

Enter Company Name

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Prevention of Prohibited Drug Use and Prevention of Alcohol Misuse in Transit Operations

# Drug & Alcohol Policy



Enter Company Name

# Drug & Alcohol Policy

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In Accordance with U.S. Department of  
Transportation Federal Transit Administration  
Regulations  
(49 CFR Parts 655 as amended and 49 CFR Part 40 as  
amended)

Updated May 2017

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**Enter Company Name**  
Drug & Alcohol Policy  
Zero Tolerance Statement

**Company Name** is dedicated to providing safe, dependable, and economical transportation services to its patrons. **Company Name** employees are a valuable resource and it is also our goal to provide a safe, healthy and satisfying working environment for employees. In meeting these goals, it is our policy to: (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and, (4) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affects their ability to perform their assigned duties. This Drug & Alcohol Policy implements a Zero Tolerance drug and alcohol testing program for all safety sensitive employees. Each employee shall be provided a signed copy of the adopted policy.

This policy is approved by **Company Name Governing Body** and is effective **Date**.

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

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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## General

### A. Policy and Purpose

**Company Name** provides public transit and paratransit services for the residents of the Kenai Peninsula. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, **Company Name** declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

Any provisions set forth in this policy that are included under the sole authority of **Company Name** and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of **Company Name** will be performed on NON-DOT forms and will be separate from USDOT in all respects.

### B. Applicability

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. A safety-sensitive function is the operation of a public transit service including the operation of a transit vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or

equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any other transit employee who operates a vehicle that requires a Commercial Drivers license to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A.

Supervisors are only safety sensitive if they perform one of the above functions.

(Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.)

## C. Definitions

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result--

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- (3) One or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* is damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Adulterated specimen:* A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* Means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Is expressed in terms of grams of alcohol per 210 liters of breath.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

*Covered Employee:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See **Attachment A** for a list of covered employees), and other employees, applicants, or transferee that will not perform a safety-sensitive function but falls under the policy of the company's own authority.

*Designated Employer Representative: (DER)* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*Department of Transportation: (DOT)* For the purpose of Drug & Alcohol regulatory oversight, DOT is the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Motor Carriers' Safety Administration, Pipeline and Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

*Dilute specimen:* A specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Evidentiary Breath Testing Device: (EBT)* A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

*Initial Drug Test (Screening Drug Test):* The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

*Invalid Drug Test:* The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS 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.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantification:* For quantitative assays, the lowest concentration at which the identity and concentration of the measure and can be accurately established.

*Medical Review Officer: (MRO),* a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug 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/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

*Negative test result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

*Non-negative test result:* Is a test result found to be adulterated, substituted, invalid, or positive for drug/drug metabolites.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive test result:* The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

*Prohibited drug:* marijuana, cocaine, opiates, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS-certified laboratory when no

tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

*Revenue Service Vehicles:* Include all transit vehicles that are used for passenger transportation service

*Safety-sensitive functions:* Include (a) the operation of a transit revenue service vehicle even when the vehicle is not in revenue service; (b) the operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL); (c) maintaining a revenue service vehicle or equipment used in revenue service; (d) controlling the movement of a revenue service vehicle and (e) carrying a firearm for security purposes.

*Substance Abuse Professional: (SAP),* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) or with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substituted specimen:* A specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Test Refusal:* The following are considered a refusal to test if the employee:

- **Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the employer;**
- **Failure to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test;**
- **Failure to attempt to provide a urine or breath specimen for any required drug test. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for pre-employment testing has not refused to test;**
- **Failure to permit the observation or monitoring of the specimen collection when required to do so;**

- **Failure to provide a sufficient amount of urine or breath when directed and there is no adequate medical explanation for the failure;**
- **Failure to take a second test when directed to do so by the employer or collector;**
- **Failure to undergo a medical examination when directed to do so by the MRO or employer;**
- **Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);**
- **Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;**
- **Failure or refusal to sign Step 2 of the alcohol testing form;**
- **If the MRO reports that there is verified adulterated or substituted test result;**
- **Possess or wear a prosthetic or other device that could be used to interfere with the collection process;**
- **Fail to remain readily available following an accident; and**
- **Admit to the collector or MRO that you adulterated or substituted the specimen.**

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* Is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

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## Prohibited Conduct and Related Consequences

### A. Education and Training

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in **Attachment B** of this policy.

### B. Prohibited Substances

Prohibited substances addressed by this policy include the following.

- (1) Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use

of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- (2) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor prior to beginning of the first shift immediately following the first ingestion of prescribed drug(s) and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- (3) Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. Reasonable suspicion or random alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under Company Name authority, a NON-DOT alcohol test can be performed any time a covered employee is on duty.

## C Prohibited Conduct

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty or submit to an alcohol test if they maintain their ability to perform their safety sensitive function.
- (2) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- (3) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive function while having an alcohol concentration of 0.04 or greater. Furthermore, (although not considered a violation of USDOT drug and alcohol testing regulations) if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, they will be removed from the performance of safety-sensitive duties until:
  - 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 eight hours following administration of the test.
- (4) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
  - (5) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  - (6) Consistent with the Drug-free Workplace Act of 1988, all **Company Name** employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including Transit Department premises and transit vehicles.

## D. Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the **Company Name** management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action including termination.

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## Tests Required

### A. Testing Requirements

A drug test can be performed any time a covered employee is on duty. A reasonable suspicion or random alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with **Company Name**. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline including termination. Refer to the definitions section of this policy for behavior that constitutes a refusal to test.

### B. Drug Testing Procedures

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result. **Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine.**

**The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.**

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40,

as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test, and will determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the **Company Name** Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test under 49 CFR Part 40 and Part 655 may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. **Company Name** will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample; however **Company Name** will seek reimbursement for the split sample test from the employee.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for

one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for testing longer than one year if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

**Employees do not have access to a test of their split specimen following an invalid result.**

### **Observed Collections**

**Observed collections are required in the following circumstances:**

- **All return-to-duty tests;**
- **All follow-up tests;**
- **Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;**
- **Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;**
- **Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;**
- **Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;**
- **Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.**

**The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device.**

### **Negative Dilute**

**Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.**

## **C Alcohol Testing Procedures**

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes, but no more than 30 minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are termination. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to termination. An alcohol concentration of less than 0.02 will be considered a negative test.

The Transit Department affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

## D Pre-Employment Testing

All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.

(1) All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be placed into a safety - sensitive position unless the applicant takes a drug test with verified negative result.

(2) A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with verified negative results.

(3) If an applicant fails a pre-employment drug test the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. The applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan

as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

(4) When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result the employee shall be subject to termination.

(5) If a pre-employment/pre-transfer test is canceled, **Company Name** will require the applicant to take and pass another pre-employment drug test.

(6) In instances where a covered employee does not perform any safety sensitive functions for a period of 90 consecutive days or more regardless of reason, and is not in the random testing pool during that period the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to resuming the duties of safety-sensitive job functions.

(7) An applicant with a dilute negative test result will be required to retest. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. Applicants are required (even if ultimately not hired) to provide Company Name with signed written releases requesting USDOT drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Company Name is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide Company Name proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

## E Reasonable Suspicion Testing

All Company Name covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

Company Name shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action including termination. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary

action including termination.

A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. The contents of this written report shall include factual, non-subjective information identifying the reason for suspicion. This written record shall be submitted to the management and shall be attached to the forms reporting the test results.

## F. Post-Accident Testing

**FATAL ACCIDENTS** - All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, regardless of whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.

**NON FATAL ACCIDENTS** - A post-accident test of the operator will be conducted if an accident occurs and at least one of the following conditions is met:

- a) The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
- b) One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available to them at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and within 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available

for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. In the event that such care is necessary, Supervisor is to notify the emergency medical care provider that a test is mandatory as soon as practical or possible.

In the rare event that **Company Name** is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), **Company Name** may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

## G Random Testing

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

- (1) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- (2) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>.
- (3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- (4) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- (5) Employees are required to proceed immediately to the collection site upon notification of their random selection.

## Tests Results, Reporting, Recordkeeping and Confidentiality

### A. Result of Drug/Alcohol Test

Any covered employee that has a verified positive drug or alcohol test, or refuses to test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and will be provided with a list of at least two (2) USDOT Qualified Substance Abuse Professionals (SAPs) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer. A drug test with the result of negative dilute will be retested. A positive drug and/or alcohol test, or refusal to test will also result in disciplinary action as specified herein:

- (1) As soon as practicable after receiving notice of a verified positive drug test result or refusal to test, a confirmed alcohol test result, or a test refusal, the Company Name Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- (2) The employee shall be provided with a list of USDOT Qualified Substance Abuse Professionals.
- (3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and will result in disciplinary action including termination. **The following behaviors constitute a test refusal:**
  - a. **Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer**
  - b. **Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.**
  - c. **Fails to attempt to provide a urine or breath specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.**

- d. **In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen**
- e. **Fails to provide a sufficient quantity of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation**
- f. **Fails or declines to take a second test the employer or collector has directed you to take**
- g. **Fails to undergo a medical examination or evaluation, as directed by the MRO or the Designated Employer Representative**
- h. **Fails to cooperate with any part of the testing process**
- i. **If the MRO reports that there is verified adulterated or substituted test result**
- j. **Failure or refusal to sign Step 2 of the alcohol testing form**
- k. **Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.**
- l. **Possess or wear a prosthetic or other device that could be used to interfere with the collection process**
- m. **Admit to the collector or MRO that you adulterated or substituted the specimen.**
- n. **Fail to remain readily available following an accident**

An alcohol test result of 0.02 to 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer and will be subject to termination.

## **B Grievance and Appeal**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to challenge or review.

## **C. Proper Application of the Policy**

Company Name is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action including termination.

## D Information Disclosure

Drug/alcohol testing records shall be maintained by the Company Name and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

- (1) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
- (2) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Personnel Manager on a need to know basis.
- (3) Upon receipt of a written request that states specifically the records requested and reason for such request, Company Name shall have a minimum of seventy-two (72) hours to provide such records. If it is determined that such a request constitutes a hardship for Company Name, they will have reasonable extra time to provide such records.
- (4) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a lawsuit or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding. The information will only be released with binding stipulation that the decision maker will make it available only to parties in the proceeding.
- (5) Records will be released to the National Transportation Safety Board during an accident investigation.
- (6) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- (7) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Company Name or the employee.
- (8) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended necessary legal steps to contest the issuance of the order will be taken.
- (9) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.
- (10) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

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## System Contacts

### A System Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

#### Drug and Alcohol Program Manager:

Name: Name  
Title: Title  
Address: Address  
Telephone: Phone

#### Third Party Administrator

Name: Company Name  
Address: Address  
Telephone: Phone

#### Medical Review Officer

Name: Name  
Co: Company  
Address: Address  
City, State Zip  
Telephone: Phone

#### Substance Abuse Professional

Name: Kelly J Wright, Sr., LCSW, CDCII, SAP  
Address: 4101 Arctic Blvd., Ste 104  
Anchorage, AK 99503  
Telephone: 907-980-6648

Substance Abuse Professional

Name: Kimberly Stephens LPC, MAC, NCACI,  
SAP  
Address: Life Change Counseling  
Wasilla, AK 996654  
Telephone: 907-982-4040

HHS Certified Laboratory Primary Specimen

Name: Company Name  
Address: Address, City, State Zip  
Telephone: Phone

HHS Certified Laboratory Split Specimen

Name:  
Address:  
Telephone:

## Attachment A

# Categories of Covered Safety-Sensitive Employees

Safety-Sensitive Employees and Applicants for Safety-Sensitive Positions covered by this policy include those:

1. Operating a revenue service vehicle, including when not in revenue service
2. Controlling dispatch or movement of a revenue service vehicle
3. Maintaining a revenue service vehicle or equipment used in revenue service
4. Direct supervisors of employees described in 1-3 above who may perform any of the above safety sensitive functions.

**Including the following Company Name Job Classifications:**

Job Title	Job duties

## Attachment B

### Alcohol Fact

### Sheet

**Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.**

#### Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

- Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

- Social Issues
  - Two-thirds of all homicides are committed by people who drink prior to the crime.
  - Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
  - Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
  - The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
  - Forty percent of family court cases are alcohol problem related.
  - Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
  - More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.
  
- The Annual Toll
  - 24,000 people will die on the highway due to the legally impaired driver.
  - 12,000 more will die on the highway due to the alcohol-affected driver.
  - 15,800 will die in non-highway accidents.
  - 30,000 will die due to alcohol-caused liver disease.
  - 10,000 will die due to alcohol-induced brain disease or suicide.
  - Up to another 125,000 will die due to alcohol-related conditions or accidents.
  
- Workplace Issues
  - It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
  - Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
  - A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

## TEST RESULT SUMMARY & CORRESPONDING DICIPLINE

Test Results	Verified Results	Employer Action
Negative	Negative	
Negative Dilute	Negative	Employer will retest If negative dilute repeats will accept as negative
Temperature out of Range	Inconclusive	Retest under Direct Observation
Evidence at Collection of Specimen	Inconclusive	Retest under Direct Observation
Positive	Positive	Removal from Duty
Positive Dilute	Positive	Remove form Duty
Test Refusal/Adulteration/Substitution	Rule Violation Test Refusal	Removal from Duty
Insufficient Volume with Medical Explanation (Random, Reasonable Suspicion, Post Accident)	Cancelled	No Action
Insufficient Volume with Disability No Evidence of Illegal Drug Use (Pre-Employment, Return to Duty, Follow Up)	Negative	No Action
Insufficient Volume w/no Medical Explanation	Rule Violation Test Refusal	Removal from Duty
Fatal Flaw/Rejected for Testing	Cancelled	No Action
Invalid Result with Medical Explanation	Cancelled	No Action
Invalid Result with no Medical Explanation	Cancelled	Retest under Direct Observation
Primary Positive-Split Fails to Reconfirm Drug	Cancelled	Employer/MRO notifies ODAPC
Primary Adulterated/Substituted Split Fails to Reconfirm	Cancelled	Employer/MRO notifies ODAPC
Primary Invalid Split Fails to Reconfirm	Cancelled	Retest under Direct Observation
Primary Non Negative Split Unavailable for Testing	Cancelled	Retest under Direct Observation
Primary Positive Split Fail to Reconfirm But is Adulterated	Test Refusal	Employee May Request Test of Primary for Adulterant



Company Name

Address

City, State Zip

## ACKNOWLEDGEMENT OF EMPLOYER'S DRUG AND ALCOHOL TESTING POLICY

I, \_\_\_\_\_, the undersigned, hereby  
*Print Full Name*

acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the U.S. Department of Transportation, Federal Transit Administration for all covered employees who perform a safety-sensitive function. I understand this policy is required by 49 CFR Part 655, as amended, and has been duly adopted by the governing board of the employer. Any provisions contained herein which are not required by 49 CFR Part 655, as amended, that have been imposed solely on the authority of the employer are designated as such in the policy document.

I further understand that receipt of this policy constitutes a legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained therein. I will seek and get clarification for any compliance with all provisions contained in the policy. I also understand that compliance with all provisions contained in the policy is a condition of employment.

I further understand that the information contained in the approved policy dated **Date** is subject to change, and that any such changes, or addendum, shall be disseminated in a manner consistent with the provision of 49 CFR Part 655, as amended.

\_\_\_\_\_  
*Signature of Employee*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*Date*