any person outside your company that you use to help you implement the DOT regulations. These might include a urine collector, a BAT, an STT, a laboratory, an MRO, a SAP, or a C/TPA in charge of coordinating your testing services.

You can use a service agent to administer part or all of your DOT drug and alcohol testing program. If you use a service agent, you should take a “hands-on” approach, and you should not assume the service agent will do everything right.



**Are your service agents qualified? When was the last time you checked their training records and the quality of work they do?**

### *Should I enter into a contract with a service agent?*

1. A best practice is to stay in touch with your service agents to make sure they are keeping you in compliance.
2. Another best practice is for you to audit the work of your service agents from time to time.

It is up to you whether or not to use a service agent. If you use service agents, the rules do not require a written contract, but having a written contract makes good business sense. A contract should include how and where services will be provided, prices, and who will do what and when. To protect yourself, you should include a provision in the contract that allows you to replace the service agent if the service agent isn't providing services that comply with DOT rules.

Be a smart buyer. You should ask questions to make sure the service agent is providing the kind of service you want and need. For example, if a C/TPA is providing a network of collection sites, will the C/TPA verify the qualifications of the collectors and evaluate

the integrity of the collection sites? Will it act as an intermediary in resolving collection site issues? Will the C/TPA use a scientifically valid way of making selections for random testing? How often will the C/TPA perform random selections? How quickly does the C/TPA's MRO provide results after a test?



## *Who are the service agents and what are their responsibilities in DOT's testing program?*

This chart lists most of the types of service agents that work in the DOT drug and alcohol testing program and their responsibilities:

<b>Type of Service Agent</b>	<b>Responsibilities</b>	<b>Where can I find their qualifications?</b>
<b>Urine Collector</b>	Collect urine specimens using Part 40 procedures, ship the specimens to Department of Health and Human Services (HHS) certified laboratories for analysis, and distribute copies of the CCF to the laboratory, MRO, employer, and employee in a timely and confidential manner. The collector is required to maintain collection site security and integrity (see <a href="#">Appendix B</a> ).	49 CFR Part 40 Section 40.33
<b>Laboratory</b>	Receive, analyze, and report laboratory confirmed results <u>only</u> to MROs. The laboratory <u>must</u> be certified by the HHS.	49 CFR Part 40 Section 40.81
<b>Medical Review Officer (MRO)</b>	Receive laboratory confirmed urine drug test results; determine whether there is a legitimate medical explanation for a laboratory-confirmed positive, adulterated, or substituted result; and review and report a verified result to the employer in a timely and confidential manner.	49 CFR Part 40 Section 40.121
<b>Screening Test Technician (STT)</b>	Conduct an alcohol screening test (i.e., the first test given to an employee). It can be either a breath or saliva test. The STT documents the test result on an ATF and transmits the results to the employer in a timely and confidential manner.	49 CFR Part 40 Section 40.213
<b>Breath Alcohol Technician (BAT)</b>	Conduct alcohol screening and confirmation tests (i.e., the second test given to an employee whose screening test result is .02 or above) by collecting and analyzing breath specimens using an approved screening device and an evidential breath testing (EBT) device, document the results of the test on a DOT ATF, and transmit the results to the employer in a timely and confidential manner.	49 CFR Part 40 Section 40.213

Type of Service Agent	Responsibility	Where can I find their qualifications?
<b>Substance Abuse Professional (SAP)</b>	Evaluate employees who have violated DOT drug and alcohol regulations and make recommendations concerning education, treatment, follow-up testing, and aftercare. The SAP determines if the employee demonstrates successful compliance with the recommended education and treatment.	49 CFR Part 40 Section 40.281
<b>Consortium / Third Party Administrator (C/TPA)</b>	A service agent who coordinates a variety of drug and alcohol testing services for employers. These services can include random selections; preparation of annual Management Information System (MIS) reports; and coordinating urine collections, laboratory testing, MRO services, alcohol testing, and SAP evaluations. A C/TPA must ensure the services it provides comply with DOT regulations and that its service agents are qualified.	49 CFR Part 40 Subpart Q



For important pointers for selecting service agents, see [Appendix C](#).



## Section V. Employee and Supervisor Education and Training

### *What educational materials do I need to give to my employees?*

You must provide employees who perform DOT safety-sensitive functions materials that explain the DOT requirements. You must document that they received the materials. At the very least, you should include:

- ◆ The name and contact information of persons assigned to answer questions about the program.
- ◆ The duties of the employees who are subject to the program.
- ◆ Employee conduct that is prohibited by the regulations.
- ◆ The requirement that employees must be tested for drugs and alcohol.
- ◆ When and under what circumstances employees will be tested.
- ◆ The testing procedures that will be used.
- ◆ An explanation of what constitutes a refusal to test.
- ◆ An explanation of the consequences of refusing a test.
- ◆ The consequences of violating the DOT rules.
- ◆ Information on the effects of drugs and alcohol on a person's health, work, and personal life.
- ◆ The signs and symptoms of drug use and alcohol misuse.
- ◆ The name and contact information of an individual or organization that can provide counseling and access to treatment programs.

There are also training requirements for supervisors and other officials about reasonable suspicion and reasonable cause testing:

<b>Type of Training</b>	<b>Duration</b>	<b>Documentation of training required?</b>	<b>Recurring training required?</b>
<b>Indicators of Probable Drug Use</b>	1 Hour	Yes	Recommended as Best Practice
<b>Indicators of Probable Alcohol Use</b>	1 Hour	Yes	Recommended as Best Practice



Employers must follow other requirements that DOT Agencies and USCG rules have for employee and supervisor education and training.



FRA also requires supervisors to have at least 1 hour of post-accident training.



## Section VI. Drug and Alcohol Testing Requirements

### *What specimens are collected for DOT drug and alcohol tests?*

DOT drug tests are conducted only using urine specimens. DOT alcohol screening tests are conducted using either breath or saliva. DOT alcohol confirmation tests must be conducted using Evidential Breath Testing Devices (EBTs) that only analyze breath.



In addition to urine testing for drugs, the FRA also requires blood specimens for its Post-Accident testing.



The USCG permits collection of blood specimens for its Serious Marine Incident (SMI) testing.

### *Where must I have DOT urine specimens analyzed?*

DOT urine specimens can only be tested at drug testing laboratories certified by the HHS. There are no “point of contact” or “instant” tests permitted by the DOT. All specimens must be urine.

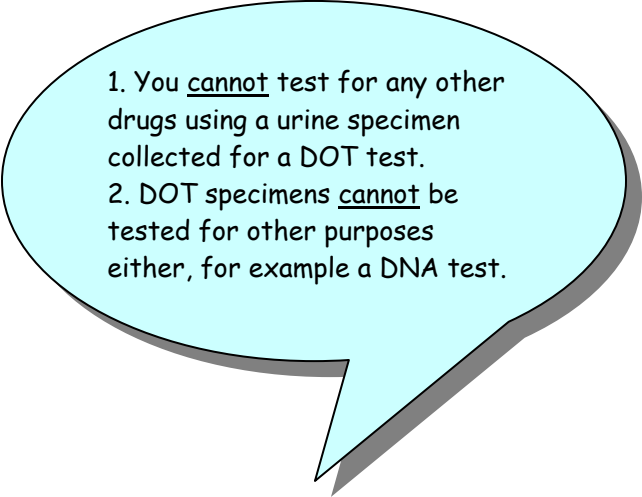


You can find the current HHS laboratory listing at:  
[http://workplace.samhsa.gov/DrugTesting/Level\\_1\\_Pages/CertifiedLabs.aspx](http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.aspx)

### *For what drugs does DOT require me to test?*

DOT urine specimens are analyzed for the following drugs or drug metabolites:

- ◆ Marijuana metabolites / THC
- ◆ Cocaine metabolites
- ◆ Phencyclidine (PCP)
- ◆ Amphetamines and Methamphetamine
- ◆ Opiate metabolites [Codeine, Morphine, and Heroin]



1. You cannot test for any other drugs using a urine specimen collected for a DOT test.  
2. DOT specimens cannot be tested for other purposes either, for example a DNA test.

## *What types of DOT tests must I conduct?*

You must give employees the following kinds of tests, when called for by DOT Agency and USCG rules:

- ◆ Pre-employment
- ◆ Random
- ◆ Reasonable Suspicion / Reasonable Cause
- ◆ Post-Accident
- ◆ Return-to-Duty
- ◆ Follow-up

Here are explanations about each type of test:

### **PRE-EMPLOYMENT**

**Drug Tests:** You are required to: (1) Conduct a pre-employment drug test; and (2) Receive from the MRO a negative test result on the pre-employment drug test for a person prior to hiring or prior to using that person in a safety-sensitive position for the first time. This requirement also applies when a current employee is transferring from a non-safety sensitive position to a safety-sensitive job for the first time.

**Alcohol Tests:** Unless you are regulated by the USCG, you may conduct pre-employment alcohol testing under DOT authority, but only if two conditions are met: (1) The pre-employment alcohol testing must be accomplished for all applicants [and transfers], not just some; and (2) The testing must be conducted as a post-offer requirement – meaning you must inform the applicant that he or she has the job if he or she passes a DOT alcohol test.



The FAA has specific “prior-to-hire” and “transfer into safety-sensitive function” requirements. They also require employers to receive MRO written confirmation of negative pre-employment drug test results. Check FAA regulations for details.



The FRA has a one-time pre-employment drug test requirement for each employee subject to the “Hours of Service” laws. Check FRA regulations for details.



The FTA requires employees who have been removed from the random testing pool and out of work for 90 or more days to have pre-employment tests upon return.

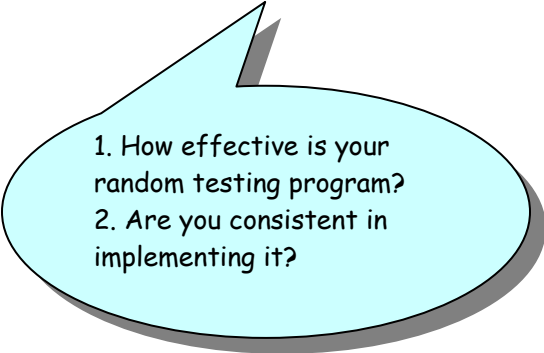


The USCG requires employees who have not been subject to random drug testing for at least 60 days of the last 185 days to be pre-employment tested.



## **RANDOM**

Random tests are the key part of your program since they deter employees from using drugs and misusing alcohol. Unless you are regulated by FRA, you don't need to submit a random testing plan to DOT. However, it is a good idea for you to have a written plan to help you to objectively and consistently apply your program.

- 
1. How effective is your random testing program?
  2. Are you consistent in implementing it?

Each DOT Agency sets the random rates for drug and alcohol testing in the industry it regulates. These testing rates are minimums. You can choose to set higher random testing rates for your company.

So if a DOT Agency requires a drug testing rate of 50% and an alcohol testing rate of 10%, then an employer with 100 safety-sensitive employees would have to ensure that 50 or more random drug tests and 10 or more random alcohol tests were conducted during the calendar year.

This doesn't mean that you necessarily will give random drug tests to 50 different employees or random alcohol tests to 10 different employees. Some might be picked and tested more than once, and others not at all. It's just that each time there is a random selection, all employees have an equal chance to be selected and tested.

That's the deterrent factor!

What makes random testing so effective is the element of surprise. While employees know they will be tested, they are never quite sure of when. Random selections and testing should be performed at least quarterly. Some employers are selecting and testing more frequently. We think that is a good idea.

Employers and C/TPAs subject to more than one DOT Agency drug and alcohol testing rule may combine covered DOT safety-sensitive employees into a single random pool (for example, train engineers and truck drivers). However, companies doing so must test at or above the highest minimum annual random testing rates established by the DOT Agencies involved. So, if you have FMCSA regulated- and FRA regulated-employees in the same pool, and FMCSA has a 50% testing rate and FRA has a 25% rate, you must test the whole pool at the 50% minimum rate.

It is important to note that PHMSA and USCG do not authorize random alcohol testing for employees in the pipeline and maritime industries. So, if employees perform only pipeline or maritime duties, they cannot be in any DOT-regulated random alcohol testing pool.



You can find the current DOT Agency and USCG random testing rates at:  
<http://www.dot.gov/ost/dapc/rates.html>.



Check out "Best Practices for DOT Random Drug and Alcohol Testing" at:  
[http://www.dot.gov/ost/dapc/testingpubs/final\\_random\\_brochure.pdf](http://www.dot.gov/ost/dapc/testingpubs/final_random_brochure.pdf).

## **REASONABLE SUSPICION / REASONABLE CAUSE**

You are required to conduct a test for drugs or alcohol [or both] if a trained supervisor or trained company official believes or suspects an employee is under the influence of drugs or alcohol [or both]. The supervisor or company official must have been trained to recognize the signs and symptoms of drug and alcohol use. Testing cannot be required based solely on a guess or hunch or complaint from another person or phone call tip. The suspicion must be based on specific observations by the supervisor or company official concerning the employee's current appearance, behavior, speech, and smell that are usually associated with drug or alcohol use.



The reasonable suspicion / reasonable cause observations of the supervisor or company official must be documented.



The FRA requires two supervisors - at least one of whom is trained and on site - to make the testing determination. FAA does not require the determination to be face-to-face.

## **POST-ACCIDENT**

You are required by the DOT Agencies and USCG to conduct drug and alcohol tests following qualifying accidents. The following table summarizes post-accident time-frames and specimens that must be collected:

<b>DOT Agency</b>	<b>Specimen Type</b>	<b>Time Frame for Collection</b>
<b>FMCSA, FAA, FTA, PHMSA, USCG</b>	Urine for <u>drug</u> testing.	Up to 32 hours from time of event.
<b>FMCSA, FAA, FTA, PHMSA</b>	Saliva or breath for <u>alcohol screening</u> ; breath for <u>alcohol confirmation</u> testing.	Within 2 hours, but cannot exceed 8 hours from time of event.
<b>FRA</b>	Urine for <u>drug</u> testing. Blood for <u>drug</u> and <u>alcohol</u> testing.	Up to 4 hours from time of event, but may exceed time frame to collect specimen – in every case, a blood and urine specimen must be collected.
<b>USCG</b>	Breath, Saliva, or Blood for <u>alcohol</u> testing.	Within 2 hours of the event. Up to 8 hours may be allowed if there are safety concerns to be addressed.

The supervisor at the scene of the accident/event should know the testing criteria and make a good faith effort decision to test or not test based on the information available at the time. The supervisor may consult with others, but the supervisor is the person who has to make the decision. If the testing cannot happen within the required time, the supervisor must document the reasons. Any employee required to be tested but needs medical assistance, must get the needed medical assistance first.



You can find the DOT Agency and USCG post-accident testing criteria at [Appendix D](#).



Railroads must provide FRA the results of any breath alcohol tests that were accomplished.



FRA also requires collection of identified tissue and blood specimens from all employees who die as a result of the qualifying event.



FAA does not require a supervisor to be on-scene.

## **RETURN-TO-DUTY AND FOLLOW-UP**

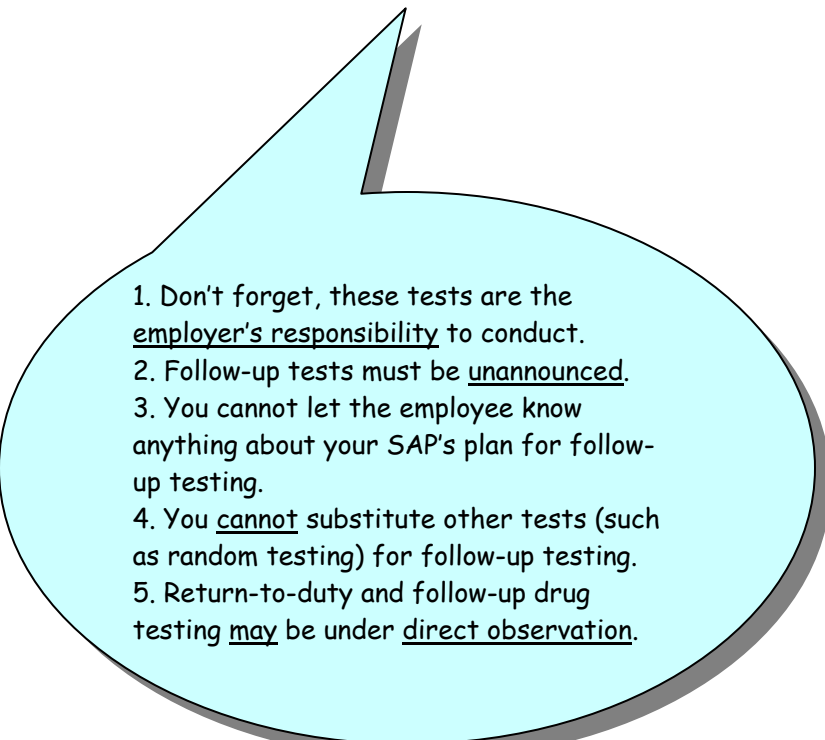
When an employee tests positive or refuses a test or violates other provisions of DOT Agency and USCG testing regulations, that employee cannot work again in DOT safety-sensitive positions until successfully completing the SAP return-to-duty requirements in Part 40.

After successfully completing the SAP requirements, the employee may be eligible to return to work. But, before an employer can return the person to work in a safety-sensitive job, a SAP must determine that the employee successfully complied with the recommended treatment and education. The employee must then have a **return-to-duty test** and the test result must be **negative**.

The SAP will also develop the employee's **follow-up testing plan** – outlining for the employer the number and frequency of follow-up testing that will take place.

You are then responsible for ensuring that the employee is tested according to the SAP's follow-up plan. These tests can be for drugs or alcohol or both.

The SAP must direct at least 6 follow-up tests in the first 12 months after the person returns safety-sensitive duties. However, the SAP can direct more tests and may extend them for up to five years.

- 
1. Don't forget, these tests are the employer's responsibility to conduct.
  2. Follow-up tests must be unannounced.
  3. You cannot let the employee know anything about your SAP's plan for follow-up testing.
  4. You cannot substitute other tests (such as random testing) for follow-up testing.
  5. Return-to-duty and follow-up drug testing may be under direct observation.



Under FRA regulations, locomotive engineers are subject to both drug and alcohol follow-up tests in the first 12 months.

## *How do I notify employees they have been selected for testing?*

Every employee should be discreetly notified that they have to go for a test. Testing must be conducted in strict confidence with only a limited number of company officials having knowledge of the selection. You should have procedures in place to ensure that each employee receives no advanced notice of selection.

**Why?** Because it helps maintain the element of surprise!

But, be sure to allow enough time before notification for supervisors to schedule for administration of the test and to ensure that collection sites are open for testing.

## *After I notify the employees of their selection, how long do I give them to get to the collection site?*

When an employee is notified, he or she must proceed immediately to the collection site. Contrary to the *urban legends* circulating among some employees, *immediately* does not mean two hours. *Immediately* means that after notification, all the employee's actions must lead to an immediate specimen collection.

**Why?** For the integrity of the testing process!

Have best practice procedures in place to make sure the employee reports directly to the collection site without a chance to prepare to cheat on the test:

1. If possible, accompany employees to collection sites.
2. Do not allow employees to go unescorted to their lockers, personal vehicles, or work stations after notification.
3. When possible, arrange to have collectors and BATs come to the work site to collect specimens - without alerting employees to their presence.
4. If collections are off site and unescorted, establish an expected time of arrival.

Many employers develop testing policies that clearly state what activities are acceptable after notification. For instance, which safety-sensitive duties DOT Agency regulations may permit them to complete when selected for a random test. For example, if an employee is notified of a random test while working "off site" or "on the road," your policies should spell-out exactly what the employee must do before resuming safety-sensitive functions. That way there is no misunderstanding among employees about what is expected.



**Make it clear to your employees that there are consequences for failing to appear for any test within a reasonable time.**



For pre-employment and return-to-duty testing, ensure that the applicant or employee knows the specific date, time, and location of the test.

## *What forms are required for DOT testing and who issues them?*

The *Federal Drug Testing Custody and Control Form* must be used for DOT drug tests and the *Department of Transportation Alcohol Testing Form* must be used for DOT alcohol tests. There are various vendors that supply these forms to employers, collectors, and STTs and BATs. Laboratories and C/TPAs usually provide forms to collection sites and manufacturers of alcohol testing devices usually provide forms to STTs and BATs – of course, there is a cost associated with printing the forms.



You can find CCFs and ATFs at: <http://www.dot.gov/ost/dapc/documents.html>



The FRA requires the use of a specific form for its Post-Accident testing. You can find it at: <http://www.fra.dot.gov/downloads/safety/F618074.PDF>



The USCG allows the use of a specific form - CG-719P - to report periodic test results. You can find it at: <http://www.uscg.mil/STCW/index.htm>

## *What is split specimen testing and who pays for it?*

At the collection site, a collector will pour an employee's urine into two separate bottles – Bottle A [Primary] and Bottle B [Split]. The collector sends both to the laboratory where Bottle A gets tested. If the MRO reports the employee's test result as positive or as a refusal to test because it was adulterated or substituted, the MRO will offer the employee an opportunity to have the Bottle B – the Split – tested at another laboratory. The split test is an independent way to determine if the primary test results were accurate.

1. Payment arrangements for the split specimen should be worked out in advance.
2. The decision of who pays is left to the employer and employees.
3. But, ultimately it is the employer's responsibility to ensure the split test takes place without delay.

The employee has 72 hours to request the split test. Upon getting the request, the MRO must immediately have the primary laboratory send the split to another HHS-certified laboratory for testing. Congress gave the employee the right to have the split tested, so if the employee asks to have the split tested, the test must happen no matter who pays for it. No one can insist on payment before the test occurs, either. However, it is between you and the employee who ultimately will pay. It is your responsibility to get the test accomplished without delay and regardless of who pays.

Some employers make a decision to pay for the split testing. Others have agreements to share the cost with the employee. We know of other employers who agree to pay if the split specimen fails to reconfirm the primary specimen's results; and the employee pays if the split result turns out to be same as the primary result. Payment can be also taken from the employee's paycheck – even if it's the last paycheck with you. But under no circumstances can you hold up a split from being tested while waiting for payment.

## *What are "blind specimens" and am I required to submit them?*

DOT requires you to send quality control specimens – or blind specimens – to the laboratory or laboratories you use as one way of making sure that testing is accurate. Some blind specimens will have known amounts of drugs or contaminants in them, and some will contain no drugs or contaminants. To ensure that laboratories cannot tell a blind specimen from any other, blinds have to be sealed, identified, and packaged just like the real thing. Your MRO will compare the known results with the laboratory results.

You can submit the blind specimens yourself or you can have a service agent – such as a C/TPA – do it for you. Figuring out if you have to submit blinds and how many to send and when, can be a little difficult. That is why the DOT does not make employers with less than 2000 safety-sensitive employees send them in. C/TPAs serving less than 2000 total covered employees don't have to send any in, either.

For the rest of you – employers with, and C/TPAs serving, more than 2000 covered employees – here are some of the ground-rules for sending in blind specimens:

- ◆ Don't send them to laboratories that test less than 100 specimens annually for you.
- ◆ The number of blinds should equal 1% of the total specimens you send to the laboratory.
- ◆ The number of blinds you need to send to any laboratory is capped at 50 per quarter.
- ◆ 75% of your blinds must be certified as negative.
- ◆ 15% must be positive for one or more drugs for which DOT required you to test.
- ◆ 10% must be adulterated and / or substituted.
- ◆ They must be submitted throughout the calendar year.
- ◆ CCFs accompanying blinds to the laboratory must be filled-out like any other CCF.



You can find makers of blind specimens on the HHS website:

[http://workplace.samhsa.gov/DrugTesting/Files\\_Drug\\_Testing/Spec\\_Collectors/list\\_SourcesSamples0907.pdf](http://workplace.samhsa.gov/DrugTesting/Files_Drug_Testing/Spec_Collectors/list_SourcesSamples0907.pdf)





## Section VII. Employer Actions When Employees Violate the Rules

*What must I do when an employee tests positive, or refuses a test, or has some other violation of DOT Agency or USCG regulations?*

You must immediately remove the employee from safety-sensitive functions and give the employee a list of qualified SAPs. This list must have SAPs who are suitable to you and readily available to the employee. Instead of a list of SAPs, you may provide the name and phone number of a SAP network that will offer qualified SAPs to the employee when they contact the employee or the employee calls them.



Double-check to make sure your SAP meets all the DOT's Part 40 qualification requirements. These include checking for credentials, training, and examination.



NOTE: When an applicant fails or refuses a pre-employment DOT test, you cannot let the applicant perform safety-sensitive duties for you, and you must provide a SAP listing to the applicant.



You cannot charge an applicant or an employee for the SAP list, and you may have your TPA or another service agent provide the list.

*Can I fire an employee who tests positive or refuses a test?*

That's your decision, subject to your policies and applicable legal or collective bargaining requirements. DOT rules don't decide this for you. The same goes for other personnel decisions – like other disciplinary action, hiring, suspensions, or leaves of absence. What our rules require is that **no one who violates a rule can perform safety-sensitive functions again until successfully completing the SAP return-to-duty process.**

*Other than giving the SAP listing, am I required to provide SAP and treatment services to employees?*

No. The DOT does not require you to provide SAP evaluation services or any of the SAP's recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation.

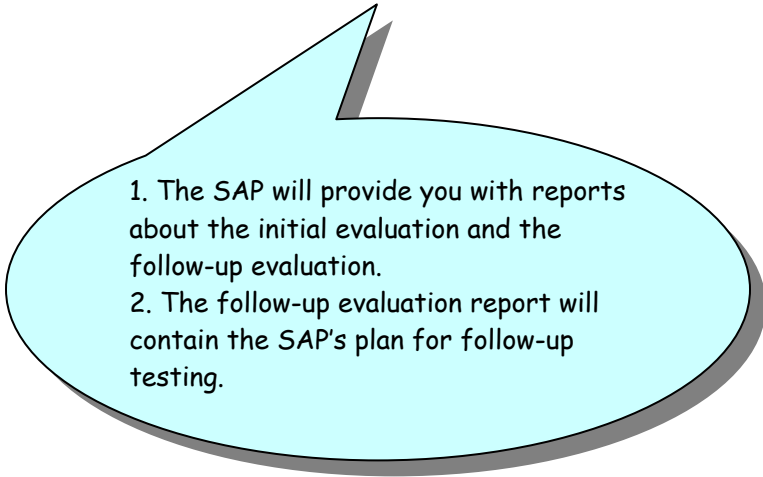
However, if you offer that employee an opportunity to return to a DOT safety-sensitive duty following a violation, you must, before the employee again performs that duty, ensure that the employee received a SAP evaluation and the employee successfully complied with the SAP's evaluation recommendations.

*What is involved in an employee's SAP return-to-duty process?*

The SAP makes a face-to-face clinical assessment and evaluation to figure out what assistance is needed by the employee to resolve problems with drug use and alcohol misuse. Next, the SAP refers the employee to an appropriate program for education or treatment, or both. Following that, the SAP conducts another face-to-face evaluation – the follow-up evaluation – to determine if the employee actively participated in the program and

has demonstrated successful compliance with the initial assessment and evaluation recommendations. For this review, the SAP must have conferred with the education and treatment program and should have any reports and materials they provided for review.

You should receive from the SAP an initial evaluation letter outlining the treatment and education recommendations. Your second letter from the SAP should include the SAP's clinical characterization of the employee's level of participation in treatment and education and a statement about whether or not the employee demonstrated successful compliance with the program. If the employee successfully complied with the SAP's recommendations, this letter should also contain any plans for aftercare treatment and a follow-up testing plan.

- 
1. The SAP will provide you with reports about the initial evaluation and the follow-up evaluation.
  2. The follow-up evaluation report will contain the SAP's plan for follow-up testing.



You can find the DOT's SAP Guidelines at:

[http://www.dot.gov/ost/dapc/testingpubs/SAP\\_Guide\\_200611.doc](http://www.dot.gov/ost/dapc/testingpubs/SAP_Guide_200611.doc).

### *Can I confer with a SAP about the employee's testing without having the employee's permission?*

Yes you can! The DOT authorizes you and the SAP to confer about the employee's DOT testing— no employee permission needed. This also includes the SAP getting information from you even if you fired the employee. The information the SAP obtains from the employer may help determine the best course of treatment or education, or both for the employee.

### *Do I need to verify an employee's prior drug and alcohol testing history?*

Yes! Before you hire or transfer someone into a safety-sensitive position, you must check the person's DOT drug and alcohol testing history. You need to check with any DOT-regulated company that employed the person during the past two years – unless you are regulated by FMCSA, FAA, or FRA. FMCSA requires a three-year records check for drivers; FAA requires a five-year records check for pilots; and FRA requires a five-year records check for locomotive engineers.

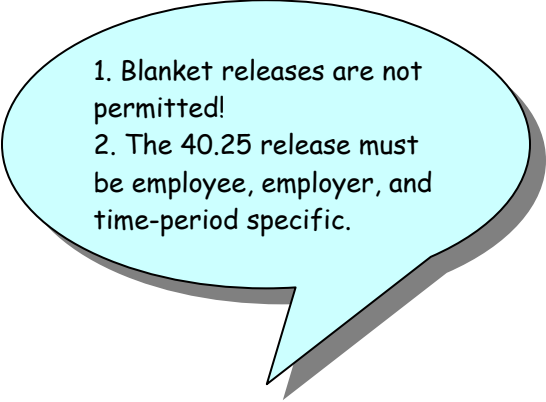
You must get the person's written consent to seek the information from other employers. The person must list all previous and current employers within the last two, three, or five years, as appropriate. If the person doesn't do so, or refuses to sign the consent form, you cannot allow the person to perform safety-sensitive functions.

Keep in mind that the consent must be a specific release authorizing the new employer to receive testing information from a specific former or current employer about a specific employee. It cannot be a "blanket" release: For example, it cannot have multiple employers on one release form; it must be employee-specific; it must be employer-specific; and it must be time-period specific.



Also, the consent cannot be part of another DOT requirement such as a motor vehicle check, credit history, or criminal background check. The consent needs to be an original signed form for each identified DOT regulated employer needing to provide testing information.

If possible, you must obtain and review the testing history before the employee first performs safety-sensitive functions for you. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions unless you have obtained, or made and documented a good faith effort to obtain, the information from previous employers.

- 
1. Blanket releases are not permitted!
  2. The 40.25 release must be employee, employer, and time-period specific.

If the information you receive shows that the person violated DOT rules, you must make sure that the employee has successfully completed the DOT return-to-duty process before permitting the person to perform safety-sensitive duties.



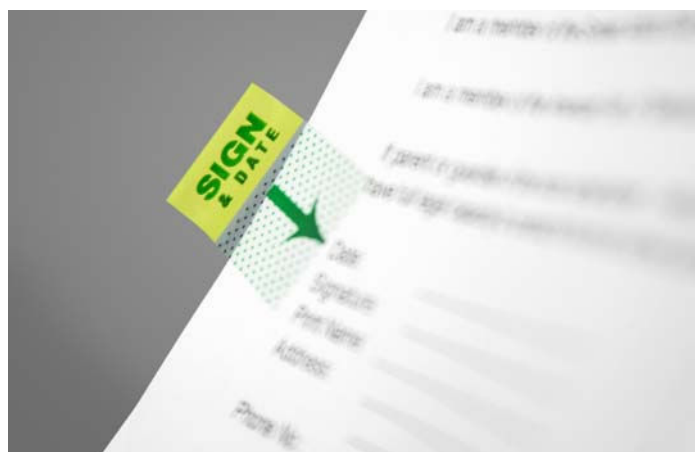
The requirements for these releases are in Part 40, at Section 40.25. For a sample employee 40.25 consent form, see [Appendix E](#).

### *Can I use a service agent to help obtain or provide an employee's prior drug and alcohol testing history?*

Yes. You may use a service agent to help with this information. If you use a service agent to obtain the information on your behalf, the service agent must also be identified on the release form along with your employer identifying information. If you use a service agent to provide the information to a gaining employer, the service agent cannot withhold the information pending payment.



Service agents maintaining testing information for DOT regulated employers cannot disclose employee test information to other parties unless the employee provides a specific written consent to do so, unless DOT says otherwise in Part 40 [at 40.331].



## *What exactly is a refusal to test and who determines it?*

The DOT regulations outline refusals to test for drugs and alcohol. Some refusals are determined by MROs and BATs and STTs. For others, the determination is your responsibility. All have clear instructions from DOT. You must base your decisions on these DOT instructions and NOT on personal opinions about whether the employee is a long-time reliable worker; has ever tested positive or refused a test; was correctly selected for the test; or claims to have misunderstood the collector's instructions to remain at a collection site, among others.

Here's a list of Part 40 refusals and the DOT regulation instructions for handling them:

<b>Event</b>	<b>Decision Maker</b>	<b>DOT Instructions</b>
<b>Fail to appear at a urine collection site when directed to report</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employee did not get to the site or spent too much time getting there, it is a refusal.
<b>Fail to remain at the urine collection site</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the collector reports that the employee left the collection site before the testing process was complete, it is a refusal.
<b>Fail to provide a urine specimen</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the collector reports that the employee left the collection site before providing a required specimen, it is a refusal.
<b>Fail to permit a monitored or observed urine collection</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employer ordered an observed collection or if the collector required the collection to be monitored or observed, it is a refusal if the employee does not permit it to occur.
<b>Fail to provide a sufficient amount of urine</b>	<b>MRO</b>	If the MRO finds that there was no medical reason for the employee to provide an insufficient amount of urine, it is a refusal.
<b>Fail or decline to take an additional drug test the employer or collector has directed</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employer or collector directs the employee to take an additional test, as required or permitted by the DOT, and the employee does not, it is a refusal.

<b>Event</b>	<b>Decision Maker</b>	<b>DOT Instructions</b>
<b>Fail to undergo a medical examination or evaluation the MRO or employer has directed</b>	<b>MRO</b>	If the employee does not go in for a medical evaluation or does not permit it to occur, it is a refusal.
<b>Fail to cooperate with any part of the urine collection process</b>	<b>Employer / DER *</b> [after review of the collector documentation]	Some examples of failure to cooperate are when the employee: 1. Refuses to empty pockets when directed; 2. Behaves in a confrontational manner that disrupts the collection process; 3. Refuses to remove hat, coat, gloves, coveralls when directed; or 4. Fails to wash hands when directed.
<b>For an observed collection, fail to follow the instructions to raise and lower clothing and turn around</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employee does not follow these instructions so that the observer can check for prosthetic or other devices that could be used to interfere with the collection process, it is a refusal.
<b>Possess or wear a prosthetic or other device that could be used to interfere with the collection process</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employee is found to have or wear a prosthetic or other device designed to carry clean urine or a urine substitute, it is a refusal.
<b>Admit to the collector to having adulterated or substituted the specimen</b>	<b>Employer / DER *</b> [after review of the collector documentation]	If the employee, during the collection process, admits to having tampered with his or her specimen, it is a refusal
<b>Adulterate or substitute a urine specimen</b>	<b>MRO</b>	If the laboratory reports a confirmed adulterated or substituted specimen to the MRO and the MRO determines there is no medical reason for the result, it is a refusal.

<b>Event</b>	<b>Decision Maker</b>	<b>DOT Instructions</b>
<b>Admit to the MRO to having adulterated or substituted the specimen</b>	<b>MRO</b>	If the employee, during a medical review, admits to having tampered with his or her specimen, it is a refusal.
<b>Fail to appear for an alcohol test when directed to report</b>	<b>Employer / DER *</b> [after review of the STT or BAT documentation]	If the employee did not get to the alcohol test site or spent too much time getting there, it is a refusal.
<b>Fail to remain at the alcohol test site</b>	<b>Employer / DER *</b> [after review of the STT or BAT documentation]	If the STT or BAT reports that the employee left the collection site before the testing process was complete, it is a refusal.
<b>Fail to provide an adequate amount of saliva or breath</b>	<b>Employer / DER *</b> [after review of the STT or BAT documentation]	If the STT or BAT reports that the employee left the alcohol testing site before providing a required amount of saliva or breath, it is a refusal.
<b>Fail to provide a sufficient breath specimen</b>	<b>Evaluating Physician</b>	If the evaluating physician finds that there was no medical reason for the employee to provide an insufficient amount of breath, it is a refusal.
<b>Fail to undergo a medical examination or evaluation as the employer has directed as part of the insufficient breath procedures</b>	<b>Employer / DER</b>	If the employee does not go in for a medical evaluation or does not permit it to occur, it is a refusal.

Event	Decision Maker	DOT Instructions
<b>Fail to sign the certification statement at Step 2 of the ATF</b>	<b>Employer / DER *</b> [after review of the STT or BAT documentation]	If the employee does not agree to have a test accomplished by signing Step 2 of the ATF, it is a refusal.
<b>Fail to cooperate with any part of the alcohol testing process</b>	<b>Employer / DER *</b> [after review of the STT or BAT documentation]	One example of failing to cooperate is when the employee behaves in a confrontational manner that disrupts the alcohol testing process.

**\*IMPORTANT NOTE:** When a collector for a drug test, or an STT or BAT for an alcohol test, reports a refusal event to the DER, the **EMPLOYEE MUST IMMEDIATELY BE REMOVED FROM SAFETY-SENSITIVE DUTIES**, and after that you [or the DER] must verify if the employee actually refused the test based upon the documentation provided and DOT's instructions. When you [or the DER] determine that there is a refusal, do not return the employee to safety-sensitive duties until the SAP return-to-duty process is successfully completed.

In extremely rare cases for which you [or the DER] determine there is not a refusal, you [or the DER] must document your decision and your solid reasoning for it. You must maintain this documentation for a DOT Agency or USCG representative in the event of an inquiry or inspection.

Remember, your decision could be overturned by the DOT, a DOT Agency, or the USCG. So, as a safeguard to ensure that you make the correct determination, you ought to consult with your MRO on collection site refusals – the MRO is, after all, the “Gatekeeper” for the drug testing process.



**NOTE:** An MRO's refusal determination is final and not subject to your review. Also, an evaluating physician's refusal determination for an employee's insufficient breath is final and not subject to your review.



## Section VIII. Record Keeping and Data Collection Requirements

### *What drug and alcohol records do I need to keep?*

You have to maintain comprehensive records related to your program. That way, you can fully account for your program when you are inspected or audited by DOT Agencies or USCG. In addition, you will have the records that you might have to produce for court cases and arbitration hearings. Your service agents can maintain these documents for you. DOT published the “Employer Record Keeping Requirements for Drug and Alcohol Testing Information,” and it is available on our website. The document goes into far more detail than we can give you here.



You can find the employer records keeping document on our website at:

[http://www.dot.gov/ost/dapc/testingpubs/Recordkeeping\\_20051201.pdf](http://www.dot.gov/ost/dapc/testingpubs/Recordkeeping_20051201.pdf)

The minimum record keeping requirements are highlighted in this chart:

Schedule	Type of Records
<b>Five Years</b>	<p>Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;</p> <p>Records of verified positive drug test results;</p> <p>Documentation of refusals to take required alcohol and drug tests (including substituted or adulterated drug test results);</p> <p>Annual MIS Report;</p> <p>SAP reports; and</p> <p>All follow-up tests and schedules for follow-up tests.</p> <p>[<b>Aviation employers</b> must keep commercial pilot positive, negative, and refusal records for 5 years because of the Pilot Record Improvement Act <u>and</u> must keep employee dispute records.]</p> <p>[<b>Pipeline operators</b> and motor carrier companies must maintain EBT calibration records for 5 years.]</p>



Schedule	Type of Records
Three Years	<p>Information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees.</p> <p>[<b>Pipeline operators</b> must keep supervisor and employee <u>drug</u> training records; and records related to the drug collection process.]</p>
Two Years	<p>Records of the inspection, maintenance, and calibration of EBTs; and</p> <p>Records related to the alcohol and drug collection process. These include, documents related to random selections, reasonable suspicion determinations, and post accident determinations; medical evaluations for insufficient amounts of urine and breath; and supervisor and employee education and training records.</p> <p>[<b>Motor carriers</b> must keep supervisor, employee, BAT, and STT education and training records for two years <u>after</u> the person ceases those specific functions.]</p> <p>[<b>Railroads</b> must keep records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 because of FRA regulations <u>and</u> must keep employee dispute records.]</p> <p>[<b>Pipeline operators</b> must keep supervisor and employer <u>alcohol</u> training records.]</p>
One Year	<p>Records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.</p> <p>[<b>Railroads</b> must keep these records for two years.]</p>

### *Where and how should I keep my drug and alcohol testing records?*

You should keep testing records in locations with controlled access (for example, in locked cabinets and in rooms requiring access by sign in, lock and key or security code). Only employees with an official “need to know” should have access to these records and be allowed in these areas. You can keep the records at your place of business or a service agent may keep them for you.

If you store your records electronically, you must make sure they are easily accessible, legible, formatted, and stored in an organized and reviewable manner. If electronic records do not meet these criteria, at the request of DOT agency or USCG representatives, you must convert them to printed documentation in a rapid and readily auditable manner.

MROs must keep their medical review records, their laboratory reports, and CCF copies they receive at their own business places.

You must make them available at your principal place of business when they are requested by the DOT, a DOT Agency, or USCG. For example, if you are a motor carrier and an FMCSA investigator requests your records, you must provide them within two business days.



For most DOT Agencies and USCG, you must keep original copies of CCFs and ATFs even if you store them electronically.



If your records are maintained by a service agent who goes out of business, you must request that they send the records to another service agent of your choosing or to you - and they must do so.

### *What are the requirements for sending annual data reports to DOT?*

You might have to send data reports, but it will depend upon on which regulations you are to follow. The following chart contains the DOT Agency and USCG specific instructions on submitting the Management Information System drug and alcohol statistical testing data:

<b>DOT Agency</b>	<b>MIS Submission Requirements</b>
<b>FMCSA</b>	Employers must submit upon request from FMCSA. [49 CFR Part 382.403]
<b>FAA</b>	Each part 121 certificate holder and each employer with 50 or more safety-sensitive employees must submit each calendar year; and  Employers with 49 or fewer safety-sensitive employees must submit upon request from FAA. [14 CFR Part 121 Appendix I, Section X] [14 CFR Part 121 Appendix J, Section IV.B]
<b>FRA</b>	Employers with 400,000 or more annual employee hours must submit each calendar year. [49 CFR Part 219.800]



DOT Agency	MIS Submission Requirements
FTA	Employers must submit upon request from FTA. [49 CFR Part 655.72]
PHMSA	Employers with more than 50 covered employees must submit each calendar year; and  Employers with 50 or fewer covered employees must submit upon request from PHMSA. [49 CFR Part 199.119 &.229]
USCG	Employers must submit each calendar year; and  C/TPAs may report on behalf of their member clients as an aggregate report. [46 CFR Part 16.500]

The DOT Agencies and USCG would like you to submit the MIS data via the Internet, if you can. That way you don't have to submit a hard copy. Plus, the Internet entry helps you get the math correct.

A best practice is to complete an MIS form even if you don't have to send one in. It tells you a lot about your testing program, and you can use it during DOT Agency & USCG inspections and audits.

You may use a service agent to help you complete and submit the MIS form, but you must ensure its accuracy.

If you have to submit an MIS report to the DOT Agency or USCG, you must have it in by March 15<sup>th</sup>. *For example: If you were required to submit your company's 2007 drug and alcohol MIS testing data, you would have until March 15, 2008 to get it in.*



You can find the MIS form, instructions, and Internet links for submitting it at:  
<http://www.dot.gov/ost/dapc/mis.html>.



If you are covered under the FTA rules, you must complete and maintain MIS reports every year even if you don't have to send it in.

## *What should I do with the semi-annual statistical summaries I receive from my laboratory or my C/TPA?*

You should expect to get reports directly from laboratories twice a year about the testing they do for you. If you are served by a C/TPA, your summary may be going to them first. If so, you need to make sure the C/TPA forwards it on to you. The laboratory should not be sending C/TPAs a “lump summary” for all the employers served by the C/TPA, but should be sending employer-specific reports. This is the report you should receive. Note that if you conduct fewer than five tests during the report period, you will not receive a summary.

These laboratory reports are valuable to you. They will provide you with a window into your drug testing program. You can compare them to your own statistical reporting, billing records from collectors and MROs, and CCFs and results reports you receive. Let these laboratory reports work for you.

This chart shows some examples:

Example	Action
<b>Your laboratory report shows 480 random tests but your random selection records show that you made 500 selections.</b>	Find the reason for the discrepancy and correct any problems to ensure you are in compliance with the required random testing rate.
<b>Your laboratory report shows that you had 100 tests but your payment records indicate that your collector billed you for 110 tests.</b>	Check with your collection site to see if they billed you correctly.
<b>Your laboratory report shows one test positive for PCP, but your MRO did not report a verified PCP positive test result for any employee.</b>	<ol style="list-style-type: none"> <li>1. Check with your MRO to make sure the PCP test was not “downgraded” to negative – that would have been a mistake.</li> <li>2. Check with the MRO to see if the PCP test result was cancelled by the MRO because of a “fatal flaw” or because a “correctable flaw” was not corrected.</li> </ol>

Example	Action
<p><b>Your laboratory report shows 25 cancelled tests because of “fatal flaws” but you were not made aware of any.</b></p>	<ol style="list-style-type: none"> <li>1. Check with the MRO to find out the reasons for the cancellations.</li> <li>2. If they are due to collector errors, you must ensure that the collector had “error correction training.”</li> <li>3. Consider changing collection services.</li> </ol>
<p><b>Your laboratory report shows 10 negative specimens that were also dilute.</b></p> <p><b>1. Your policy is to have employees with negative dilute results return to collection sites for another collection; and</b></p> <p><b>2. For low level negative dilutes, the DOT requires immediate recollection under direct observation.</b></p> <p><b>But neither of these recollections occurred.</b></p>	<ol style="list-style-type: none"> <li>1. Reiterate with your DER and your MRO what your policy is for negative dilute specimens.</li> <li>2. Because <u>DOT requires</u> employees with specific low level negative-dilutes to be recollected under direct observation, check with the MRO to see if any results were in the this range. If the results were in this range <u>and</u> the employees were not recollected under direct observation, you must order the recollections immediately.</li> </ol>



## Section IX. Program Compliance and Inspections / Audits

### *Who must make sure my program meets DOT requirements?*

Keep in mind that no matter how you decide to manage your DOT required drug and alcohol program, as the employer, you are responsible for compliance. If you use a service agent – for example, a collector, BAT, MRO, or SAP – and the service agent fails to comply with DOT rules, DOT can take action against you. Yes, you can be fined or you can lose your Federal funding. You must be in compliance with Part 40 as well as the appropriate DOT Agency or USCG regulation.

### *What can happen to service agents who don't comply with DOT rules?*

If you think a service agent providing services to you isn't complying with DOT rules, you can fire that service agent and find someone else who does comply. DOT rules also allow DOT to prohibit a service agent that makes very serious errors from working for DOT employers. This is known as the "Public Interest Exclusion," or "PIE," process. And in some cases, the service agent can be fined for non-compliance.

### *How do I report a service agent who is not complying with Part 40?*

Report the service agent to the program manager of the DOT agency that regulates you and provide vital information. For example, if you wish to report a collection site for non-compliance, be prepared to provide the name and phone number of the collector, the name and location of the collection site, and what you think they did wrong.



For a list of DOT Agency and USCG program managers, see [Appendix F](#) or check out this website: <http://www.dot.gov/ost/dapc/oamanagers.html>

### *What can I expect during a DOT Agency or USCG audit, inspection, investigation, or compliance review?*

The purpose of an audit, inspection, investigation or compliance review is to verify that you are complying with Part 40 and appropriate DOT Agency and USCG regulations, and applicable Federal laws. DOT program evaluators also determine whether your key personnel and service agents understand the program and implement your program correctly. In order to identify your program's strengths and weaknesses, program evaluators will determine:

- ◆ If your program is in compliance with the appropriate DOT testing regulations;
- ◆ Whether or not you are appropriately following your DOT company policies;
- ◆ How correctly your service agents and program personnel carry-out their responsibilities;
- ◆ Whether or not your employees and supervisors receive appropriate education and training;
- ◆ Whether employees were removed from performance of duty following violations; and
- ◆ Whether or not you and your service agents have maintained adequate documentation.



Check out [Appendix G](#). It highlights most - but not all - the records the DOT Agencies and USCG will likely request and review.

### *But, I have more questions?*

ODAPC is available to help answer anyone's questions regarding Part 40. You can visit our website at: <http://www.dot.gov/ost/dapc> to "Ask ODAPC" a question or to view frequently asked questions, official interpretations of the regulations, and regulatory guidelines. Also, a very comprehensive "Employer Page" is on our website at: <http://www.dot.gov/ost/dapc/employer.html>.

You can find more specific information about the DOT Agency and USCG requirements at: [http://www.dot.gov/ost/dapc/testingpubs/Program\\_Facts.doc](http://www.dot.gov/ost/dapc/testingpubs/Program_Facts.doc); and their manager contact information is at [Appendix F](#) and at: <http://www.dot.gov/ost/dapc/oamanagers.html>.



## Appendix A – Company DOT Testing Policy Requirements

The DOT Agencies and USCG require employers to have written policies for their DOT testing programs. At a minimum, these policies must contain specific information required by the appropriate DOT Agency or USCG. Your policies must clearly delineate between the items and actions which are required by DOT and which are required by the company or employer. Here is a listing of DOT Agency and USCG requirements and where you can find them in the regulations.

DOT Agency	Policy Requirements
FMCSA	<p><b>49 CFR Part 382.601(b)</b> – A company’s DOT policy must contain the following:</p> <ol style="list-style-type: none"> <li>1. The identity of the person designated by the employer to answer driver questions about the materials.</li> <li>2. The categories of drivers who are subject to the provisions of this part.</li> <li>3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance.</li> <li>4. Specific information concerning driver conduct that is prohibited by Part 382.</li> <li>5. The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under §382.303(d).</li> <li>6. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by §382.303(d).</li> <li>7. The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with Part 382.</li> <li>8. An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences.</li> <li>9. The consequences for drivers found to have violated subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under Part 40, Subpart O.</li> <li>10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.</li> <li>11. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.</li> </ol> <p><b>This FMCSA website has suggestions and a checklist for motor carrier policy development:</b>  <a href="http://www.fmcsa.dot.gov/safety-security/safety-initiatives/drugs/chap03.htm">http://www.fmcsa.dot.gov/safety-security/safety-initiatives/drugs/chap03.htm</a></p>





DOT Agency	Policy Requirements
FAA	<p><b>14 CFR Part 121</b> – Employers must have a policy on drug use in the workplace and an alcohol misuse policy.</p> <p><b>Appendix I. VIII. A.</b>  <b>Policy on Drug Use in the Workplace</b>  The employer's policy on drug use in the workplace shall include information regarding the consequences under the rule of:</p> <ol style="list-style-type: none"> <li>1. Using drugs while performing safety-sensitive functions.</li> <li>2. Receiving a verified positive drug test result.</li> <li>3. Refusing to submit to a drug test required under the rule.</li> </ol> <p><b>Appendix J. VI. A.</b>  <b>Alcohol Misuse Policy</b>  The employer's policy on alcohol misuse must include a detailed discussion of at least the following:</p> <ol style="list-style-type: none"> <li>1. The identity of the person designated by the employer to answer employee questions about the materials.</li> <li>2. The categories of employees who are subject to the provisions of these alcohol misuse requirements.</li> <li>3. Sufficient information about the safety-sensitive functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with these alcohol misuse requirements.</li> <li>4. Specific information concerning employee conduct that is prohibited by this chapter.</li> <li>5. The circumstances under which a covered employee will be tested for alcohol under this appendix.</li> <li>6. The procedures that will be used to test for the presence of alcohol, protect the employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.</li> <li>7. The requirement that a covered employee submit to alcohol tests administered in accordance with this appendix.</li> <li>8. An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.</li> <li>9. The consequences for covered employees found to have violated the prohibitions in this chapter, including the requirement that the employee be removed immediately from performing safety-sensitive functions, and the process in 49 CFR Part 40, subpart O.</li> <li>10. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.</li> <li>11. Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; and available methods of evaluating and resolving problems associated with the misuse of alcohol; and intervening when an alcohol problem is suspected, including confrontation, referral to any available employee assistance program, and/or referral to management.</li> </ol> <p><b>Optional provisions.</b> The materials supplied to covered employees may also include information on additional employer policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the employer's authority independent of this appendix. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.</p>



DOT Agency	Policy Requirements
<p><b>FRA [1 of 5 sections] 219.23</b></p>	<p><b>219.23 Railroad policies.</b></p> <p>Whenever a breath or body fluid test is required of an employee under this part, the railroad must provide clear and unequivocal written notice to the employee that the test is being required under FRA regulations. Use of the mandated DOT form for drug or alcohol testing satisfies these requirements.</p> <p>Whenever a breath or body fluid test is required of an employee under 219, the railroad must provide clear, unequivocal written notice of the basis or bases upon which the test is required (e.g., reasonable suspicion, violation of a specified operating/safety rule enumerated in subpart D of this part, random selection, follow-up, etc.). Completion of the DOT alcohol or drug testing form indicating the basis of the test (prior to providing a copy to the employee) satisfies this requirement. Use of the DOT form for non-Federal tests is prohibited.</p> <p>Use of approved forms for mandatory post-accident toxicological testing under subpart C of 219 provides the notifications required under this section with respect to such tests. Use of those forms for any other test is prohibited.</p> <p>Each railroad must provide educational materials that explain the requirements of 219, and the railroad's policies and procedures with respect to meeting those requirements.</p> <ol style="list-style-type: none"> <li>1. The railroad must ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol testing under the railroad's alcohol misuse prevention program and to each person subsequently hired for or transferred to a covered position</li> <li>2. Each railroad must provide written notice to representatives of employee organizations of the availability of this information.</li> </ol> <p><b>Required content.</b> The materials to be made available to employees must include detailed discussion of at least the following:</p> <ol style="list-style-type: none"> <li>1. The identity of the person designated by the railroad to answer employee questions about the materials.</li> <li>2. The classes or crafts of employees who are subject to the provisions of this part.</li> <li>3. Sufficient information about the safety-sensitive functions performed by those employees to make clear that the period of the work day the covered employee is required to be in compliance with this part is that period when the employee is on duty and is required to perform or is available to perform covered service.</li> <li>4. Specific information concerning employee conduct that is prohibited under subpart B of this part.</li> <li>5. In the case of a railroad utilizing the accident/incident and rule violation reasonable cause testing authority provided by this part, prior notice (which may be combined with the notice required by §§219.601(d)(1) and 219.607(d)(1)), to covered employees of the circumstances under which they will be subject to testing.</li> <li>6. The circumstances under which a covered employee will be tested under this part.</li> <li>7. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the employee and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.</li> <li>8. The requirement that a covered employee submit to alcohol and drug tests administered in accordance with this part.</li> <li>9. An explanation of what constitutes a refusal to submit to an alcohol or drug test and the attendant consequences.</li> <li>10. The consequences for covered employees found to have violated Subpart B of this part, including the requirement that the employee be removed immediately from covered service, and the procedures under §219.104.</li> <li>11. The consequences for covered employees found to have an alcohol concentration of .02 or greater but less than .04.</li> <li>12. Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and available methods of evaluating and resolving problems associated with the misuse of alcohol, including utilization of the procedures set forth in subpart E of this part and the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.</li> </ol> <p><b>Optional provisions.</b> The materials supplied to employees may also include information on additional railroad policies with respect to the use or possession of alcohol and drugs, including any consequences for an employee found to have a specific alcohol concentration, that are based on the railroad's authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.</p>



DOT Agency	Policy Requirements
<p><b>FRA [2 of 5 sections] 219.401</b></p>	<p><b>219.401 Requirement for policies.</b> Each railroad must adopt, publish and implement:</p> <ol style="list-style-type: none"> <li>1. A policy designed to encourage and facilitate the identification of those covered employees who abuse alcohol or drugs as a part of a treatable condition and to ensure that such employees are provided the opportunity to obtain counseling or treatment before those problems manifest themselves in detected violations of 219 hereafter (“voluntary referral policy”); and</li> <li>2. A policy designed to foster employee participation in preventing violations of this subpart and encourage co-worker participation in the direct enforcement of 219 hereafter, (“co-worker report policy”).</li> </ol> <p>A railroad may comply by adopting, publishing and implementing policies meeting the specific requirements of §§219.403 and 219.405 or by complying with §219.407.</p> <p>If a railroad complies with 219 by adopting, publishing and implementing policies consistent with §§219.403 and 219.405, the railroad must make such policies, and publications announcing such policies, available for inspection and copying by FRA.</p> <p>Nothing in this section may be construed to—</p> <ol style="list-style-type: none"> <li>1. Require payment of compensation for any period an employee is out of service under a voluntary referral or co-worker report policy;</li> <li>2. Require a railroad to adhere to a voluntary referral or co-worker report policy in a case where the referral or report is made for the purpose, or with the effect, of anticipating the imminent and probable detection of a rule violation by a supervising employee; or</li> <li>3. Limit the discretion of a railroad to dismiss or otherwise discipline an employee for specific rule violations or criminal offenses, except as specifically provided by this subpart.</li> </ol>

DOT Agency	Policy Requirements
<p><b>FRA [3 of 5 sections] 219.403</b></p>	<p><b>219.403 Voluntary referral policy.</b> This section prescribes minimum standards for voluntary referral policies. Nothing in this section restricts a railroad from adopting, publishing and implementing a voluntary referral policy that affords more favorable conditions to employees troubled by alcohol or drug abuse problems, consistent with the railroad's responsibility to prevent violations of §§219.101 and 219.102.</p> <p>A voluntary referral policy must include the following provisions:</p> <ol style="list-style-type: none"> <li>1. A covered employee who is affected by an alcohol or drug use problem may maintain an employment relationship with the railroad if, before the employee is charged with conduct deemed by the railroad sufficient to warrant dismissal, the employee seeks assistance through the railroad for the employee's alcohol or drug use problem or is referred for such assistance by another employee or by a representative of the employee's collective bargaining unit. The railroad must specify whether, and under what circumstances, its policy provides for the acceptance of referrals from other sources, including (at the option of the railroad) supervisory employees.</li> <li>2. Except as may be provided under the optional provisions (below), the railroad treats the referral and subsequent handling, including counseling and treatment, as confidential.</li> <li>3. The railroad will, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence from the railroad for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. The policy must allow a leave of absence of not less than 45 days, if necessary for the purpose of meeting initial treatment needs.</li> <li>4. Except as may be provided under the optional provisions (below), the employee will be returned to service on the recommendation of the substance abuse professional. Approval to return to service may not be unreasonably withheld.</li> <li>5. With respect to a certified locomotive engineer or a candidate for certification, the railroad must meet the requirements of §240.119(e).</li> </ol> <p><b>Optional provisions.</b> A voluntary referral policy may include any of the following provisions, at the option of the railroad:</p> <ol style="list-style-type: none"> <li>1. The policy may provide that the rule of confidentiality is waived if— <ol style="list-style-type: none"> <li>a. The employee at any time refuses to cooperate in a recommended course of counseling or treatment; and/or</li> <li>b. The employee is later determined, after investigation, to have been involved in an alcohol or drug-related disciplinary offense growing out of subsequent conduct.</li> </ol> </li> <li>2. The policy may require successful completion of a return-to-service medical examination as a further condition on reinstatement in covered service.</li> <li>3. The policy may provide that it does not apply to an employee who has previously been assisted by the railroad under a policy or program substantially consistent with this section or who has previously elected to waive investigation under §219.405 (co-worker report policy).</li> <li>4. The policy may provide that, in order to invoke its benefits, the employee must report to the contact designated by the railroad either: <ol style="list-style-type: none"> <li>a. During non-duty hours (i.e., at a time when the employee is off duty); or</li> <li>b. While unimpaired and otherwise in compliance with the railroad's alcohol and drug rules consistent with this subpart.</li> </ol> </li> </ol>

DOT Agency	Policy Requirements
<p><b>FRA [4 of 5 sections] 219.405</b></p>	<p><b>219.405 Co-worker report policy.</b> This section prescribes minimum standards for co-worker report policies. Nothing in this section restricts a railroad from adopting, publishing and implementing a policy that affords more favorable conditions to employees troubled by alcohol or drug abuse problems, consistent with the railroad's responsibility to prevent violations of §§219.101 and 219.102.</p> <p><b><u>Employment relationship.</u></b> A co-worker report policy must provide that a covered employee may maintain an employment relationship with the railroad following an alleged first offense under this part or the railroad's alcohol and drug rules, subject to the conditions and procedures contained in this section.</p> <p><b><u>General conditions and procedures.</u></b></p> <ol style="list-style-type: none"> <li>1. The alleged violation must come to the attention of the railroad as a result of a report by a co-worker that the employee was apparently unsafe to work with or was, or appeared to be, in violation of 219 or the railroad's alcohol and drug rules.</li> <li>2. If the railroad representative determines that the employee is in violation, the railroad may immediately remove the employee from service in accordance with its existing policies and procedures.</li> <li>3. The employee must elect to waive investigation on the rule charge and must contact the substance abuse professional within a reasonable period specified by the policy.</li> <li>4. The substance abuse professional must schedule necessary interviews with the employee and complete an evaluation within 10 calendar days of the date on which the employee contacts the professional with a request for evaluation under the policy, unless it becomes necessary to refer the employee for further evaluation. In each case, all necessary evaluations must be completed within 20 days of the date on which the employee contacts the professional.</li> </ol> <p><b><u>When treatment is required.</u></b> If the substance abuse professional determines that the employee is affected by psychological or chemical dependence on alcohol or a drug or by another identifiable and treatable mental or physical disorder involving the abuse of alcohol or drugs as a primary manifestation, the following conditions and procedures apply:</p> <ol style="list-style-type: none"> <li>1. The railroad must, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence from the railroad for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. The policy must allow a leave of absence of not less than 45 days, if necessary for the purpose of meeting initial treatment needs.</li> <li>2. The employee must agree to undertake and successfully complete a course of treatment deemed acceptable by the substance abuse professional.</li> <li>3. The railroad must promptly return the employee to service, on recommendation of the substance abuse professional, when the employee has established control over the substance abuse problem. Return to service may also be conditioned on successful completion of a return-to-service medical examination. Approval to return to service may not be unreasonably withheld.</li> <li>4. Following return to service, the employee, as a further condition on withholding of discipline, may, as necessary, be required to participate in a reasonable program of follow-up treatment for a period not to exceed 60 months from the date the employee was originally withdrawn from service.</li> </ol> <p><b><u>When treatment is not required.</u></b> If the substance abuse professional determines that the employee is not affected by an identifiable and treatable mental or physical disorder—</p> <ol style="list-style-type: none"> <li>1. The railroad must return the employee to service within 5 days after completion of the evaluation.</li> <li>2. During or following the out-of-service period, the railroad may require the employee to participate in a program of education and training concerning the effects of alcohol and drugs on occupational or transportation safety.</li> </ol> <p><b><u>Follow-up tests.</u></b> A railroad may conduct return-to-service and/or follow-up tests (as described in §219.104) of an employee who waives investigation and is determined to be ready to return to service under this section.</p>

DOT Agency	Policy Requirements
<p><b>FRA [5 of 5 sections] 219.407</b></p>	<p><b>219.407 Alternate policies.</b> In lieu of a policy under §219.403 (voluntary referral) or §219.405 (co-worker report), or both, a railroad may adopt, publish and implement, with respect to a particular class or craft of covered employees, an alternate policy or policies having as their purpose the prevention of alcohol or drug use in railroad operations, if such policy or policies have the written concurrence of the recognized representatives of such employees.</p> <p>The concurrence of recognized employee representatives in an alternate policy may be evidenced by a collective bargaining agreement or any other document describing the class or craft of employees to which the alternate policy applies. The agreement or other document must make express reference to this part and to the intention of the railroad and employee representatives that the alternate policy applies in lieu of the policy required by §219.403, §219.405, or both.</p> <p>The railroad must file the agreement or other document described in paragraph b with the Associate Administrator for Safety, FRA. If the alternate policy is amended or revoked, the railroad must file a notice of such amendment or revocation at least 30 days prior to the effective date of such action.</p> <p>This section does not excuse a railroad from adopting, publishing and implementing the policies required by §§219.403 and 219.405 with respect to any group of covered employees not within the coverage of an appropriate alternate policy.</p>



DOT Agency	Policy Requirements
FTA	<p><b>49 CFR Part 655.15</b> – The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement which are made available to employees and contain the following:</p> <ol style="list-style-type: none"> <li>1. The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.</li> <li>2. The categories of employees who are subject to the provisions of Part 655.</li> <li>3. Specific information concerning the behavior and conduct prohibited by Part 655.</li> <li>4. The specific circumstances under which a covered employee will be tested for prohibited drugs or alcohol misuse under Part 655.</li> <li>5. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct covered employee.</li> <li>6. The requirement that a covered employee submit to drug and alcohol testing administered in accordance with Part 655.</li> <li>7. A description of the kind of behavior that constitutes a refusal to take a drug or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy.</li> <li>8. The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40.</li> <li>9. The consequences, as set forth in §655.35 of subpart D, for a covered employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04.</li> <li>10. The re-collection requirements, if any, for dilute specimens.</li> </ol> <p><b>This FTA website shows model transit policies:</b>  <a href="http://transit-safety.volpe.dot.gov/publications/safety/BestPractices/BestPractices_Policies.pdf">http://transit-safety.volpe.dot.gov/publications/safety/BestPractices/BestPractices_Policies.pdf</a></p>



DOT Agency	Policy Requirements
PHMSA	<p><b>49 CFR Part 199</b> – Operators must have an anti-drug plan and an alcohol misuse policy which are made available to employees and contain the following:</p> <p><b>199.101 Anti-Drug Plan</b></p> <ol style="list-style-type: none"> <li>1. Methods and procedures for compliance with all the requirements of Part 199, including the employee assistance program.</li> <li>2. The name and address of each laboratory that analyzes the specimens collected for drug testing.</li> <li>3. The name and address of the operator's Medical Review Officer, and Substance Abuse Professional.</li> <li>4. Procedures for notifying employees of the coverage and provisions of the plan.</li> </ol> <p><b>199.239 Misuse of Alcohol Policy</b></p> <ol style="list-style-type: none"> <li>1. The identity of the person designated by the operator to answer covered employee questions about the materials.</li> <li>2. The categories of employees who are subject to the alcohol testing provisions of Part 199.</li> <li>3. Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with the alcohol testing provisions of Part 199.</li> <li>4. Specific information concerning covered employee conduct that is prohibited by this subpart.</li> <li>5. The circumstances under which a covered employee will be tested for alcohol under the alcohol testing provisions of Part 199.</li> <li>6. The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.</li> <li>7. The requirement that a covered employee submit to alcohol tests administered in accordance with the alcohol testing provisions of Part 199.</li> <li>8. An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.</li> <li>9. The consequences for covered employees found to have violated the prohibitions under this subpart, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243.</li> <li>10. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.</li> <li>11. Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.</li> </ol>





DOT Agency	Policy Requirements
USCG	<p><b>46 CFR Part 16 – EAP Education Program</b> 16.401(a) – The employer must display and distribute the employer’s policy regarding drug and alcohol use in the workplace.</p> <p><b>Marine Employers Drug Testing Guidance:</b> Each marine employer is recommended to have a written drug and alcohol testing policy. This policy details a company's position regarding their expectations of their crewmembers with regard to drug and alcohol testing and actions to be taken as a result of drug testing results.</p> <p>A. At a minimum, a policy should cover the following topics:</p> <ol style="list-style-type: none"> <li>1. That all company personnel, full-time, part-time, year round, seasonal, or contracted, that meet the definition of a crewmember, are subject to U.S. Coast Guard Drug and Alcohol Testing, in accordance with 46 CFR Parts 4 and 16.</li> <li>2. That any crewmember who tests positive or has a drug test violation, will be immediately removed from their safety-sensitive duties.</li> <li>3. Dismissal policy. Nothing in the regulations requires the marine employer to fire a crewmember that tests positive or refuses to test, only that they be removed from their safety-sensitive duties. It is up to each individual employer to decide if a positive test or refusal will result in termination. If so, it needs to be stated in the company policy. It is recommended that phrases that are subjective or open to different interpretations be removed from the policy.</li> <li>4. A referral to a SAP that is used by a marine employer for all drug test violations. The referral shall include the name and contact information for the SAP.</li> <li>5. Policy regarding alcohol use and possession and the consequences for being found aboard a commercial vessel with a blood alcohol concentration greater than or equal to 0.040%.</li> </ol> <p>B. Many marine employers incorporate their position regarding the possession of drug paraphernalia, illegal drugs, and use of prescription drugs or over the counter medications in their policy. Additionally, any other employment actions the company plans to take should be spelled out in the policy.</p> <p>C. It is recommended that each crewmember sign a form stating that they have read and understood the company's drug and alcohol testing policy. This signed acknowledgement should remain on file for as long as the company employs the individual.</p> <p><b>Note:</b> It is highly recommended that marine employers have a written policy. The size of the marine employer has no bearing on the recommendation for a written policy.</p> <p><b>This website offers Guidance to Marine Employers:</b> <a href="http://www.dot.gov/ost/dapc/testingpubs/Marine_Employers_Drug_Testing_Guide_2005.pdf">http://www.dot.gov/ost/dapc/testingpubs/Marine_Employers_Drug_Testing_Guide_2005.pdf</a></p>



## ***Appendix B – Collection Site Security and Integrity***

### **DOT's 10 Steps to Collection Site Security and Integrity**

Office of Drug and Alcohol Policy and Compliance

U.S. Department of Transportation



1. Pay careful attention to employees throughout the collection process.
2. Ensure that there is no unauthorized access into the collection areas and that undetected access (e.g., through a door not in view) is not possible.
3. Make sure that employees show proper picture ID.
4. Make sure employees empty pockets; remove outer garments (e.g., coveralls, jacket, coat, hat); leave briefcases, purses, and bags behind; and wash their hands.
5. Maintain personal control of the specimen and CCF at all times during the collection.
6. Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets, secure tank lids).
7. Ensure that the water in the toilet and tank (if applicable) has bluing (coloring) agent in it. Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank.
8. Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present.
9. Inspect the site to ensure that no foreign or unauthorized substances are present.
10. Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas, ceiling tiles) that appear suitable for concealing contaminants.



## ***Appendix C – Selecting Service Agents***

When selecting service agents, you have to weigh some very important factors.

- ◆ Can the service agent ensure their compliance with DOT regulations and guidelines?
- ◆ Do they have employer references about the quality of their work?
- ◆ Do they provide services during the times and on days you need them?
- ◆ Do their personnel qualifications and training meet DOT requirements?
- ◆ Have their services been shown to pass DOT inspections and audits?
- ◆ Are they cost competitive?
- ◆ If you need full services – for example, you want random selections, collections, alcohol testing, laboratory testing, and MRO work – do they offer a total package plan? On the other hand, if you need only one service – for example, you need only collections – do they offer single services?

The following is a list of the most common service agents and some starting points to help you select them:

### **URINE SPECIMEN COLLECTORS, BATs, AND STTs**

There are a number of things to look for when selecting collectors, BATs, and STTs.

1. Ensure they offer the services you want. For example, do they offer both urine collections and alcohol testing? Will they come onto your worksite if you want them to?
2. Make sure they are open for business at the times you need them to be. Are they open during the times your employees are on duty and may need to have tests? Will remain open if their closing time coincides with an employee presenting an insufficient amount of urine.
3. Make sure they show you training documentation for their personnel.
4. Have them explain their procedures for notifying you or the DER of test results – especially refusals, positive alcohol tests, and problems with employees.
5. Check-out their collection sites for being secure and having site integrity [See [Appendix B](#)].
6. Determine if their facilities are conveniently located, offer parking, and are professional looking.
7. Find out if they have the correct CCFs, ATFs, collection kits, and alcohol test equipment.
8. Ask if they have a fax machine and intend to use it immediately after each DOT collection and alcohol test to appropriately distribute the paperwork.
9. Have them explain their procedures for collecting specimens under direct observation and whether they have same gender observers readily available.
10. Ask if they have DOT's collection guidelines, Part 40, and the DOT poster for collection site security and integrity on the premises.
11. See if they have references from other employers and records of DOT inspections and audits.

A best practice is to visit collection facilities from time to time when your employees are there for tests to see for yourself how the process is going. You may discover that the site does not ensure the integrity of the process or you may find if out they do. You should also talk with your MRO to see how often tests are cancelled because of collector errors. If collection companies are not doing a good job for you, look elsewhere for the service. Don't risk being out of compliance with DOT regulations.

## **DHHS-CERTIFIED DRUG TESTING LABORATORIES**

All DOT drug testing must be done at laboratories certified by the Department of Health and Human Services. So it is your job to contact a laboratory to arrange testing. The HHS publishes monthly a listing of certified laboratories.

You can find them at this webpage:

[http://workplace.samhsa.gov/DrugTesting/Level\\_1\\_Pages/CertifiedLabs.aspx](http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.aspx)

If you are working with a C/TPA, it is very likely that the C/TPA will arrange laboratory services for you and will come up with a cost for you. Whether you select the laboratory yourself or have your C/TPA do it, you will find that laboratories offer a variety of price packages. The pricing packages are generally considered bundled pricing or unbundled pricing.

**Bundled** pricing means one price is offered per specimen no matter what. Here it gets a little complicated. There are screening tests, confirmation tests [if screening tests are positive], and tests to see if specimens are adulterated or substituted. There are also tests to see if methamphetamine positive results are because of legitimate reasons. So for bundled pricing, all these tests could be rolled up into a “one-price-fits-all” arrangement.

**Unbundled** pricing means that you pay as you go with a specimen. This “a la carte” pricing will cost you for each test the laboratory has to run. That’s the nature of unbundled pricing.

So, you will want to comparison shop. You will also want to find out if the laboratory will routinely provide CCFs and collection kits to your collection sites. A laboratory’s hours of operation could be important to you – some operate 24 hours a day, seven days a week. You will also want to check to see if they are responsive on critical reporting and discussion issues – your MRO may be the best source for this information.

## **MEDICAL REVIEW OFFICER (MRO)**

The MRO is the “gatekeeper” for your drug testing program. So, choose yours wisely. You will want an MRO who has been certified by one of the major MRO certification organizations. This means the MRO met the credential requirements, was trained in MRO practices, and passed a difficult certification examination.

Two MRO certification organizations make lists of their certified MROs available on the Internet: Medical Review Officers Certification Counsel (MROCC) at: <http://www.mrocc.com/index.htm> and the American Association of Medical Review Officers (AAMRO) at: <http://www.aamro.com/>.

Other resources could be the American Society of Addiction Medicine (ASAM) at: <http://www.asam.org/> and the American College of Occupational and Environmental Medicine (ACOEM) at <http://www.acoem.org/>. If you are working with a C/TPA, it is very likely that the C/TPA will arrange MRO services for you and will come up with a cost for you. If an MRO is part of a C/TPA, you must make certain the laboratory results go directly to the MRO and not to the C/TPA.

An MRO’s hours of operation and whether they have other MROs ready to stand in during vacations and illness could be important to you. Also important is how often they provide direct supervision to their administrative staff who perform important work on negative results or who may facilitate contacting employees for medical reviews of non-negative results. You may also want to find out what training the MRO’s staff has received. The MRO and staff do not have to be at the same location, but this may be important to you. If you have

Spanish speaking employees, you might think a bilingual MRO, or a bilingual person on the MRO's staff, would be a vital requirement.

So, you will want to comparison shop. And don't forget that like laboratories, sometimes MROs bundle their services and will charge you one price per result – no matter if it is negative or positive or a refusal. Others may offer unbundled pricing – for instance, you may be charged more for review of positive results than for review of negatives because the process is much more complicated.

### **SUBSTANCE ABUSE PROFESSIONAL (SAP)**

You have to find qualified SAPs in order to provide a list of them to employees who violate drug and alcohol rules. Many of the same pointers we gave you for selecting your laboratory and MRO will be useful in selecting a SAP. One important factor to keep in mind is the SAP must be acceptable to you and will need to be readily accessible to your employees because their evaluation sessions must be in-person, face-to-face.

To help you find qualified SAPs, we have the SAP training organizations and national counseling associations on our website at: [http://www.dot.gov/ost/dapc/testingpubs/SAPExamSources\\_200708\\_alpha.doc](http://www.dot.gov/ost/dapc/testingpubs/SAPExamSources_200708_alpha.doc). They are excellent sources for finding qualified SAPs. Simple Internet searches are also useful for finding the larger SAP networks such as: American Substance Abuse Professionals, Inc. and National Substance Abuse Professionals Network. If you are working with a C/TPA, it is very likely that the C/TPA will arrange SAP services for you.

**Note:** If you are covered under FAA or USCG regulations, make sure your SAP is knowledgeable about their special return-to-work requirements.

### **CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)**

When you turn to a C/TPA to operate your program for you, they are being entrusted with your program's compliance. You will want to ensure that they select the best possible collection sites, laboratories, MROs, and SAPs for you. You will also want to ensure that they know how to do the types of duties laid out in the appropriate DOT Agency or USCG regulations. You may also want to find out how much they know about your industry and your company needs.

**Remember:** If the C/TPA is not in compliance with the regulations, neither are you! Not only that, you will be held accountable for their non-compliance!

So if you have them do your random selections and they don't do them correctly, you have a serious problem. And, if you have them do your urine collections and the collection site does not have measures in place to ensure the integrity of the collection, you have a serious problem.

Figuratively speaking, C/TPAs stand in the shoes of the employer. Therefore, you must ensure they know what they are doing and that the services they offer not only fit your needs but follow Part 40 and the appropriate DOT Agency regulations. Tell them, "No short cuts, please!" You may also want your contract with them to read that they pay for any fines levied on you by a DOT Agency or USCG for their mistakes.

There are several items to look for when selecting a C/TPA to assist you in administering your program. For example:

1. Are they known to systematically review and evaluate the work of their service agents, such as collection sites and collectors?
2. How do they ensure that their service agents have the latest DOT regulations and guidance?

3. Do they maintain the training and qualification records of their service agents?
4. Which testing records will they maintain on your behalf?
5. If they conduct your random testing program, how often are the selections made?
6. Can they provide you with a random testing plan outlining how the program works?
7. Is their point of contact person available during times and days you need?
8. If you have a question about the regulations, will they have someone there to answer?
9. Do they offer to review your account with you on a monthly basis?
10. Are they willing to discuss concerns you may have with service agent performance?
11. Are they willing to conduct reviews of your program before you have a DOT inspection?
12. Following a DOT inspection, are they willing to take necessary corrective actions?
13. Are records they maintain for you retrievable in short order?
14. How willing are they to be held accountable for serious service agent errors?

There are several ways to find a C/TPA.

The USCG publishes “Drug and Alcohol Program Inspectors Drug Testing Service Agents (State by State Listing.” This document provides a listing of service agents by state and a listing of C/TPAs that offer nationwide services. This document is available on the USCG website at:

<http://homeport.uscg.mil/mycg/portal/ep/browse.do?channelId=-18374&channelPage=/>

Just scroll down to “Drug and Alcohol Program” and select “Drug Testing Service Providers.”

You can also check with some of the industry organizations and associations listed on our website’s, “Employer Page” at: <http://www.dot.gov/ost/dapc/employer.html>. Associations such as the Substance Abuse Program Administrators Association (SAPAA) and the Drug and Alcohol Testing Industry Association (DATIA) can direct you to their member C/TPAs.

Last but certainly not least, another good source is to check with other transportation employers to see who they use. These employers should be able to tell you if they are satisfied with the services a particular C/TPA provides.



## Appendix D – Post Accident Testing Criteria

DOT Agency	Regulation	Testing Criteria	Who Is Tested
<b>FMCSA</b>	49 CFR Part 382.303	1. There is a fatality; or 2. The driver is cited for a moving violation AND either: a) The vehicle is towed from the scene; or b) Someone is medically evacuated from the scene.	The surviving driver.  <i>[FMCSA regulations do not call for testing of deceased drivers.]</i>
<b>FAA</b>	14 CFR Part 121 Appendix I, § V.C. & Appendix J, § III.B.	An occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and the time all such persons have disembarked, AND in which any person suffers death or serious injury or in which the aircraft receives substantial damage.	Any employee whose performance either contributed to or could not be discounted as a contributing factor to the accident.



DOT Agency	Regulation	Testing Criteria	Who Is Tested
FRA	49 CFR Part 219.201	<p><u>Major Train Accident:</u> A train accident involving:</p> <ul style="list-style-type: none"> <li>a) a fatality; or</li> <li>b) release of hazardous lading material; or</li> <li>c) damage to railroad property of \$1M or more</li> </ul> <p><i><b>FRA's Post-Accident Testing Flow Chart</b> can be viewed at:</i> <a href="http://www.fra.dot.gov/us/content/1790">http://www.fra.dot.gov/us/content/1790</a></p> <p><u>Impact Accident:</u> An accident involving damage in excess of the reporting threshold and</p> <ul style="list-style-type: none"> <li>a) there is a reportable injury, or</li> <li>b) damage to railroad property of \$150,000 or more</li> </ul> <p><u>Fatal Train Incident:</u> Fatality on any on-duty railroad employee involved with the movement of on-track equipment.</p> <p><u>Passenger Train Accident:</u> An accident involving damage in excess of the reporting threshold and a reportable injury to any person.</p> <p><u>Exclusion from Post Accident Testing:</u> Collision between railroad on-track equipment and a motor vehicle or other highway conveyance at a rail/highway grade crossing.</p> <p>Accidents or incidents in which the cause and severity are wholly attributable to a natural cause or to vandalism or trespasser(s).</p>	<p><u>Major Train Accident:</u> All train and engine employees (including deceased employees) and any other covered employee who had a role in the cause or severity of the accident.</p> <p><u>Impact Accident:</u> Any covered employee who had a role in the cause or severity of the accident.</p> <p><u>Fatal Train Incident:</u> The deceased employee and any covered employee who had a role in the cause or severity of the accident.</p> <p><u>Passenger Train Accident:</u> Any covered employee who had a role in the cause or severity of the accident.</p>



DOT Agency	Regulation	Testing Criteria	Who Is Tested
<b>FTA</b>	49 CFR Part 655.44	<p><u>Fatal Accident:</u> Occurrence associated with the operation of a vehicle where an individual dies.</p> <p><u>Non-Fatal Accident:</u> Occurrence associated with the operation of a vehicle where:</p> <ul style="list-style-type: none"> <li>a) an individual receives medical treatment away from the scene; or</li> <li>b) the rubber-tired vehicle is towed from the scene due to disabling damage; or</li> <li>c) the fixed-guideway vehicle or vessel is removed from operation.</li> </ul>	<p><u>Fatal Accident:</u> Each surviving employee operating the mass transit vehicle at the time of the accident. Also, any other covered employee whose performance could have contributed to the accident.</p> <p><i>[FTA testing is not required if the employee is covered under the FMCSA post-accident testing requirements of 382.303.]</i></p> <p><u>Non-Fatal Accident:</u> Each employee operating the mass transit vehicle <i>unless the employee's performance can be completely discounted as a contributing factor.</i> Also, any other covered employee whose performance could have contributed to the accident.</p>
<b>PHMSA</b>	49 CFR Part 199.105 & 199.225	An incident reportable under Part 191 involving gas pipeline facilities or LNG facilities, or an accident reportable under Part 195 involving hazardous liquid pipeline facilities.	Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.

DOT Agency	Regulation	Testing Criteria	Who Is Tested
USCG	46 CFR Part 16.240	<p>A Serious Marine Incident, is any reportable marine casualty [reference 46 CFR 4.03-1] that results, <b>or</b>, in the marine employer's estimation <b>may result</b>, in any of the following:</p> <ol style="list-style-type: none"> <li>1. One or more fatalities.</li> <li>2. An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties.</li> <li>3. Property damage in excess of \$100,000.</li> <li>4. Actual or constructive total loss of any inspected vessel.</li> <li>5. Actual or constructive total loss of any self-propelled un-inspected vessel of 100 gross tons or more.</li> <li>6. A discharge of oil into a navigable water in excess of 10,000 gallons.</li> <li>7. A release of a Hazardous Substance greater than or equal to its reportable quantity into a navigable water, whether from a casualty or not.</li> </ol>	Those personnel directly involved in a Serious Marine Incident.



## Appendix E – Prior Testing History Release of Information Format

[Note: **FMCSA** for **CMV Drivers** – records for **3** years; **FAA** for **Pilots** – records for **5** years.]

### Section I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed or Typed Name: \_\_\_\_\_

Employee SS or ID Number: \_\_\_\_\_

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in *Section I-B*, to the employer listed in *Section I-A*. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in *Section II-A* by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### **I-A.**

New Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

#### **I-B.**

Previous Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Designated Employer Representative (if known): \_\_\_\_\_

### Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

**II-A.** In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing ~

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES \_\_\_\_ NO \_\_\_\_
2. Did the employee have verified positive drug tests? YES \_\_\_\_ NO \_\_\_\_
3. Did the employee refuse to be tested? YES \_\_\_\_ NO \_\_\_\_
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES \_\_\_\_ NO \_\_\_\_
5. Did a previous employer report a drug and alcohol rule violation to you? YES \_\_\_\_ NO \_\_\_\_
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? N/A \_\_\_\_ YES \_\_\_\_ NO \_\_\_\_

*NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).*

#### **II-B.**

Name of person providing information in *Section II-A*: \_\_\_\_\_

Title: \_\_\_\_\_

Phone #: \_\_\_\_\_

Date: \_\_\_\_\_

## ***Appendix F – DOT & USCG Drug and Alcohol Program Manager Contact Information***

The following chart lists each DOT Agency and USCG drug and alcohol program's contact information:

<b>DOT Agency</b>	<b>Program Manager Information</b>	<b>Drug and Alcohol Testing Regulations</b>
<a href="#"><u>Federal Motor Carrier Safety Administration (FMCSA)</u></a>	Enforcement & Compliance Office Room W63-310 1200 New Jersey Avenue, SE Washington DC 20590 Phone: 202-366-2096 Fax: 202-366-7908	For motor carriers and commercial driver's license holders (CDL)  <a href="#"><u>49 CFR Part 382</u></a>
<a href="#"><u>Federal Aviation Administration (FAA)</u></a>	Drug Abatement Division Room 803 (AAM-800) 800 Independence Avenue, SW Washington DC 20591 Phone: 202-267-8442 Fax: 202-267-5200	For employers and employees in the aviation industry  <a href="#"><u>14 CFR Part 121 Appendix I &amp; J</u></a>
<a href="#"><u>Federal Railroad Administration (FRA)</u></a>	Office of Safety 1200 New Jersey Avenue, SE W38-330 Washington DC 20590 Phone: 202-493-6313 Fax: 202-493-6230	For employers and employees working in the railroad industry  <a href="#"><u>49 CFR Part 219</u></a>
<a href="#"><u>Federal Transit Administration (FTA)</u></a>	Office of Safety & Security TPM-30, Room E46 1200 New Jersey Avenue, SE Washington DC 20590 Phone: 617-494-2395 Fax: 202-366-3394	For employers and employees working in the mass transit industry  <a href="#"><u>49 CFR Part 655</u></a>
<a href="#"><u>Pipeline and Hazardous Materials Safety Administration (PHMSA)</u></a>	Office of the Administrator PH-3, Room E24-302 1200 New Jersey Avenue, SE Washington DC 20590 Phone: 202-366-3844 Fax: 202-366-3666	For operators and employees working in the pipeline industry  <a href="#"><u>49 CFR Part 199</u></a>
<a href="#"><u>United States Coast Guard (USCG)</u></a>	Office of Investigation & Casualty Analysis (CG-545) Room 2404 2100 2 <sup>nd</sup> Street SW Washington DC 20593-0001 Phone: 202-372-1033 Fax: 202-372-1907	For employer and employees operating commercial vessels  <a href="#"><u>46 CFR Part 16</u></a>  <a href="#"><u>46 CFR Part 4</u></a>

**This information and manager email addresses are available at:**

**<http://www.dot.gov/ost/dapc/oamanagers.html>**

## ***Appendix G – Audit/Inspection/Investigation/Compliance Records Review***

These represent most of the records a DOT Agency and USCG auditor, inspector, or investigator will usually request and review during a program review. Keep in mind, that DOT Agency and USCG regulations may have additional and more specific record review requirements.

### **POLICIES, PLANS, AND REPORTS**

- Alcohol and drug testing policies and instructions for implementing your program.
- Previous two MIS annual reports either submitted to DOT, or prepared and retained.
- Copies of written consent forms you sent to obtain 40.25 drug and alcohol information from previous employers, and the responses received from those employers.
- Copies of written consent forms you received from prospective employers for 40.25 information, and documentation of your responses.
- Semi-annual statistical summary reports from laboratories.
- Records of blind specimens sent to laboratories for the previous two years.
- List of all employees hired or transferred into safety-sensitive service for the past two years, including documentation of previous employer records check.
- List of all employees with a non-negative test result in the last five years.

### **EMPLOYEE AND SUPERVISOR TRAINING RECORDS**

- Educational materials for employees.
- Documentation showing how education materials were made available to employees.
- List of supervisors responsible for making reasonable suspicion and reasonable cause determinations.
- Supervisory training lesson plans and course materials.
- Attendance lists for supervisors who received this training.
- Under FRA, supervisor post- accident training lesson plans, course materials, and attendance lists.

### **RANDOM TESTING RECORDS**

- Information about the type of method used to select employees for testing.
- Names of all employees in the random testing pool for each selection period that the DOT Agency or USCG will review.
- Names of all employees selected for testing.
- Names of all employees actually tested.
- CCFs and ATFs showing employees were tested within the selection period.
- For each selected employee not tested, documentation showing why the collection did not occur.
- Records of collections by location, by date (or day of the week), and by time of the day (or shift).
- Proof that testing occurred throughout all shifts and all workdays, in other words – testing was unpredictable.
- For railroads, your approved Drug and Alcohol Random Testing Plan.

## **DRUG TESTING CUSTODY AND CONTROL FORMS FOR ALL DOT TESTS**

- Pre-employment.
- Random.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause, under FAA, FRA, and PHMSA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.

## **MRO RECORDS**

- Laboratory confirmed results reports sent to MROs.
- MRO CCFs.
- MRO results reports sent to employers.
- MRO records of review of CCFs.
- MRO medical review notes and records.
- MRO downgrades.
- Split request records.
- Correctable and non-correctable flaw documentation.

## **ALCOHOL TESTING FORMS FOR ALL DOT TESTS**

- Pre-employment, if applicable.
- Random, under FMCSA, FAA, FRA, and FTA.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause under FRA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.
- Correctable and non-correctable flaw documentation.

## **EMPLOYEE RETURN TO DUTY RECORDS**

- SAP Initial Evaluation reports.
- SAP Follow-up Evaluation reports, including follow-up testing plans.
- Employee “Return to Duty” and “Last Chance Agreements,” when applicable.
- Return-to-duty and Follow-up testing compliance documentation.
- Lists of qualified SAPs that you give to those who violate the regulations.

## **SERVICE AGENT DOCUMENTATION**

- Lists of service agents and their contact information.
- Written agreements and contracts with service agents, if applicable.
- Credentials, training, and examination or proficiency documentation.

# **What Employers Need To Know About DOT Drug and Alcohol Testing [Guidance and Best Practices]**

**Revised August 25, 2008**

**U.S. Department of Transportation  
Office of the Secretary**



**Office of Drug and Alcohol Policy and Compliance**

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Changes from previous version [Spring 2008]:

Page 8: Typos – “Pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, *locomotive engineers*, and bus drivers are just some of the transportation workers *that* we depend upon to *be* as clear-headed and as alert as possible at all times.”

Page 18: Chart – “Saliva or breath for alcohol screening; breath for alcohol confirmation testing.”

Page 19: Graphic – “5. Return-to-duty and follow-up drug testing may be under direct observation.”

Page 21: Typo – “Congress gave the employee the right to have the split tested, so *if* the employee asks to have the split tested, the test must happen no matter who pays for it.”

Pages 26-29: Charts – Added four (4) additional refusals.



U.S. Department of Transportation  
Office of the Secretary

## **Office of Drug & Alcohol Policy & Compliance**



**What Employees  
Need To Know  
About DOT Drug &  
Alcohol Testing**



**Disclaimer**

This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

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This publication can also be accessed electronically through the internet at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc).

For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc).

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# **What Employees Need To Know About DOT Drug & Alcohol Testing**

Office of Drug & Alcohol Policy & Compliance (ODAPC)

Office of the Secretary (OST)

U.S. Department of Transportation (DOT)



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## **Introduction: “Tell me what this means!”**

The transportation industry drug and alcohol testing program is a cornerstone of the Department of Transportation’s efforts to have Americans reach their destinations safely. None of us wants pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, or bus drivers to have drugs and alcohol “on board.”

The transportation industries have been able to steadily reduce the number of crashes and accidents directly linked to drug and alcohol use by safety-sensitive employees. Yet, some safety-sensitive transportation employees continue to use illicit drugs and misuse alcohol despite efforts to deter them from doing so.

As a result, I want all of us to step-up our efforts to make sure transportation employees are drug and alcohol free. We can do this by making sure employees are properly educated on the personal and professional consequences of drug use and alcohol misuse. Supervisors must be appropriately trained to identify signs and symptoms of drug and alcohol use. Employers must have strong drug and alcohol testing programs. Employees must be removed from safety-sensitive duties immediately after they violate drug and alcohol testing rules. It is also very important that employees are not returned to safety-sensitive duty until they are referred for evaluation and have successfully complied with treatment recommendations.

The Nation is counting on all of us to get this right, and failure simply isn’t an option.



**Mary E. Peters**  
**Secretary of Transportation**  
U.S. Department of Transportation  
January 2008



## What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as *safety-sensitive*, such as working on pipelines, driving a truck, operating a ferry, steering a train or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

### Who is subject to DOT testing?

Anyone designated in DOT regulations as a *safety-sensitive* employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as *safety-sensitive* functions subject to testing.

<b>Aviation</b> FAA	Flight crews, flight attendants, flight instructors, air traffic controllers at facilities not operated by the FAA or under contract to the U.S. military, aircraft dispatchers, aircraft maintenance or preventative maintenance personnel, ground security coordinators and aviation screeners. Direct or contract employees of 14 CFR Part 121 or 135 certificate holders, Section 91.147 operators and air traffic control facilities not operated by the FAA or under contract to the US Military. See FAA regulations at 14 CFR Part 121 Appendices I & J.
<b>Commercial Motor Carriers</b> FMCSA	Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material. <sup>1</sup> See FMCSA regulation at 49 CFR Part 382.
<b>Maritime</b> USCG <sup>2</sup>	Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.
<b>Pipeline</b> PHMSA	Operations, maintenance and emergency response. See PHMSA regulations at 49 CFR Part 199.
<b>Railroad</b> FRA	Hours of Service Act personnel, engine & train, signal service or train dispatchers. See FRA regulations at 49 CFR Part 219.
<b>Transit</b> FTA	Vehicle operators, controllers, mechanics and armed security. See FTA regulations at 49 CFR Part 655.

Links to these regulations can be found on-line at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc).



**Remember:** The tasks you actually perform qualify you as a *safety-sensitive* employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a *safety-sensitive* job. Be sure to check industry specific regulations for further clarification.

<sup>1</sup> In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.

<sup>2</sup> An agency of the U.S. Department of Homeland Security.

## ***Why are safety-sensitive employees tested?***

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.<sup>3</sup>

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on *how* to conduct those tests, *what* procedures to use when testing and *how* to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out *who* is subject to testing, *when* and in *what* situations. Industry employers implement the regulations that apply to them.

The benefit to all employees affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly known as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

## ***What information must employers provide when I first begin performing DOT safety-sensitive functions?***

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

## ***What conduct is prohibited by the regulations?***

As a safety-sensitive employee...

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you...
  - Are under the influence or impaired by alcohol;
  - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
  - Have used any illicit drug.
- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.

---

<sup>3</sup> The Omnibus Act's testing requirements do not apply to PHMSA.

- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

### **What drugs does DOT test for?**

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites /THC
- Cocaine metabolites
- Amphetamines  
(including methamphetamine)
- Opiates  
(including codeine, heroin, morphine)
- Phencyclidine (PCP)

<b>Specimens Collected for Drug &amp; Alcohol Testing*</b>	
<b>Drugs:</b>	<b>Alcohol:</b>
Urine	Breath & Saliva
*The FRA requires blood specimens as part of their Post-Accident testing.	

To learn more about the effects of these and other drugs visit the following sites:

- *Drugs and Human Performance Fact Sheet*. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- *Driving While You Are Taking Medications*. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- *Common Drugs of Abuse*. National Institute for Drug Abuse (NIDA) [www.nida.nih.gov](http://www.nida.nih.gov).
- *Substance Abuse*. Substance Abuse and Mental Health Administration (SAMHSA) [www.workplace.samhsa.gov](http://www.workplace.samhsa.gov).
- *Drug Facts*. Office of National Drug Policy Control (ONDCP) [www.whitehousedrugpolicy.gov](http://www.whitehousedrugpolicy.gov).
- *Prevention On-line*. National Clearinghouse for Alcohol and Drug Information (NCADI) [www.health.org](http://www.health.org).

### **Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?**

Prescription medicine and OTC drugs may be allowed.<sup>4</sup> However, you must meet the following minimum standards:


- The medicine is prescribed to you by a licensed physician, such as your personal doctor.

<sup>4</sup> The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

**Best Practice:** To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.<sup>5</sup>
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

 **Remember:** Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

### ***When will I be tested?***

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

### **Pre-Employment**

As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.<sup>6</sup> Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

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<sup>5</sup> While a minority of states allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if marijuana is legally prescribed in a state, DOT regulations treat its use as the same as the use of any other illicit drug.

<sup>6</sup> Not every DOT agency requires a pre-employment alcohol test.

### **Reasonable Suspicion/Cause**

You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

### **Random**

You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.<sup>7</sup>

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

### **Post-Accident**

If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.<sup>8</sup> You are required to remain available for this testing and are not permitted to refuse testing.



**Remember:** Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

### **Return to Duty**

If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service.

### **Follow-up**

The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed, and your employer may have a policy that all follow-up tests are collected under direct observation. Follow-up testing is in addition to all other DOT required testing.

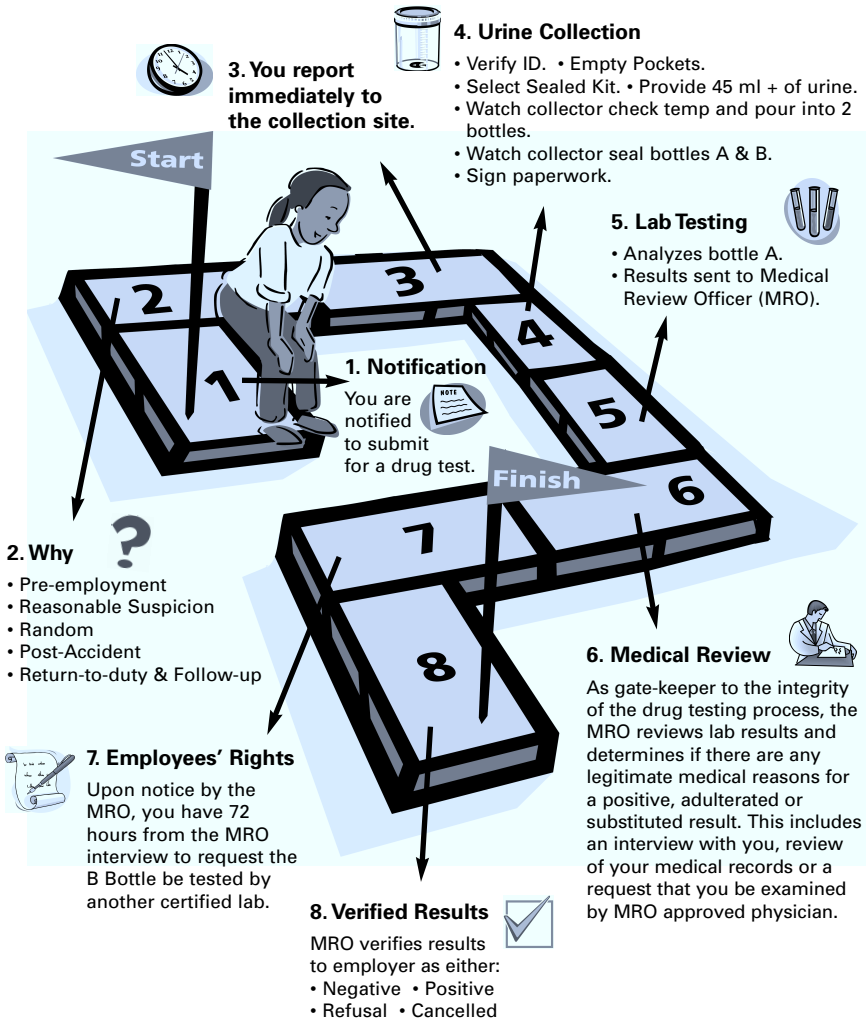
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<sup>7</sup> USCG & PHMSA do not perform random alcohol tests.

<sup>8</sup> In post-accident testing, the FRA requires a blood specimen for drug testing.



## Overview of DOT Drug Testing



### How is a urine drug test administered?

Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:

- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc).

## The Collection

During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
  - Restricting access to the site to only those being tested.
  - Securing all water sources and placing blue dye in any standing water.
  - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
  - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.



**Remember:** Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
  - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the Laboratory Copy (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
  - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,
- Asked to provide a new specimen (into a new collection container).

- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation<sup>9</sup> within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.


**How do you know if you are taking a federal or a private company drug test?**

All DOT drug tests are completed using the *Federal Drug Testing Custody and Control Form*. Those words appear at the top of each form.

**Testing at the Laboratory**

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
  - If the specimen tests negative in either test, the result will be reported as a negative.
  - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

 **Remember:** The Lab may conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

**Review by the Medical Review Officer (MRO)**

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.

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<sup>9</sup> The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Report a non-negative test result to the DER if:
  - You refused to discuss the results with the MRO;
  - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.
- Inform you that you have 72 hours from the time of the verified result to request to have your B “split” bottle sent to another certified lab for analysis for the same substance or condition that was found in the A “primary” bottle.

### ***What are Medical Review Officers (MRO)?***

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

### ***How is an alcohol test administered?***

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee’s testing information.

**How do you know if you are taking a federal or a private company alcohol test?**

All DOT alcohol tests are documented with a form with the words *Department of Transportation* at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), *using only a DOT-approved device*, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.

If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not be allowed to eat, drink, smoke, belch, put anything in you mouth or leave the testing area.



**Remember:** Leaving the testing area without authorization may be considered a refusal to test.

- Perform an “air blank” (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.

- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

### **Confirmation test results are the final outcome of the test.**

<b>Result</b>	<b>Action</b>
Less than 0.02	No action required under 49 CFR Part 40.
0.02 - 0.039	Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 121, Appendix J, Sect. III.G]. Also, be sure to check other agency specific regulations for their restrictions.
0.04 or greater	Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.

### ***Should I refuse a test if I believe I was unfairly selected for testing?***

**Rule of Thumb:** Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don't agree with the reason or rationale for the test, take the test anyway. Don't interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company's dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

### ***What is considered a refusal to test?***

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as *refusing* a test (See 49 CFR Part 40 Subpart I & Subpart N):

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine or breath sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient urine or breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to cooperate with any part of the testing process.
- Failure to undergo a medical evaluation as part of “shy bladder” or “shy lung” procedures.
- Failure to sign Step #2 of the ATF.
- Providing a specimen that is verified as adulterated or substituted.

### ***What happens if I test positive, refuse a test, or violate an agency specific drug & alcohol rule?***


If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.
- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
  - Undergone an evaluation by a Substance Abuse Professional (SAP);
  - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
  - Provided a negative test result for drugs and a breath test less than 0.02 of alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP).

### ***What are SAPs?***

Under DOT regulations, SAPs are *Substance Abuse Professionals*. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee’s readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT’s regulations.

 **Remember:** Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

### ***How do I find a SAP?***

There are several resources to finding a SAP. If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses and phone numbers that are available to you and acceptable to them.<sup>10</sup> Also, several organizations, that offer SAP training, maintain lists of SAPs. Don't forget to search the internet or check your local yellow pages for any SAP listings.

### ***Will I lose my job if I violate drug & alcohol regulations?***

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

### ***Will my results be confidential?***

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

### ***Will the results follow me to different employers?***

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

### ***What should I do if I have a drug or alcohol abuse problem?***

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life.

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<sup>10</sup> Employers cannot charge employees for the SAP list.

Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

### **Employee Assistance Programs (EAPs)**

While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.



**Note:** Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!

EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

### **Voluntary Referral Programs**

Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem *before* you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.



**Remember:** Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

### **Peer Reporting Programs**

Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.



### **Education and Training Programs (required by all Agencies)**

Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

### ***Did you know?***

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?<sup>11</sup> Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.



**Remember:** If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

### ***But, I have more questions?***

ODAPC is available to help answer anyone's questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc) for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

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<sup>11</sup> *The Dual Challenge of Substance Abuse and Mental Disorders*, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

## Appendix

### Drug & Alcohol Program Manager Contact Information

#### U.S. Department of Transportation

- FAA Aviation (202) 267-8442 [www.faa.gov](http://www.faa.gov)
- FMCSA Motor Carrier (202) 366-2096 [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)
- FTA Public Transportation (617) 494-2395 [www.fta.dot.gov](http://www.fta.dot.gov)
- FRA Railroads (202) 493-6313 [www.fra.dot.gov](http://www.fra.dot.gov)
- PHMSA Pipeline (202) 550-0629 [www.phmsa.dot.gov](http://www.phmsa.dot.gov)

#### U.S. Department of Homeland Security

- USCG Maritime (202) 372-1033 <http://marineinvestigations.us>

## NOTES

U.S. Department of Transportation  
Office of the Secretary

Office of Drug & Alcohol Policy & Compliance  
1200 New Jersey Avenue, SE  
Room W62-300  
Washington, DC 20590

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[www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc)



U.S. Department  
of Transportation