

ALCOHOL MISUSE AND DRUG PREVENTION POLICY

**U.S. DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration (FMCSA)
PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF:
49 CFR PART 382
49 CFR PART 40**

County Of Hutchinson

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INTRODUCTION

Development of “Combined” Policy

The Federal Motor Carrier Safety Administration (FMCSA) is the agency within the Department of Transportation (DOT) that regulates motor carriers in the trucking industry. FMCSA's Controlled Substances and Alcohol Use and Testing regulation, 49 CFR Part 382.1, requires each motor carrier to develop, maintain, and follow a Drug and Alcohol Policy. A basic requirement of the policy is that all drug and alcohol testing will follow the requirements of DOT's "Procedures for Transportation Workplace Drug and Alcohol Testing," 49 CFR Part 40². The Drug and Alcohol Policy meets all the requirements of Part 382 and Part 40.

Approach

The Plan will use the generic word “Company” in reference to the motor carrier for which it is written. The Plan will describe how the Company will comply with government requirements. In any case where there is a discrepancy between the requirements of Part 40 with that of Part 382, Part 40 will prevail. The Plan will identify “Company-additional” requirements - those that go beyond the minimum requirements of DOT. Company-additional requirements will be underscored. Therefore, consider anything that is not underscored a requirement of DOT, or a process put in place by the Company to meet a DOT requirement. Appendix D outlines the Company disciplinary actions and additional procedures.

The Plan is written in “plain language” and follows the requirements of each rule. However, the Plan does not repeat the language of either Part 40 or Part 382. Doing so would require the Company to produce a new plan every time DOT or FMCSA issued a change to their respective rule. The goal of DOT is to know that the Company understands the requirements of the rules and how the Company will go about achieving compliance. The Plan makes use of existing DOT language in places where summaries are used to explain a more detailed process (e.g., specimen collection and alcohol test procedures are extracted from DOT's “Employee Guide”³). The contents of the DOT's “Employee Guide” are found in the “DOT Employee Notification Packet” located in the drug and alcohol manual provided by Panhandle Employers Services, Inc. and the Company must provide to each covered employee.

Background

Safety: The DOT requires transportation employers to develop and implement drug and alcohol testing programs in the interest of public safety. Safety is the highest priority for DOT. One of the means by which the DOT helps ensure safety is by subjecting those drivers

¹ Title 49 Code of Federal Regulations (CFR), Part 382, “Controlled Substances and Alcohol Use and Testing,”.

² Title 49, Code of Federal Regulations (CFR), Part 40, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” Office of the Secretary, Department of Transportation, 65 FR 79462, Dec. 19, 2000 as amended.

³ “What Employees Need To Know About DOT Drug & Alcohol Testing,” ODAPC, DOT, October, 2010.

responsible for transportation safety to drug and alcohol testing. Drivers tested under the DOT program have direct impact on the safety of the traveling public.

Test Procedures: The overall responsibility for management and coordination of the DOT program resides within the Office of the Secretary of Transportation's (OST), Office of Drug and Alcohol Policy and Compliance (ODAPC). ODAPC issues Part 40. Whether the transportation employee is a pipeline worker, truck driver, or airline pilot, their drug and alcohol tests are conducted using the same Part 40 procedures. This consistency benefits all employees affected by DOT regulations in that each agency's regulations must adhere to DOT's testing procedures. Better known simply as "Part 40," this rule has become the standard for workplace testing in the United States.

Compliance Enforcement: Regulation and enforcement within the different transportation industries is the responsibility of the DOT agency (e.g., FMCSA for trucking) that has authority over the particular industry. The regulatory authority requiring drug and alcohol testing of safety-sensitive employees in aviation, trucking, railroads, and mass transit industries is the Omnibus Transportation Employee Testing Act of 1991⁴ (OTETA).

GENERAL

Applicability

Part 382, and this Plan applies to services agents and to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State, and is subject to: (1) The commercial driver's license requirements of Part 383⁵; (2) The Licencia Federal de Conductor (Mexico) requirements; or (3) The commercial drivers license requirements of the Canadian national Safety Code.

Compliance

Plan Development: The Plan meets the requirement of Part 382, paragraph §382.601, to provide educational materials that explain the requirements of Parts 382 and 40 and the Company's policies and procedures with respect to meeting these requirements. The Plan describes the methods and procedures for compliance with the drug and alcohol program requirements of the DOT. The Plan covers the operational, day-to-day requirements that are found in Part 382, and the procedural, testing requirements that are found in Part 40. The Plan provides appendices for the name and address of each laboratory that analyzes specimens for the Company, the Company's Medical Review Officer, Substance Abuse Professionals, and Employee Assistance Professionals. The Plan communicates to drivers, Company officials, and DOT officials the path that the Company will follow in order to comply with the requirements for a successful DOT drug and alcohol program.

⁴ Public Law 102-143, October 28, 1991, Title V – Omnibus Transportation Employee Testing, 105 Stat. 952-965; 49 U.S.C. 45104(2).

⁵ Title 49 Code of Federal Regulations (CFR), Part 383, "Commercial Drivers License Standards; Requirement and Penalties," Federal Motor Carrier Safety Administration, 52 FR 20587, June 1, 1987, as amended.

Plan Availability: The Plan will be posted in a common place, selected by the Company, for driver review and feedback. A copy of the Plan will be made available to all drivers. Any driver desiring a copy of Part 40 and/or Part 382 must contact the Designated Employer Representative (see Appendix C). The Plan will provide a basic description of the rules and testing requirements and will show how the Company implements and follows them. The Plan is not meant as a substitute for the detail provided in either rule. If there is any difference in instruction or interpretation between the Plan and the rules, the rules prevail. The Plan will be updated at any time its language, or the intent of its language, differs from that of either Part 40 or Part 382. Drivers are encouraged to obtain and read Part 40 and Part 382 on their own.

“DOT” vs “FMCSA”

All DOT workplace testing procedures will follow Part 40 requirements. All DOT procedural responsibilities for motor carriers will follow Part 382. In the Plan, the term “DOT” will be used for references to general requirements (e.g., testing procedures) placed on motor carriers. The use of the term “FMCSA” will be to distinguish specific, unique administration requirements versus general, DOT requirements (e.g., blood alcohol test results received from law enforcement may be used in a post-accident situation).

DOT Procedures

The Company will assure that the procedures of Part 40 are followed for drug and alcohol testing conducted under the requirements and authority of Part 382; a violation of Part 40 is a violation of Part 382. If the Company employs a Consortium/Third-Party Administrator (C/TPA) to assist in program development, implementation, and management, the C/TPA will, likewise, follow all the requirements of Part 40 and Part 382. It is the Company's goal to establish and maintain compliance with the DOT drug and alcohol program.

Stand-down Waiver

DOT “stand-down” is not in effect for this Company. The Company does not hold a stand-down waiver under Part 40, and has not applied for one. Should this status change, the Company will notify all drivers and Company officials, in accordance with Part 40 requirements.

Preemption of State and Local Laws

Part 40 and Part 382 are Federal laws. Federal law preempts any state or local law, rule, regulation, or order to the extent that: (a) compliance with both the state or local requirement and Part 40 or 382 is not possible; or, (b) compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 40 or 382. This provision does not preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

Definitions

Definitions from Parts 40, and 382 have been combined in alphabetical order and are provided in a single listing. For purposes of the Plan the following definitions apply:

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Actual knowledge - For the purpose of Part 382 (subpart B) and the Plan, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in Sec. 382.121 (Employee Admission of Alcohol and Controlled Substances Use, page 29). Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Sec. 382.307 (Reasonable Suspicion/Cause Testing, page 21).

Administrator - The Administrator of the Federal Motor Carrier Safety Administration (FMCSA) or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

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.

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 (PIE), an organization having the same or similar management, ownership, or principal employees as the service agent concerning who public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Part 40, Subpart R.

Air blank - In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

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

Alcohol concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this part.

Alcohol confirmation test - A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

Alcohol screening device (ASD) - A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

Alcohol screening test - An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol testing site - A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

Alcohol use - The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Aliquot - A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Breath Alcohol Technician (BAT) - A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

Cancelled test - A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Chain-of-custody (or Custody and Control Form (CCF)) - The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) – means the FMCSA database that subpart G of part 382 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations.

Collection Container - A container into which the employee urinates to provide the specimen for a drug test.

Collection Site - A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

Collector - A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

Commerce - (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

Commercial Motor Vehicle (CMV) - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle-- (1) Has a gross combination weight rating or gross combination weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater, inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds); or (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds); or (3) Is designed to transport 16 or more passengers, including the driver; or (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U. S.C. 5103(b)) and which require the motor

vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

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.

Confirmation (or confirmatory) validity test - A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Confirmed drug test - A confirmation test result received by an MRO from a laboratory.

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 purposes of Part 40.

Continuing education - Training for substance abuse professionals (SAPs) who have completed qualification training and are performing SAP functions, designed to keep SAPs current on changes and developments in the DOT drug and alcohol testing program.

Controlled substances - Those substances identified in Part 40 and this plan as "drugs."

DOT Procedures (or Part 40) - The Procedures for Transportation Workplace Drug and Alcohol Testing Program published by the Office of the Secretary of Transportation in 49 CFR Part 40.

Designated employer representative (DER) - 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 safety-sensitive 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 Part 40. Service agents cannot act as DERs.

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

Disabling damage - Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven. (2) Exclusions. (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts. (ii) Tire disablement without other damage even if no spare tire is available. (iii) Headlight or taillight damage. (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT, The Department, DOT agency - These terms encompass all DOT agencies, including, but not limited to, 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 and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary

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(OST). For purpose of this part, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

Driver - Any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Drugs - The drugs for which tests are required under Part 40 and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Employee (safety-sensitive 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 Part 40, 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. For the purposes of regulation under Part 382, the term employee means a person (i.e., driver) who performs a safety-sensitive function, including fulltime, part-time and temporary employees.

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 Part 40. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of Part 40.

Error Correction Training - Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.

Evidential Breath Testing Device (EBT) - A device approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentrations and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

HHS, Department of Health and Human Services - The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial drug test (also known as a "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.

Licensed medical practitioner - A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

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

Limit of Quantitation - 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 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.

Negative 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.

Negative return-to-duty test result – a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02 BAC, as described in §40.305, (How does the return-to-duty process conclude?)

Non-negative specimen - A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

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 Part 40.

Oxidizing adulterant - A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function) - A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive rate for random drug testing - The number of verified positive results for random drug tests conducted under Part 382, plus the number of refusals of random drug tests required by Part 382, divided by the total number of random drug tests results (i.e., positives, negatives, refusals) conducted under Part 382.

Positive 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.

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.

Prohibited drug - Any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opioids, amphetamines, and phencyclidine (PCP).

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).

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.

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 Part 40 and DOT agency drug and alcohol testing regulations (e.g., Part 382). Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

Refusal to submit, refuse, or refuse to take - Behavior consistent with Part 40 concerning refusal to take a drug test or refusal to take an alcohol test.

Safety-sensitive function - All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include: (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; (2) All time inspecting equipment as required by Sections 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of Section 393.76); (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening drug test - See Initial drug test definition above.

Screening Test Technician (STT) - A person who instructs and assists employees in the alcohol testing process and operates an ASD.

Secretary - The Secretary of Transportation or the Secretary's designee.

Service agent - Any person or entity, other than an employee of the employer, who provides services specified under Part 40 to employers and/or employees in connection with DOT drug

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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 as applicable. Service agents are not employers for purposes of Parts 382 and 40.

Shipping container - A container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.

Specimen bottle - The bottle that, after being sealed and labeled according to the procedures in Part 40, is used to hold the urine specimen during transportation to the laboratory.

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.

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).

Stand-down - The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

Substance Abuse Professional (SAP) - A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted specimen - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

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.

Violation rate for random alcohol testing - means the number of 0.04 and above random alcohol confirmation test results conducted under Part 382 plus the number of refusals of random alcohol tests required by Part 382, divided by the total number of random alcohol screening tests (including refusals) conducted under Part 382.

POLICY AND RESPONSIBILITIES

Company Policy

Policy Statement: The Company has a long-standing commitment to maintain the highest standards for employee safety and health. The use of controlled substances and the misuse of alcohol are contrary to these high standards. The use or possession of illegal controlled substances or 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.

DOT Compliance: The Company is aware that it is ultimately responsible for meeting the requirements of Parts 40 and 382. The DOT authorizes transportation employers to use a service agent(s) to perform tasks necessary to comply with the Policy. The Company understands that, under the DOT regulations (Part 40), it is responsible for the actions of its service agents. The Company is responsible for developing and implementing a successful and comprehensive DOT workplace drug and alcohol program. Components of the Company's program include clear policies, provisions for education and training, drug and alcohol testing, and when needed, referral for evaluation, education, and treatment. The Company shall ensure that all drivers are aware of the provisions and coverage of the Policy.

Responsibilities of Key Personnel

The Company will convey to responsible individuals -- the Designated Employer Representative(s) and affected supervisors - that, to the best of their ability, the privacy and confidentiality of any driver subject to the Plan must be maintained at all times.

Designated Employer Representative (DER): Appendix C contains the name, address, and phone number of the DER(s). The DER is:

- The key employee for the Company's drug and alcohol program functions, and has the knowledge and authority to make decisions about the testing process and answer questions about it;
- Must be employed by the Company and not a service agent;
- One or more employees of the Company assigned to ensure adequate coverage on all shifts and at all locations;
- Responsible for the preparation of the Policy, as well as providing oversight and evaluation on the Policy;
- Responsible to review all adverse personnel action or discipline applied under the Policy for consistency and conformance to human resources' policies and procedures;
- Responsible for scheduling random, return-to-duty and follow-up testing, as applicable, and is authorized to receive and maintain, in a secure file system, all drug and alcohol testing results;
- Responsible for providing answers to employee questions regarding the testing program, and information on the resources available for drug and alcohol counseling;
- Responsible for overseeing the employee assistance program (EAP).

Supervisor: A Company individual(s) responsible for observing the performance and behavior of employees that is suggestive enough to lead to reasonable suspicion/cause drug and/or alcohol testing. Supervisors who will determine whether an employee must be drug tested and/or alcohol tested based on reasonable suspicion/cause will be trained in the "signs and symptoms" of each substance. The supervisor is required to document a reasonable suspicion/cause event. The supervisor may also be responsible for requests as the second supervisor for substantiation and concurrence for reasonable suspicion/cause drug test, if applicable.

Responsibility of Drivers

Compliance: Each driver must comply with the requirements of the Policy, and the DOT drug and alcohol rules it pertains to, in order to remain eligible to drive commercial motor vehicles.

Each driver has the responsibility to read, be knowledgeable of, and comply with, the requirements of the Policy, and Parts 40 and 382. Committing a DOT violation will result in the driver's immediate removal from the safety-sensitive function and remain so until successfully completing the DOT return-to-duty conditions of Part 40. The Policy describes circumstances for being tested, violations, prohibited conduct, and their subsequent consequences. The Policy describes what is available to each driver as services (e.g., EAP) in such cases where the driver has a potential problem with drugs or alcohol prior to a drug or alcohol test.

Employee Education and Receipt: It is a condition of employment for all drivers to sign the Acknowledgement/ Receipt Form (first page of "DOT Employee Notification Acknowledgement" found in this manual). In doing so, the driver attests to comply with the drug and alcohol program requirements of the Company and the requirements of the Plan. Failure to comply with this condition may result in disciplinary action up to and including termination.

Violation Notification to Employers: Each person holding a commercial driver's license and subject to DOT controlled substances and alcohol testing requirements who has violated the drug and/or alcohol prohibitions without successfully completing the DOT return-to-duty (SAP Process) requirements of Part 40, must notify in writing all current employers of such violation(s). The driver is not required to notify the employer that administered the test or documented the circumstances that led to the violation.

Notifications must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive DOT function, whichever comes first.

Drivers who violate this provision are subject to the civil penalties by 49 U.S.C. 521⁶, and criminal penalties authorized by section 521 (b) (6)⁷, with civil penalties adjusted for inflation as provided in § 382.507.

Use of Service Agents

Compliance: The Company will contract with service agents to accomplish many requirements of Parts 40 and 382. Appendix C (Designated Personnel and Service Agents) provides the names and addresses of service agents that are under contract. Contracts will contain a provision that the service agent will comply with Parts 40 and 382 in the services provided. The work of any service agent providing services to the Company will be open to inspection by the Company. The service agent must allow access to property and records by the Company, the Administrator, and if the Company is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the Company's compliance with the requirements of Part 382. No service agent will serve as DER for this Company.

Critical Service Agent Positions: The Company recognizes the significance of critical service agent positions within the DOT drug and alcohol program. The Company understands the importance of each service agent meeting their initial qualification and/or training requirements, as applicable, and then maintaining compliance through the conduct of their

⁶ United States Code, 2006 Edition, Supplement 6, Title 49 – Transportation, Subchapter II – Penalties, § 521. Civil Penalties.

⁷ United States Code, 2006 Edition, Supplement 6, Title 49 – Transportation, Subchapter II – Penalties, § 521 (b) – Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators, § 521 (b)(6) – Criminal Penalties

program functions as well as meeting their requirement to subscribe to ODAPC's list-serve, all in accordance with Part 40 and Part 382 requirements. The Company will ensure that the following critical positions meet DOT rule requirements:

- Medical Review Officer (MRO) (§40.121);
- Substance Abuse Professional (SAP) (§40.281);
- Urine Specimen Collector (§40.33);
- Screening Test Technician (§40.213); and
- Breath Alcohol Technician (§40.213).

Public Interest Exclusion: The Company will not use a service agent against whom a Public Interest Exclusion (PIE) has been issued. The Company will stop using the services of a service agent no later than 90 days after the DOT has published the decision in the *Federal Register* or posted it on its web site that a PIE has been issued. The Company may apply to the ODAPC Director for an extension of 30 days if it is demonstrated that a substitute service agent cannot be found within 90 days.

Consortium/Third Party Administrator: The Company may employ the service of a Consortium/Third Party Administrator (C/TPA) to assist the DER with overall program management and consultation on any program issue. While the C/TPA will not serve as the DER, the C/TPA may support the DER by explaining the regulations and offering guidance on program-compliance issues. The C/TPA must meet their Part 40 requirement to subscribe to ODAPC's list-serve.

“Non-Regulated” Testing Program

Compliance: The Company may implement an additional drug and/or alcohol testing program (Company (non-Regulated) program). Any additional testing program would be completely independent of the DOT testing program. Such a testing program would be developed under the Company's own authority and kept separate from the DOT program. All DOT testing would be accomplished first; the Company's non-Regulated program would commence afterwards. The non-Regulated program would use different forms and not use the Federal Custody and Control Form or the DOT Alcohol Testing Form. The non-Regulated program could test different people, for different drugs, and different reasons-for-testing. If the Company implements its own non-Regulated testing program, the Company will define the program and notify all employees through a Non-Regulated Program Plan.

DOT TESTING PROGRAM REQUIREMENTS

Drivers Subject to Testing

Compliance: Any driver who operates a commercial motor vehicle in commerce in any State and is subject to:

- The commercial driver's license requirements of Part 383;
- The Licencia Federal de Conductor (Mexico) requirements; or
- The commercial drivers license requirements of the Canadian National Safety Code.

Acknowledgement / Receipt Form

The "Acknowledgement/Receipt Form" (first page of "DOT Employee Notification Acknowledgement" packet found in your drug/alcohol manual), applies to all drug and/or alcohol tests, or related foregoing or subsequent DOT procedures, for drivers of commercial motor vehicles with the Company. The signed form will be maintained by the Company. For any test, the expectations placed on the driver by the Company are to "follow all instructions" in order to accomplish the test.

History-check Requirement (drug/alcohol background check)

Clearinghouse Requirements: As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with the Clearinghouse Pre-employment Queries (see Clearinghouse section of this Policy) to comply with the (Part 40) History-check requirements with respect to FMCSA-regulated employers. Exception: When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the employee's follow-up testing plan directly from the previous employer following the History-check requirements according to Part 40 (§40.25).

If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the employer must request the alcohol and controlled-substances information according to the History-check Requirement in Part 40 (§40.25) directly from those employers regulated by a DOT Agency other than FMCSA.

Compliance: Prior to the first time that the Company uses a driver (i.e., a new hire or an employee transferring into the safety-sensitive position) the Company will require a "history check" of the driver. The history check will look back into the driver's past 3 years of DOT employment for DOT violations and the scope of the information requested (employment dates) must date back 3 years. History checks are conducted only after obtaining the driver's written authorization to do so. Any driver refusing to provide written consent will not be permitted to perform safety-sensitive functions. The Company will not allow the driver to perform their functions after 30 days from the date on which the driver first performed safety-sensitive functions, unless the Company has obtained or made and documented a good faith effort to obtain required information from previous DOT-regulated employers.

Information request: The Company will request the following information about the driver.

- Alcohol tests with a result of 0.04 or higher alcohol concentration;
- Verified positive drug tests;
- Refusals to be tested (including verified adulterated or substituted drug test results);
- Other violations of DOT agency drug and alcohol testing regulations; and
- With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty process (including follow-up tests).

The Company will make at least three attempts (good-faith-effort) by telephone, e-mail or fax, and maintain documentation associated with the attempts to obtain history-check information (e.g., date and time of the attempt, person contacted).

Violation Consequences: If the Company finds evidence of past DOT violations, those violations may be used as the sole reason for not hiring the individual or for termination.

The Company will not use any driver that has had a past DOT violation and has not complied with DOT eligibility standards for returning to safety-sensitive work. The Company will also ask the driver if he/she had any pre-employment tests that was positive for which the previous employer did not hire him/her. The driver's answer to this question will be maintained as part of the driver's history-check information.

Notification of Tests

Drivers will be notified directly when a test must be conducted. While the circumstances for a test will differ by its reason-for-test, the Company will endeavor to conduct all tests with only a limited number of Company personnel having knowledge of the reason for the test.

All testing will be unannounced until the last possible moment. The timing will vary in conjunction with the reason-for-test. For example, a pre-employment test will be announced during the job application; a random test is announced within the test period, but just prior to the test, to maintain the element of surprise; and, announcements of post-accident or reasonable suspicion tests are controlled by the circumstances that come to light around the time of the event (e.g., accident). All alcohol test will be conducted just prior to, during, or just after the performance of safety-sensitive duties. Drug tests may be conducted anytime the driver is at work.

The DER and Company supervisors will be responsible for notifications and to help maintain the element of confidentiality. When a driver is notified for a test, the driver must proceed to the collection site immediately. Immediately means that after notification, all the driver's actions must lead to an immediate specimen collection (or test). The Company considers "travel time to the collection site, plus 30 minutes" as the maximum acceptable interval of time between notification and testing.

In test situations such as post-accident and reasonable suspicion/cause, where the driver's job performance is called into possible question, supervisors will use their discretion and training to minimize further confrontation. A reasonable attempt will be made by the supervisor to isolate and inform the driver of the decision to test, the steps that must be taken to accomplish the test, and the consequences of refusing the test. If possible, for post-accident and reasonable suspicion tests, the Company will have the DER or a supervisor accompany the employee to the collection site. In post-accident test situations occurring where the supervisor is not present, the Company will provide the driver with necessary post-accident information and instructions so that the driver will be able to comply with post-accident testing.

DOT Drug Violations

The Company may require a driver to inform the employer of any therapeutic drug use. The following provides a listing of DOT drug violations prohibited of drivers:

- A verified positive drug test result;
- A refusal to be tested, determined by:
 1. Having verified adulterated or substituted drug test result;

County Of Hutchinson

FMCSA Alcohol Misuse & Drug Prevention Policy

2. Failing to appear for any drug test within a reasonable time, as determined by the Company, after being directed to do so by the Company (This includes the failure of an Owner/Operator (self-employed driver) to appear for any drug test when called by a C/TPA);
 3. Failing to remain at the drug testing site until the testing process is complete;
 4. Failing to provide a urine specimen for any drug test;
 5. Failing to allow a directly observed or monitored collector in a drug test that requires such a collection procedure;
 6. Failing to provide sufficient amount of urine for a drug test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 7. Failing or declining to take an additional drug test the Company or collector has directed the employee to take;
 8. Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER;
 9. Failing to cooperate with any part of the testing process (e.g., refuse to empty pockets or wash hands when directed by the collector, behave in a confrontation way that disrupts the collection process, tampering with the specimen);
 10. For an observed collection, fail to follow the observer's instruction to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
 11. Possesses or wear a prosthetic or other device that could interfere with the collection process; or
 12. Admit to the collector or MRO that a specimen has been adulterated or substituted.
- On-duty use of any Schedule 1 controlled substance;
 - On-duty use of any non-Schedule 1 controlled substance that is identified in the other Schedules, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, and who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

DOT Alcohol Violations

Alcohol Violations: The following provides a listing of DOT alcohol violations prohibited of drivers:

- A test result of 0.04 or higher alcohol concentration;
- A refusal to be tested, determined by:
 1. Failing to appear for any alcohol test within a reasonable time, as determined by the Company, after being directed to do so by the Company (This includes the failure of an Owner/Operator (self-employed driver) to appear for any alcohol test when called by a C/TPA);
 2. Failing to remain at the alcohol testing site until the testing process is complete;
 3. Failing to provide an adequate amount of saliva or breath for an alcohol test;
 4. Failing to provide sufficient amount of breath for an alcohol test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 5. Failing to undergo a medical examination or evaluation, as directed by the DER;
 6. Failing to sign the certification statement on the Alcohol Testing Form; or
 7. Failing to cooperate with any part of the testing process.

- On-duty use of alcohol while performing covered functions;
- Pre-duty use of alcohol within four (4) hours prior to performing covered functions, or if the employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty;
- Use of alcohol within eight (8) hours following an accident in which the performance of covered functions has not been discounted by the Company as a contributing factor to the accident, unless the employee has already been given a post-accident alcohol test.

Additional Alcohol Conduct Requiring Company Action

A test result of 0.02 or greater alcohol concentration, but less than 0.04 is **prohibited conduct** of DOT covered drivers. This conduct does not require the employee to be evaluated by SAP.

The Company will not allow any driver to perform, or continue to perform, any function covered by Part 382 when the driver is found to have an alcohol concentration of 0.02, or higher, but less than 0.04. The Company may not use the driver in a safety-sensitive function until the start of the driver's next regularly scheduled shift, which must be not less than twenty-four (24) hours following the test that indicated an alcohol concentration of 0.02 or greater, but less than 0.04.

Violation Consequences and Company Actions

After DOT Rule Violations: The Company will not allow, permit or authorize any driver who has a DOT drug or alcohol violation to perform safety-sensitive duties for the Company. The Company will not allow, permit or authorize any driver to perform safety-sensitive duties for the Company if the Company has actual knowledge (see definition) that the driver has used drugs while reporting or remaining on duty or alcohol pre-duty, on-duty or within 8 hours prior to post-accident testing.

Company Actions: Immediately upon learning of the violation or obtaining actual knowledge of the violation, the DER shall assure the removal of the driver from all safety-sensitive duties. That driver will be ineligible to work in any DOT safety-sensitive function for the Company until the driver has successfully completed the DOT return-to-duty process. The Company will refer the driver to a Substance Abuse Professional (SAP) as soon as practicable after the verified violation or employer's actual knowledge report.

Drug and Alcohol Tests

Compliance: The Company will ensure that each driver will be drug and/or alcohol tested for the following reasons when called for by Part 382. All drug and alcohol tests will be conducted following the procedures of Part 40.

Pre-Employment: A pre-employment drug test will be conducted before an individual is hired or used to perform safety-sensitive functions. Pre-employment tests are also required of drivers returning from a leave of absence greater than 30 days who have not been participating in the Company's drug and alcohol program and subsequently subject to the random selection process. A negative DOT urine drug test result is required prior to performing safety-sensitive functions. DOT does not allow the use of a "quick test" or any other methodology other than laboratory-based urine testing.

FMCSA does not mandate a pre-employment alcohol test for drivers. FMCSA does give motor carriers who wish to conduct a pre-employment alcohol test the authority to do so. If the Company decides to conduct pre-employment alcohol testing, all applicants will be advised of the test prior to the test occurring, and all tests will be conducted before the first performance of safety-sensitive functions by every driver. The Company will treat all drivers the same for the purpose of pre-employment alcohol testing; the Company will not test some drivers and not others. The Company will conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the driver passing the pre-employment alcohol test. A result of less than 0.02 alcohol concentration is required prior to performing safety-sensitive functions.

Post-Accident Testing: The Company will conduct both a drug test and an alcohol test after an accident. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Company shall test for drugs and alcohol for each of its surviving drivers: (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved: (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. Table 1 notes when a post-accident test is required. A post-accident drug test shall be conducted on each driver as soon as possible but no later than 32 hours after the accident. A post-accident alcohol test shall be conducted on each driver as soon as possible but no later than 8 hours after the accident. The Company must take all reasonable steps to test the driver after an accident, but any injury should be treated first. The Company will not delay necessary medical attention for an injured driver following an accident, prohibit a driver 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.

A driver who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Company or Company's representative of their location if they leave the scene of the accident prior to submission to such test, may be deemed by the Company to have refused to submit to testing. Depending on the circumstances of the accident, and if feasible, the driver will not be allowed to perform safety-sensitive functions pending the results of the drug test.

In situations where an accident occurs away from the Company's principal place of business (e.g., "on the road") the responsibility of accomplishing the post-accident tests falls on the driver. The driver must immediately contact the Company, the DER, or other designated Company representation for information and instructions on how to get the test done.

Exception: All drug and alcohol testing under Part 382 and this Plan must conform to Part 40 standards, with one exception -- that being post-accident testing. In only a post-accident situation, the results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, meet the requirements of acceptable alcohol testing, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Company. Likewise, in only a post-accident situation, the results of a urine test for the use of drugs, conducted by Federal, State, or local officials having independent authority for the test, meet the requirements of acceptable drug testing, provided such tests conform to the applicable Federal,

State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

Post-accident Test Criteria

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

Table 1

Random Testing: The Company will conduct a number of random drug and alcohol tests each calendar year that meets or exceeds the current minimum annual percentage random testing rate set by the FMCSA Regulation each year. The Company may use the services of the C/TPA to manage all aspects of the Company's random testing program. If the Company conducts random testing through a C/TPA, the number of drivers to be tested may be calculated for each individual Company or may be based on the total number of drivers covered by the C/TPA who are subject to random testing.

All drivers will be immediately placed in a drug and alcohol random pool after obtaining a negative result on their pre-employment test. Drivers will remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing. The selection of drivers shall be made by using a computer-based, scientifically valid method (e.g., random number generator or equivalent random selection method) that is matched with a driver's social security number or driver ID number. The DER will assure the pools contain driver social security numbers or driver identification numbers that are current, complete, and correct. Drivers will have an equal chance of being selected for testing. Drivers are subject to both random alcohol and drug testing.

Random testing will occur on a quarterly basis. Prior to selection, the DER shall ensure that the random testing pool has been updated to include all current drivers in the Company's workforce. The number of tests to be conducted will be based on the number of drivers at the beginning of each quarter's test cycle. The DER, or C/TPA, shall use the random selection procedures to compile lists of drivers selected for drug and alcohol testing in each testing cycle. The number of drivers selected on each list shall be sufficient to assure that the minimum number of required tests can be achieved for both drugs and alcohol. The list of drivers selected will be retained by the DER in a secure location until the time of testing when the list will then be provided to the appropriate division manager, department head, or supervisor who will, in turn, notify the driver(s) to report for testing.

Random testing is unannounced, with drivers being notified that they have been selected for testing after they have reported for duty on the day of collection. All testing will be conducted on

different days of the week throughout each test cycle to prevent drivers from matching their substance use patterns to the schedule for testing.

Once notified by the appropriate Company official, drivers will be instructed to report immediately to the collection site.

Reasonable Suspicion/Cause Testing: The Company will conduct reasonable suspicion testing, also known as reasonable cause testing, based on the Company's observation of "signs and symptoms" of specific, contemporaneous, articulated observations concerning the appearance, behavior, speech, or body odors of the driver.

The supervisor making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion/cause test. This documentation of the driver's conduct shall be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier. Refer to the Reasonable Cause Checklist within your Drug/Alcohol manual. The driver will be tested for drugs if the supervisor believes the driver has violated the prohibitions of Part 382 and this Plan concerning drugs. The driver will be tested for alcohol if the supervisor believes the driver has violated the prohibitions of Part 382 and this Plan concerning alcohol. In situations where the supervisor is sure of the signs and symptoms but unsure of the substance, the driver will be tested for both drugs and alcohol. The potentially affected driver should not be allowed to proceed alone to or from the testing site. In addition to the safety concerns for the driver, accompanying the driver also assures that there is no opportunity en route to the testing site for the driver to compromise the test through any method of tampering that could affect the outcome of test result.

The driver shall not perform a safety-sensitive function pending the receipt of the drug test results. The driver should make arrangements to be transported home. The driver should be instructed not to drive any motor vehicle due to the reasonable belief that they may be under the influence of a drug. If the driver insists on driving, a supervisor should notify the proper local law enforcement authority that a driver believed to be under the influence of a drug or alcohol is leaving the Company premises driving a motor vehicle.

Return-to-Duty Testing: The Company will conduct a return-to-duty test prior to a driver returning to safety-sensitive duty following a DOT violation. When a driver has a DOT violation they cannot work again in any DOT safety-sensitive function until successfully completing the Substance Abuse Professional (SAP) return-to-duty requirements. Only after the SAP has reported to the Company that the driver is eligible to return to safety-sensitive duties is the Company authorized to return the driver to a safety-sensitive function. However, whether or not to do so is a business decision of the Company, not the DOT. When the Company makes the decision to return the driver to safety-sensitive duty, the Company will initiate the order for the return-to-duty test. All return-to-duty drug tests will be conducted using direct-observation collection procedures.

A return-to-duty test, as a minimum, will be for the substance associated with the violation. A return-to-duty test may, however, be for both drugs and alcohol. The decision belongs solely to the SAP from information gained during the SAP-evaluation/treatment processes. The results of a return-to-duty test must be negative for drugs and less than .02 for alcohol in order "to count" and allow the driver to return to work. A cancelled test must be recollected. A positive drug test, an alcohol test of .04 or higher, or a refusal-to-test will be considered as a new, separate

violation. When the driver “passes” his return-to-duty test, their name is immediately placed into the Company's random testing pool.

Follow-up Testing: The Company will conduct follow-up testing, as a series of tests that occur after a driver returns to safety-sensitive work, following a negative result on the return-to-duty drug and/or alcohol tests. Follow-up testing, as a minimum, will be for the substance associated with the violation. In addition, follow-up testing may be for both drugs and alcohol, as directed by the SAP's written follow-up testing plan.

Follow-up testing is the Company's responsibility to conduct. Follow-up testing will run concurrently with random testing. All follow-up drug tests will be conducted using direct-observation collection procedures. The results of a follow-up must be negative for drugs and less than .02 for alcohol. A cancelled test must be recollected. A positive drug test, an alcohol test of .04 or higher, or a refusal-to-test will be considered as a new, separate violation.

The number and frequency of the follow-up tests will be determined by the SAP, but shall consist of at least six tests in the first 12 months following the driver's return to duty. The follow-up plan will give both the number of tests and their frequency; the Company will select the actual day and time of the test and the tests are unannounced. Follow-up testing shall not exceed 60 months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.

DRUG PREVENTION PROGRAM REQUIREMENTS

Specimen Collection Procedures

Compliance: The Company will follow the requirements of Part 40 for its DOT collections. A full description of DOT collection requirements that collectors will follow can be found in Part 40, Subpart C (“Urine Collection Personnel”), Subpart D (“Collection Sites, Forms, Equipment and Supplies Used in a DOT Urine Collection”), and Subpart E (“Urine Specimen Collections”).

Collection Site Personnel: The Company will ensure that collection sites, utilized by its drivers, are aware of their responsibilities with regard to the DOT specimen collection process. These responsibilities are to collect urine specimens using Part 40 procedures, current “DOT Urine Specimen Collection Procedures Guidelines” and applicable DOT agency regulations, ship the specimens to a Department of Health and Human Services (HHS) certified laboratory for analysis, and distribute copies of the Federal Drug Testing Custody and Control Form (CCF) to the laboratory, Medical Review Officer, employer, and driver in a confidential manner. Collectors will complete requalification (refresher training) every five years.

All attempts are made to use collectors who have been trained in accordance with Part 40. The Company, or the Company's C/ TPA, will ask the collection sites conducting DOT collections to attest to the fact that they comply with DOT standards of practice. Any collection site that fails to attest to this goal will not be used by the Company for a DOT collection. The direct supervisor of a driver shall not serve as a collector in conducting any required drug test unless it is otherwise impracticable.

Collection Site, Forms, and Specimen: The Company will provide the driver with the specific location of the collection site where the drug test will take place. In most cases, the Company's C/TPA will provide the collection site with testing supplies (drug testing kit, CCF, shipping bag & label) shipped to the collection site from the laboratory. The Company will then, provide the driver (and collection site by fax/email) with an Authorization Form containing specific instructions along with the driver's CDL# & State of issuance. The only specimen that will be collected for any DOT collection is urine; the only form that will be used is the Federal CCF.

Collection Procedures: The Company will inform every driver that they are required to carry and present a current valid photo ID, such as a driver's license, passport, or employer-issued picture ID to the collection site, in which the collector will use to place the driver's CDL number & State of issuance Step 1 section C of CCF. The driver will be advised that the collector will ask them to empty their pockets, remove any unnecessary garments (the driver may retain their wallet), and wash and dry their hands prior to the collection. The driver will be instructed to follow the collector's instructions throughout the collection process.

After the driver has provided the specimen (a minimum of 45 mL) of their urine into a collection container, the collector will check the temperature and color of the urine. All DOT collections are "split specimen collections." The collector will pour the urine into two separate bottles (bottle "A" as the primary specimen and bottle "B" as split specimen), seal them with tamper-evident tape, and then ask the driver to initial the seals after they have been placed on the bottles. (Remember: Neither the driver nor the collector should let the specimen out of their sight until it has been poured into two separate bottles and sealed.) Next, the driver will write their name, date of birth, and daytime and evening phone numbers on the MRO Copy (Copy 2) of the CCF. This is so the MRO can contact the driver directly if any questions arise about their test.

Lastly, the collector will complete the necessary documentation on Copy 1 of the CCF and package the CCF and the two specimen bottles in the plastic bag and seal the bag for shipment to the laboratory. Copies of the CCF will be distributed: Copy 2 to the MRO and Copy 4 to the employer or the employer's C/TPA; the collector keeps Copy 3; and, the driver gets Copy 5. The driver may list any prescription and over-the-counter medications they may be taking on the back of their copy of the CCF (this may serve as a reminder for the driver in the event the MRO calls to discuss their test results).

Possible collection issues: If the driver is unable to provide 45 mL of urine on the first attempt, the time will be noted and the "insufficient specimen" discarded. The driver will be required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from their Company (e.g., supervisor accompanying the driver). Leaving the testing area without authorization may be considered a refusal to test. The driver will be urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours, and asked to provide a new specimen (into a new collection container). If the DER is contacted, the DER should instruct the driver to remain at the collection site to complete the collection process. If the driver does not provide a sufficient specimen within three hours, the DER, in consultation with the MRO, will direct the driver to obtain a medical evaluation within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If a donor's urine specimen is out-of-temperature range or shows signs of tampering, the collector will discard the specimen. The collector will then complete the remarks section of the CCF to indicate the fact that the employee provided an "out-of-temperature range specimen"

or "specimen shows signs of tampering" and the specimen has been discarded. The collector will distribute the CCF to the MRO, employer and donor (if remains available).

Directly observed collections: If a direct observation collection is required of the driver, the Company will ensure that the directly observed collection is conducted following all collection and direct observation procedures of Part 40 (i.e., direct observation by same-sex collector, observation of body-to-bottle urination, and use of full turn-around observation). All directly observed collections must be observed by a collector that is of the same sex as the donor. If there is no same-sex collector available, the Company may provide a Supervisor, DER, Manager, etc. (cannot be another employee) that is the same-sex as the donor. In this situation, the collector must provide instructions to the same-sex observer. These "observer instructions" MUST be the exact instructions that follow DOT's (Part 40) instructions when observing a collection. The observer's name (if different than the collector) must be written in the remarks section of the Custody and Control Form associated with the collection.

All return-to-duty and follow-up drug tests will be conducted using direct observation procedures.

Normally, the driver will be afforded privacy to provide a urine specimen for the remaining reasons to test (Pre-employment, Post-accident, Random & Reasonable cause/suspicion). Exceptions to the rule generally surround issues of a driver's attempt to adulterate a specimen or device or bag of "clean" urine found on his/her person during collection event. MRO may also request that a driver provide a specimen under direct observation during a review of a specimen previously provided by driver. The Company will explain to the employee the reason(s) why the collection is being conducted under direct observation.

Laboratory

Compliance. The Company will employ a laboratory that will follow the requirements of Part 40 for the Company's DOT drug tests. A full explanation of DOT drug testing requirements that the laboratory will follow is found in Part 40, Subpart F ("Drug Testing Laboratories").

The Company shall ensure that all DOT testing is conducted only by a laboratory that is certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP). Doing so ensures that the Company complies with the requirements of Part 40 and with all applicable requirements of HHS in testing DOT specimens, whether or not those requirements are explicitly stated in the Policy. The laboratory used by this Company is specified in Appendix C. The laboratory will report the certified results to the MRO and only to the MRO, at the address provided on the Federal CCF. Results will not be reported directly to the Company or to or through another service agent, such as the C/TPA.

Specimen: Drug tests other than on urine specimens are not authorized for testing under the DOT authority. Only urine specimens screened and confirmed at HHS certified laboratories are allowed for DOT drug testing. The Company will not use any other specimen (e.g., hair or saliva) for a DOT drug tests. The Company will not use urine point-of-collection testing (POCT), instant testing or "quick testing" (e.g., a urine test that produces an immediate test result) for any drug tests required under the DOT authority.

Drug Testing: The laboratory will ensure that, on each DOT test, each specimen is tested for *marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP)*. (See Table 2, next page)

The testing is a “two step” process: all presumptive positive results on the initial test must be confirmed by a confirmation test. The initial and the confirmation tests use different chemical principles, and separate portions of the original specimen, for testing. DOT specimens will not be tested for any other drugs or for any other testing purposes (i.e. DNA testing).

Validity Testing: The laboratory will ensure that, on each DOT test, each specimen is also subjected to “validity testing.” The purpose of validity testing is to determine if the employee tampered with their specimen during the collection process. Validity testing measures the creatinine concentration and specific gravity to detect a diluted or substituted specimen; pH is measured as one criterion established to detect an adulterated specimen. Validity testing also incorporates HHS criteria (used by DOT) in testing for specific adulterants such as nitrites, chromates, surfactants, and other active chemical compounds.

Laboratory specimen handling and reporting: When the laboratory receives a DOT specimen they will unpack and enter it into the testing process. Part of that process is to examine the condition of the specimen bottles and accompanying CCF. The laboratory will look closely for any specific reason to stop the testing process (i.e., “fatal flaws”). If the laboratory determines a fatal flaw exists, the specimen is rejected for testing. If a fatal flaw does not exist, the specimen will be tested. DOT specimens are limited to the following fatal flaws:

- There is no CCF;
- In cases where a specimen has been collected, there is no specimen submitted with the CCF;
- Two separate collections are performed using one CCF;
- Specimen ID numbers on the CCF and the bottles do not match;
- Not enough urine and the bottles cannot be re-designated;
- Signs of tampering and the bottles cannot be re-designated;
- Collector’s printed name and signature are missing.

The laboratory will open only the primary specimen (Bottle “A”) to conduct the two tests (initial and confirmatory). If the specimen tests negative in either test and does not have any specimen validity issues, the result will be reported to the MRO as a negative. Only if the specimen test results are positive, adulterated, substituted, and/or invalid under both tests will the specimen be reported to the MRO as a positive, adulterated, substituted, and/or invalid respectively. These results are also referred to as “non-negative” results.

Specimen retention: Specimens that are confirmed by the laboratory to be positive, adulterated, substituted, or invalid will be retained by the laboratory in properly secured, long-term, frozen storage for at least one year. Within the one year storage period, the MRO, the driver, the Company, FMCSA or other state agencies with jurisdiction, may request in writing that the specimens be retained for an additional period. If the laboratory has not complied with MRO’s request and sent the split specimen to another laboratory for testing, the laboratory must retain the split specimen for an employee’s test for the same period of time that the laboratory retains the primary specimen and under the same storage conditions.

Record retention: All laboratory records pertaining to any test for this Company on its covered employees will be retained for two years. The employer-specific data that is created by the laboratory for the laboratory statistical reporting will be retained for two years. Within the two year period, the MRO, employee, employer (Company), or a DOT agency may request in writing

that the records be retained for an additional period of time. If such a request is not received, the laboratory may discard the records at the end of the two year period.

Semi-annual reports: The laboratory will prepare and send to the Company the aggregate employer-specific summary on a semi-annual basis. The format for this report is found in Part 40, Appendix B.

MRO Review of Drug Test Results

Compliance: The Company will have, on staff or contract for the services of, an MRO who is a licensed physician with knowledge of drug abuse and is qualified under Part 40. In addition to initial qualification and training requirements having been met, the MRO will complete requalification and training (refresher training) every five years. The MRO will follow the requirements of Part 40 in carrying out the functions of the "independent and impartial gatekeeper of the drug testing process." A full description of DOT MRO requirements can be found in Part 40, Subpart G ("Medical Review Officers and the Verification Process"), and Subpart H (Split Specimen Testing).

Review of Laboratory Results: All confirmed drug test results for the Company are received by the MRO directly from the laboratory. The MRO is responsible for the review of both negative and non-negative test results, review of the CCFs associated with each test, and to conduct quality control reviews of the MRO staff. The MRO will review and interpret confirmed positive, adulterated, substituted, and invalid test results. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive, adulterated, substituted, or invalid test result. This action would include conducting a medical interview with the driver and review of the driver's medical history, or review of any other relevant biomedical factors, such as the results of a physical examination following an opioid positive. The MRO shall review medical records made available by the tested driver when the source of the confirmed result could have been from legally valid prescribed medication consistent with the Controlled Substance Act. The MRO shall not, however, consider the results of urine or other specimens that are not obtained or processed in accordance with DOT regulations.

Additional Duties: The MRO will act to investigate and correct problems where possible and notify appropriate parties (e.g., HHS, DOT, employers (Company), service agents) where assistance is needed (e.g., cancelled or problematic tests, incorrect results, etc). If the MRO determines that it is necessary, the MRO will request the laboratory to test for D and L stereoisomers of amphetamine and methamphetamine or testing for tetrahydrocannabivarin (THC-V) when reviewing results.

Assistant: The MRO will use staff under his direct supervision to handle administrative processes for negative test results including receiving the result from the laboratory, reviewing the paperwork for accuracy, and reporting of the result to the DER.

Results: The MRO staff may make the initial contact with drivers having confirmed positive, adulterated, substituted, and invalid test results, for the purposes of setting up an interview for the MRO. The MRO will personally conduct the interview with the driver to determine whether there is a legitimate medical explanation for these results. This interview will be conducted, in most cases, before the Company is notified. If the result is confirmed positive by the laboratory, and a legitimate medical explanation 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 confirmed result is

adulterated or substituted, and a legitimate medical explanation is established, the MRO will report the result to the DER as cancelled and notify ODAPC, in accordance with Part 40 procedures. If not, the MRO will report the result to the DER as a refusal to test. If the result is invalid, and an acceptable reason is established, the MRO will report the result to the DER as cancelled and the process will stop, unless a negative test result is needed (e.g., pre-employment, return-to-duty and follow-up). If an acceptable reason is not established, the MRO will report the result to the DER as cancelled and order an immediate recollection under direct observation.

Reports: All drug test results will be reported to the Company DER in a confidential and timely manner. Before reporting any results, the MRO will have received a copy of the CCF showing where the driver has signed the form. The time period from collecting the specimen to reporting the verified test result is generally shorter for negatives than for non-negatives. Non-negatives will not be reported to the DER until all information required for the employee interview is received and approved by the MRO. The MRO will transmit the report(s) of verified test results to the Company DER(s) within two days of verification by the MRO. The Company may use a C/TPA as its intermediary in receiving drug test results. If so, those reports will be handled in accordance with Part 40 requirements. If the MRO does not use Copy 2 of the CCF for reporting results, the MRO will maintain a copy of the signed or stamped report in addition to the signed or stamped and dated Copy 2. If the MRO uses an electronic data file to report negatives, the MRO will maintain a retrievable copy of that report in a format suitable for inspection and auditing by a DOT representative.

Split Specimen Testing

Split Specimen: When the MRO has verified a result as positive, adulterated, or substituted, the MRO will notify the driver of their right to have the split specimen tested. The driver must notify the MRO within 72 hours of the result being verified in order to have this testing conducted. If the driver requests that the split specimen be tested within the 72-hour period, the MRO will ensure that the split specimen is tested. Testing of the split specimen is only conducted at the request of the driver, and then only after using the MRO as the requesting agent for the driver. The MRO will select the second laboratory that is to conduct the split specimen test. The MRO will immediately provide written notice to the initial laboratory that conducted the primary specimen test, directing the laboratory to forward the split specimen to the second HHS certified laboratory. The MRO will document the date and time of the employee's request.

The Company is responsible for making sure that the MRO, first laboratory, and second laboratory perform the functions noted in Part 40 in a timely manner, once the driver has made a timely request for a test of the split specimen (e.g., by establishing appropriate accounts with laboratories for testing split specimens).

The Company must not condition compliance with these requirements on the driver's direct payment to the MRO or laboratory or the driver's agreement for reimbursement of the costs of testing. For example, if the Company's asks the driver to pay for some or all of the cost of testing the split specimen, and the driver is unwilling or unable to do so, the Company must ensure that the test takes place in a timely manner, which means that the Company will pay for the split testing. The Company may seek payment or reimbursement of all or part of the cost of the split specimen from the driver. Part 40 takes no position on who ultimately pays the cost of

the test, so long as the Company ensures that the testing is conducted as required and the results released appropriately.

Laboratory: The testing of the split specimen will be conducted at a MRO selected HHS-certified laboratory, different from the original laboratory. The Company will select the second laboratory. The split specimen will be tested for the same substance or condition that was found in the primary specimen. The MRO will report back to the DER and the driver whether the split reconfirms the primary. If the test of the split does not reconfirm the primary, both tests will be cancelled as if they never occurred.

Medical or Recreational Marijuana

The DOT nor the Company accommodates for the use of medical or recreational marijuana by DOT-covered employees.

ALCOHOL PREVENTION PROGRAM REQUIREMENTS

Training and Supply Requirements

Compliance: The Company will follow Part 40 procedures for alcohol testing. A full description of DOT alcohol testing requirements can be found in Part 40, Subpart J--Alcohol Testing Personnel; Subpart K--Testing Sites, Forms, Equipment and Supplies Used in Alcohol Subpart N--Problems in Alcohol Testing; Subpart L ("Alcohol Screening Tests"); Subpart M ("Alcohol Confirmation Tests"); and, Subpart N ("Problems in Alcohol Testing"). These procedures apply to all DOT alcohol tests regardless of the reason for the test.

Alcohol Testing Personnel: The Company will only use qualified Screening Test Technicians (STT) or Breath Alcohol Technicians (BAT) for DOT alcohol tests who have completed DOT required training/certification and maintains DOT required training/certification every five years (refresher training). STTs and BATs are responsible to maintain their own verification documentation and will make it available to the Company on request. A supervisor of an employee may not be used to conduct a reasonable suspicion/cause test if that supervisor was the one who made the determination to test.

Alcohol Testing Devices: Only EBTs and ASDs listed on the National Highway Traffic Safety Administration (NHTSA), an agency of DOT, and placed on ODAPC's Web page for, "Approved Screening Devices to Measure Alcohol in Bodily Fluids" and EBTs for "Approved Evidential Breath Measurement Devices"⁸ will be used for DOT alcohol testing. Only an EBT must be used for conducting the confirmation alcohol tests. The EBT manufacturer's specified Quality Assurance Plan (QAP) and instructions will be followed for all EBTs and ASDs used by the Company. It is the responsibility of the testing sites used by the Company to carry out these procedures for the Company.

Testing Site, Forms, and Specimen: The Company will provide the driver with the specific location where the test will take place along with time/date driver to appear for testing, usually an Authorization Form completed. The Authorization Form will also contain the employer's

⁸ Office of Drug & Alcohol Policy & Compliance (ODAPC) web page "(<http://www.transportation.gov/odapc>)".

name, address and USDOT number and be sent to the testing facility as well. The testing site will ensure visual and aural privacy to the employee being tested to prevent unauthorized persons from seeing or hearing test results. The site will have the necessary personnel, materials, equipment (including a suitable clean surface for writing) and facilities to provide for the collection and analysis of breath and/or saliva samples. Only the DOT-approved Alcohol Testing Form (ATF) will be used for alcohol tests conducted on covered drivers. The site will be able to prevent unauthorized persons from entering the testing area while conducting alcohol tests. The site will also ensure that the EBT is stored in a secure place when not being used for testing. Tests will be conducted on only one employee at a time.

Screening Test Procedures

Alcohol Screening Test: The Company will inform the driver that they are required to carry and present a current valid picture ID, such as a driver's license, passport, or employer-issued picture ID to the testing site, which the testing technician will use to provide driver's CDL number and State of issuance in Step 1 Section B of ATF. If the employee has a designated testing date and time, as provided on the Authorization Form previously sent to the testing facility, and the employee does not appear, the BAT/STT will notify the DER. Testing will begin without undue delay upon the employee's arrival to the testing facility. Alcohol tests, if required, will be given prior to a drug test. The BAT/STT shall explain the testing process to the employee, including showing the employee the instructions of the back of the ATF. The ATF will be completed by the technician and the employee will be asked to sign Step 2 of the ATF. Failure to sign Step 2 of the ATF is a refusal to test.

- **EBT Screening Test:** The BAT will select, or allow the employee to select, an individually wrapped and sealed mouthpiece. The BAT will insert the mouthpiece in the EBT according to the manufacturer's instructions. The employee will be instructed to blow steadily and forcefully into the mouthpiece for about six seconds or until the device indicates that an adequate amount of breath is obtained by EBT. The employee will be shown the EBT displayed test result.
- **ASD Screening Test:** It is not the intent of the Company to use an ASD for alcohol tests. However, the Company recognized the necessity to use an ASD when an EBT is not available for alcohol screen tests. In those cases, the STT/BAT will follow the manufacturer's instructions and only use a device that has been under their control. The ASD may be either a saliva device or a breath tube. A device will not be used after its expiration date. The expiration date will be shown to the employee. The device will be opened in the presence of the employee. While wearing (newly unused) single-use examination gloves, the technician (or employee) will insert the ASD into the employee's mouth and gather a saliva sample according to manufacturer's instructions. The technician will assure that the device is properly activated and allow for the correct amount of time to elapse before reading the result. If problems occur with the device (i.e. does not activate or is dropped on the floor), it is to be discarded and a new test will be conducted using a new device that. The technician will note on the ATF, the reason for the new test. If next ASD fails to work properly, the technician will direct the employee to take a screen test immediately using an EBT. Devices, swabs, gloves or other materials previously in a saliva/breath tube test will not be used in subsequent tests.

Screen Test Result: If conducted using an EBT, the BAT will provide test result and pertinent information on ATF either by affixing printed EBT result using evidential tape or by handwriting

directly onto ATF. If conducted using an ASD, the technician must handwrite the result and pertinent information directly onto the ATF.

Less than 0.02 alcohol concentration: The result of the screening test result has an alcohol concentration that is less than 0.02 for EBT or “negative” for ASD, the technician will: 1) provide the driver the “employee copy” of the ATF; 2) transmit the result to the DER (by sending “employer copy” of ATF; and 3) conclude the test without further testing.

0.02 or higher alcohol concentration: The screening test result has an alcohol concentration that is 0.02 or greater for EBT or “not negative” for ASD, the driver will be required to take a second alcohol test, called a “Confirmation Test”, which can only be administered by a BAT using an EBT.

- If the technician whom conducted the screening test is a BAT and will be conducting the confirmation test, the BAT will proceed with the confirmation test according to test procedures as described below and in §40.251;
- If the STT whom conducted the screening test is not a BAT, but the confirmation test will be conducted at the same testing facility, the STT is to note in “remarks” line of ATF, the different BAT to complete the confirmation test, complete / date / sign Step 3 of ATF, direct the employee to take a confirmation test, notify a BAT immediately, within the same facility, to conduct the confirmation alcohol test; or
- If the confirmation alcohol test will be conducted at a different testing facility, the technician who conducted the screening test is to advise the employee not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee’s mouth, or belch, during the 15-minute waiting period until the confirmation test occurs, that following these instructions is to the employee’s benefit and the confirmation test will commence regardless if instructions followed. Note in the “Remarks” line of ATF that these instructions were given to employee and that the confirmation test will be conducted at a different facility. Screening test technician will also complete, date and sign Step 3 of ATF and provide the employee with the “donor” copy. Ensure that employee is accompanied to confirmation testing facility with a copy of the screening test ATF (DER is given the “employer copy” of ATF) and is directed to arrive at testing facility for the confirmation test to be conducted within 30 minutes from the time the “15-minute waiting” instructions were given. The employee will be directed not to attempt to drive a motor vehicle to the testing site that will conduct the confirmation test.

Confirmation Test Procedures

Confirmation Alcohol Test: The BAT will advise the employee not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee’s mouth, or belch, that following these instructions is to the employee’s benefit and the confirmation test will commence regardless if instructions followed. If becoming aware that the employee did not follow these instructions, note this in the “Remarks” line of the ATF. Ensure that the time since the screening test has been at least 15 minutes before beginning the confirmation alcohol test. If the screening test was conducted as a different location, the time of transit between sites counts toward the waiting period if the technician who conducted the screening test provided the “15-minute waiting” instructions. If the BAT cannot confirm (using the ATF of screening test) that the waiting instructions were provided to the employee, the BAT must carry out the waiting period requirement before beginning the confirmation test. The BAT must use a new ATF and document in the “Remarks” line that a different technician (BAT or STT) conducted the screening test.

After at least 15 minutes, but before 30 minutes lapses from the time the screen test ended, the BAT must begin the confirmation test. If 30 minutes passes before conducting the confirmation test, the BAT must document this lapse in the "Remarks" line of the ATF and continue the confirmation test. The BAT will complete Step 1 and direct the employee to sign and date Step 2 of the ATF. Failure to sign Step 2 of the ATF is a refusal to test. The BAT will perform an "air blank" (which must read 0.00) on the EBT in the presence of the employee. A new sealed and individually wrapped mouthpiece is selected (by BAT or employee) and inserted into EBT by the BAT. As instructed by BAT, the driver is to blow steadily and forcefully into the mouthpiece for about six seconds or until the device indicates that an adequate amount of breath has been obtained. Confirmation test results will be shown to the employee directly from device.

Confirmation Alcohol Result: Confirmation test results must be printed (3 copies) for the BAT to affix to each copy of the ATF using either tamper-evident self-adhesive label or tamper-evident tape. If the alcohol confirmation test result is lower than 0.02, no further testing is required of the employee. If the test is invalid, tell the employee the test is cancelled, note the problem in the "Remarks" section of the ATF & conduct a re-test, if practicable. If the confirmation alcohol test result is 0.02 or greater, the BAT will instruct the employee to sign and date Step 4 of the ATF. If the donor refuses or fails to sign Step 4 of the ATF, this is not a refusal to test, but the failure/refusal must be documented in the "Remarks" section of the ATF.

Alcohol Test Completion: The STT/BAT must complete, date and sign Step 3 of the ATF. STT/BAT must provide the "donor" copy of the ATF to the driver (in person and upon completion) and the "employer" copy to the Company's DER in a confidential manner. If the confirmation test result is 0.02 or greater, the BAT must immediately notify the Company's DER by any means (e.g. telephone or secure fax) that ensures the result is immediately received by the Company's DER. These 0.02 or greater results must not be transmitted through C/TPA or other service agents. If the initial notification of 0.02 or greater results are made to DER by telephone, the BAT must follow up with the transmission of the results on the "employer" copy of the ATF.

Problems in Alcohol Testing

Insufficient Breath Sample: In situations where an employee is unable to provide sufficient saliva to complete a screening test using an ASD, the Company will ensure that the employee takes a breath test immediately using an EBT. In situations where an employee is unable to provide sufficient breath to complete a test, the employee will be sent for an evaluation, within five business days, by a licensed physician who is acceptable to the Company. The physician will have expertise in the medical issues raised by the employee's failure to provide a breath specimen, as well as be apprised of the consequences of the appropriate DOT agency regulation for refusing to take the required alcohol test. The physician will provide the Company with a signed statement of his/her conclusion. If it is the reasonable medical judgment of the physician, that a medical condition has, or with a high degree of probability could have, precluded the employee from providing sufficient breath, the test will be canceled by the Company. If there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing sufficient breath, this constitutes a refusal to test.

Canceling an Alcohol Test: The Company will ensure that an alcohol test is canceled if a fatal flaw occurs. Fatal flaws are:

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- The STT/BAT reads the result of an ASD either sooner than or later than the time allotted by the manufacturer;
- The saliva ASD does not activate;
- The ASD is used for a test after its expiration date;
- The sequential test number or alcohol concentration displayed on EBT is not the same as the sequential test number or alcohol concentration on the printed result;
- Confirmation alcohol test is conducted before the end of the minimum 15-minute waiting period;
- An air blank is not conducted on an EBT before the confirmation test;
- An air blank result on an EBT is not a 0.00;
- The EBT does not print the confirmation test result;
- After a confirmation test on an EBT, the next external calibration check of the EBT produces a result that differs by more than the manufacturer's QAP tolerance from the known value of the test standard used. (In this case, every result of 0.02 or above obtained on the EBT since the last valid external calibration check is canceled.);

The Company will ensure that an alcohol test is canceled if a correctable flaw occurs and is not corrected. Correctable flaws are:

- The BAT/STT does not sign the ATF (Step 3);
- The BAT fails to document in the "Remarks" line of the ATF that the employee failed/refused to sign the ATF (Step 4) after the positive confirmation test result is obtained; and
- The BAT/STT uses a non-DOT / non-regulated ATF for the test.

Corrected Alcohol Problems: The Company will ensure that BATs/STTs will try to successfully complete each alcohol test for an employee. If they become aware of the problem that causes the test to be canceled, they will try to correct the problem promptly, if practicable. Repeating the test is an acceptable part of this process. If repeating the testing process is necessary, a new test, using a new ATF and new device, must begin as soon as possible. If repeating the testing process is necessary, the technician is not limited in the number of attempts to complete the test, provided that the employee is making a good faith effort to comply with the testing process. If another testing device is not available for the new test at the testing site, the technician will immediately notify the DER that the test could not be completed. The DER will make all reasonable efforts to ensure that the test is conducted at another testing site as soon as possible.

If the Company, its C/TPA or the testing facility becomes aware of a correctable flaw that has not been corrected, all practicable action will be taken to correct the problem so that the test is not cancelled. If the problem resulted from the omission of required information, the person responsible for providing the information must supply the missing information in a written and signed statement that it is true and accurate.

If the problem is the use of a non-DOT ATF, the technician must, as the person responsible for the use of the incorrect form, certify in a written and signed statement that the incorrect ATF contains all the information needed for a valid DOT alcohol test. The statement must also indicate that the incorrect ATF was used inadvertently or as the only means of conducting a test, in circumstances beyond the technician's control as well as efforts to prevent future use of non-DOT ATFs for DOT tests. The technician must supply this information on the same

business day on which the technician was notified of the problem, transmitting it by fax, e-mail or courier.

TESTING PROGRAM ELEMENTS

Substance Abuse Professional

Compliance: The Company will follow the requirements of Part 40 for its Substance Abuse Professional (SAP) obligations. A full description of the SAP requirements is in Part 40, Subpart O ("Substance Abuse Professionals and the Return-to-Duty Process").

Qualifications/Training: The Company will refer drivers only to SAP's who have the credentials, basic knowledge, and qualification training, including fulfilling obligations for continuing education courses, for DOT violations and subscribe to ODAPC's list-serve. The SAP will not be an advocate for the Company or the driver. The SAP's function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.

SAP Referral: The Company will provide to each driver who violates a DOT drug and alcohol regulation a listing of SAP's readily available to the driver and acceptable to the Company. The list will include SAP names, addresses, and telephone numbers and be provided by SAP Referral Services, LLC, located at 9723 Harford Road; Baltimore, MD 21234 with phone number of (888) 720-7277. The Company will not be responsible for the decision of which SAP will conduct the evaluation. There will not be a charge to the driver for compiling or providing this SAP list. The Company may use its C/TPA or other service agent to provide this information. Any driver who has violated DOT drug and alcohol regulations cannot again perform any DOT safety-sensitive duties for this Company until and unless the driver successfully completes the SAP evaluation, referral, and education/treatment process.

SAP Choice and Payment: The employee/driver has the responsibility to choose, from the provided referral list, which SAP is to conduct the employee/driver evaluation. The Company is not required to pay for the SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation.

Company Responsibility: The Company is only bound by DOT to ensure that if the driver is provided an opportunity to return to a DOT safety-sensitive duty following a violation, that the Company ensure that the driver receives an evaluation by a SAP meeting the requirements of Part 40 and that the driver successfully complies with the SAP's evaluation recommendations before returning to the safety-sensitive job. Even if SAP believes that the driver is ready to return to safety-sensitive work, the Company is under no obligation to return the driver to work. Under the DOT regulations, hiring and reinstatement decisions are left to the employer. The DOT leaves all payment issues for SAP evaluations and services to the Company and the driver to resolve.

SAP Process: The SAP will make a face-to-face clinical assessment and evaluation to determine what assistance is needed by the driver to resolve problems associated with alcohol and/or drug use. The SAP will refer the driver to an appropriate education and/or treatment program. At the completion of the education and/or treatment, the SAP will conduct a face-to-

face follow-up evaluation to determine if the driver actively participated in the education and/or treatment program and demonstrated successful compliance with the initial assessment and evaluation recommendations. Reports will be provided to the Company on both the initial requirements and the outcome of the follow-up evaluation. The report will be specific and will include all of the Part 40 requirements of a written SAP report. The SAP will provide the DER with a written follow-up drug and/or alcohol testing plan for the driver and, if deemed necessary, will also provide the driver and the Company with recommendations for continuing education and/or treatment.

Employee Assistance Program

The Company will provide an Employee Assistance Program (EAP) for its drivers and supervisors. The EAP may be established "in house," as part of internal personnel service or may be contracted to an entity that provides EAP services at other locations. The function of the EAP will be to provide drivers with informational material on the awareness and danger of drug and alcohol use. General EAP-information material, such as the availability of brochures or videos, and community service "hotline" telephone numbers will be displayed in common areas and distributed to drivers. Drivers will be encouraged to call the hotline if needed. Additionally, this Plan will be displayed and made available to all drivers. The Plan contains the employer's policy regarding the use of prohibited drugs and alcohol misuse. The areas and places in which the above material will be displayed include employee bulletin boards, break rooms, locker rooms, or other areas designated by the Company.

Employee Admission of Use: Drivers who admit to drug use or alcohol misuse are not subject to the referral, evaluation and treatment requirements of Part 382, Part 40, and the Plan, provided that: (1) The admission is in accordance with a written Company-established voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section; (2) The driver does not self-identify in order to avoid testing; (3) The driver makes the admission of drug use or alcohol misuse prior to performing a safety-sensitive function (i.e., prior to reporting for duty); and (4) The driver does not perform a safety-sensitive function until the Company is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

A qualified voluntary self-identification program or policy will contain the following elements: (1) The Company will not take adverse action against a driver making a voluntary admission of drug use or alcohol misuse within the parameters of the program or policy and paragraph (a) of this section; (2) The Company will allow the driver sufficient opportunity to seek evaluation, education or treatment to establish control over the driver's drug or alcohol problem; (3) The Company will permit the driver to return to safety-sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor; (4) The Company will ensure that: (i) Prior to the driver participating in a safety-sensitive function, the driver shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or (ii) Prior to the driver participating in a safety sensitive function, the driver shall undergo a return to duty drug test with a verified negative test result; and (5) The Company may incorporate driver monitoring and include non DOT follow-up testing.

Supervisor Training

Each supervisor who will determine whether a driver must be drug tested and/or alcohol tested based on reasonable suspicion/cause will be trained in the "signs and symptoms" of each substance. Each supervisor will receive one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable *drug* use and one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable alcohol use. The two 60-minute training periods may run concurrently.

Recordkeeping

Compliance: The Company will ensure that all DOT confidential records be retained using a locked file system in a location with controlled access to be provided only on a strict "need to know" basis. The Company is not required to keep records related to a program requirement that does not apply to the Company (Part 40 or 382 requirement).

Records and Retention Periods: The Company or its C/TPA will maintain the following records, including any additional documentation for the event, for the noted time periods:

Records kept for five years:

- Alcohol test results indicating 0.02 or greater alcohol concentration;
- Calibration of EBTs;
- Verified positive drug test results;
- Refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
- SAP evaluation, referrals and return-to-duty process completion;
- Follow-up test results, schedules and completion of schedules prescribed by SAP;
- Each annual calendar year summary required by FMCSA, entitled, "Management Information System"; and
- Documents related to the administration of the drug/alcohol testing program, including records of all driver violations.

Records kept for three years (as a minimum):

- Information obtained from previous employers under Part §40.25 concerning drug/alcohol test results of drivers.

Records kept for two years:

- Drug collection process; and
- Alcohol testing process (i.e., inspection & maintenance) – not including EBT calibrations.

Records kept for one year:

- Negative and cancelled drug test results;
- Alcohol test results with less than 0.02 alcohol concentration.

Records kept indefinitely during & 2 years thereafter ceasing performance of function:

Education and training of individuals with the following job function(s):

- Breath Alcohol Technicians (BAT);
- Screening Test Technicians (STT);

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- Supervisors of Company with DOT Supervisor Education Certification; and
- Employees/Drivers' signed Receipt of DOT Education Packet.

Types of Records: The Company or its C/TPA will maintain the following specific types of records. Document items below that begin with "Documents generated", means that the document may have to be prepared under a requirement of FMCSA. If the record is required to be prepared, it must be maintained.

Requests for Records:

Third Parties: The Company will not release any employee's drug/alcohol records to third parties without the employee's specific written consent. A "third party" is any person or organization to whom Parts 40 or 382 do not explicitly authorize or require the transmission of information in the course of the drug and alcohol testing process. "Specific written consent", means a statement signed by the employee that he or she agrees to the release of particular information as specified to a particular, explicitly identified, person or organization at a particular time.

Government and Legal: The Company or its C/TPA will release the employee's information without consent to DOT, FMCSA, or other government agency having regulatory authority over the Company (or an employee) without consent. The Company or its C/TPA will release the employee's information without consent as a part of an accident investigation by the National Transportation Safety Board. The Company or its C/TPA will release the employee's information without consent in certain legal proceedings. These proceedings include a lawsuit, grievance, administrative proceeding (e.g., an unemployment compensation hearing brought by or on behalf of a driver resulting from a positive drug or alcohol test or refusal to test), a criminal or civil action resulting from a driver's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the Company to produce the information. In such a proceeding the information will be released to the decision maker in the proceeding with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding. After releasing the information, the Company will notify the driver.

Audits and Auditors: If the Company uses a C/TPA to maintain the records, the Company will ensure that the C/TPA can produce these records at the Company's principal place of business in the time required by the DOT agency for an inspection. The records will be provided by the C/TPA within two business days after receipt of the request from the Company. The Company will ensure that the records are easily accessible, legible, formatted and stored in an organized manner. If electronic records do not meet these criteria for the DOT inspector, the Company will convert them to printed documentation in a rapid and readily auditable manner, at the request of DOT agency personnel.

Driver / Employee: All drivers have the right to request and obtain copies of any records pertaining to the driver's use of alcohol and/or drugs, including records of the driver's DOT-mandated drug and/or alcohol tests, and copies of SAP reports. Requests for records must be made in writing to the Company's DER. A laboratory must provide, within 10 business days of receiving a written request from a driver, and made through the MRO, the records relating to the results of the driver's drug test (i.e., laboratory report and data package). Service agents providing records may charge no more than the cost of preparation and reproduction for copies

of these records. The evaluating SAP must redact follow-up testing information from the report before providing it to the driver.

Management Information System (MIS)

Compliance: The Company will prepare and maintain the DOT Management Information System (MIS) report for its drug and alcohol testing program. If the Company uses a C/TPA, the C/TPA may prepare and maintain the MIS, reporting the MIS as the Company requires. The DER will certify each report submitted by a C/TPA for accuracy and completeness. If required by FMCSA, the MIS report will be submitted electronically through the DAMIS portal. The C/TPA may report the MIS information to DAMIS if requested by the Company. However, the Company must submit the report by signing electronically through DAMIS.

DRUG AND ALCOHOL CLEARINGHOUSE REQUIREMENTS

Company Query Requirements

The purpose of the Clearinghouse queries is to ensure that drivers who commit a drug or alcohol violation while working for another employer or attempting to find work with another employer do not continue performing covered functions without complying with the return-to-duty process.

Pre-employment Query Required (§382.701 (a)(1)): The Company will not employ a driver subject to drug and alcohol testing requirements to perform a FMCSA covered function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has any of the following violations reported:

- Verified positive, adulterated or substituted drug test result;
- Alcohol confirmation test with concentration of 0.04 or higher;
- Refused to submit to any drug or alcohol test required under this policy;
- An employer reported actual knowledge (see Definitions), including: 1) information provided by the driver's previous employer(s), 2) a traffic citation for driving a CMV while under the influence of alcohol or controlled substances; or 3) an employee's admission of alcohol or controlled substance use
- Employer actual knowledge that driver used alcohol while on duty, 4 hours before duty or within 8 hours after an accident if no post-accident testing conducted.
- Employer actual knowledge that driver used drugs while on duty.

"Full" Query: The Company will conduct a "full" query, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent. §382.701(a)(2)

Annual Query Required: The Company will conduct a query of the Clearinghouse at least once per year for information for all its drivers subject to drug and alcohol testing under this policy to determine whether information exists in the Clearinghouse about those drivers. §382.701(b)(1)

“Limited” Query: In lieu of a “full” query, the Company may obtain the individual driver's consent to conduct a “limited” query to satisfy the annual query requirement. The “limited” query will tell the Company whether there is information about the individual driver in the Clearinghouse. However, the information will not be released to the Company. The individual driver may give consent to conduct “limited” queries that is effective for more than one year. §382.701(b)(2)

“Full” Query: If the “limited” query shows that information exists in the Clearinghouse about the individual driver, the Company will conduct a “full” query, within 24 hours of conducting the “limited” query. If the Company fails to conduct a “full” query within 24 hours, the Company will not allow the driver to continue to perform any covered function until the Company conducts the “full” query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined below. §382.701(b)(3)

Company Notification: If any violations, listed under “Pre-employment Query Required” are entered into the Clearinghouse about a driver during the 30-day period immediately following the Company conducting a query of that driver's records, FMCSA will notify the Company. §382.701(c)

Prohibitions: §382.701(d) The Company will not allow a driver to perform any covered function if the results of a Clearinghouse query demonstrate that the driver has any of the following:

- Verified positive, adulterated or substituted drug test result;
- Alcohol confirmation test with concentration of 0.04 or higher;
- Refused to submit to any drug or alcohol test required under this policy;
- An employer reported actual knowledge (see Definitions), including: 1) information provided by the driver's previous employer(s), 2) a traffic citation for driving a CMV while under the influence of alcohol or controlled substances; or 3) an employee's admission of alcohol or controlled substance use
- Employer actual knowledge that driver used alcohol while on duty, 4 hours before duty or within 8 hours after an accident if no post-accident testing conducted
- Employer actual knowledge that driver used drugs while on duty.

Exceptions: The Company will allow a driver to perform covered functions if a query of the Clearinghouse also demonstrates:

- Driver has successfully completed the SAP evaluation, referral, and education/treatment process according to Part 40 (See SAP Process);
- Driver has achieved a negative return-to-duty test result; and
- One of the following:
 1. Driver has completed the follow-up testing plan prescribed by the SAP; or
 2. Driver has NOT completed the follow-up testing plan prescribed by the SAP and the Company assumes the responsibility for managing the follow-up testing process associated with the testing violation.

If the Company assumes the responsibility for managing the follow-up testing process associated with the testing violation, the Company must request the follow-up testing plan from the previous employer pursuant to §40.25 (b)(5), which is described in the “History-Check Requirement” section of this Policy. The duration of follow-up testing and the number and type of follow-up tests prescribed by the SAP will not be reported to the Clearinghouse. In cases where the driver, who is subject to follow-up testing, is not currently employed, the gaining

employer may obtain the driver's follow-up testing plan from the SAP, whose contact information will be available in the Clearinghouse.

Query Information Recordkeeping: The Company will retain, for 3 years, a record of each query and all information received in the response to each query made under this policy. As of January 6, 2023, the Company fulfills this requirement by maintaining its Clearinghouse registration as required. §382.701(e)

Driver Consent to Query

The Company will not query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The Company will retain the consent(s) for 3 years from the date of the last query. §382.703(a)

Consent for Specific Records

Before the Company accesses information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the Company access to the following specific records §382.703(b):

- Verified positive, adulterated, or substituted drug test result;
- An Alcohol confirmation test with a concentration of 0.04 or higher;
- A Refusal to submit to a test under Part 382, including: Pre-employment (drug only), Post-accident, Random, Reasonable suspicion/cause, return-to-duty or follow-up;
- An employer's report of actual knowledge, as defined (see definitions) for any of the following:
 1. On-duty use of alcohol;
 2. Pre-duty use of alcohol (within 4 hours);
 3. Alcohol use within 8 hours following an accident (if post-accident testing not complete);
 4. On-duty use of drugs.
- A SAP report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and
- An employer's report of follow-up testing (schedule) completion.

The Company will not permit a driver to perform a covered function if the driver refuses to grant either consent required above (for "limited" or for specific records of "full" query). §382.703(c)

"Full" Query Consent: A driver granting ("Full" Query) consent must provide consent electronically to FMCSA through the Clearinghouse prior to release of information to the Company. A driver granting consent grants consent for FMCSA to release information to an employer in accordance with the Prohibitions stated within this policy. §382.703(d) & (e)

Reporting Requirements

Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he/she knows or should know is false or inaccurate. §382.705(e)

Medical Review Officers (MRO) Reporting Requirements

Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse: §382.705(a)(1)

- Verified positive, adulterated or substituted drug test result;
- MRO involved Refusal to be drug tested, determined by:
 1. Failing to provide a sufficient amount of urine for a drug test when directed, and it has been determined, through medical evaluation, that there was no adequate medical explanation for the failure;
 2. Failing or declining to take an additional drug test the MRO has directed the employee to take;
 3. Failing to undergo a medical examination or evaluation, as directed by the MRO, as part of the verification process;
 4. Failing to cooperate with any part of the testing process (refuses to referral evaluating physician in “shy bladder” claim or validity testing situation); or
 5. Admit to MRO that a specimen has been adulterated or substituted.

Information MRO Provides to Clearinghouse: MRO must provide the following information for each drug test result specified above: §382.705(a)(2)

- Test Reason;
- Federal Drug Testing Custody and Control Form (CCF) specimen ID number;
- Driver’s name, date of birth, and CDL number with State of issuance;
- Employer’s name, address, and USDOT number (if available);
- Test date;
- Date test was verified; and
- Test result. Must be one of the following:
 1. Positive (include the controlled substance(s) identified);
 2. Refusal (Adulterated);
 3. Refusal (Substituted); or
 4. Refusal (Shy Bladder without medical explanation or refuse to undergo medical examination).

MRO Result Changes: Within 1 business day of making any change to the results report (above), a MRO must report that changed result to the Clearinghouse. §382.705(a)(3)

Company Reporting Requirements

Test Result Reporting: The Company will report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information: §382.705(b)(1)

- An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- Negative return-to-duty test result(s);
- A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report, according to Part 40;
- Refusal to take an alcohol test violation (include the following):

1. Failing to appear for any alcohol test within reasonable time, as determined by the Company, after being directed to do so by the Company;
 2. Failing to remain at the alcohol testing site until the testing process is complete;
 3. Failing to provide an adequate amount of saliva or breath for an alcohol test;
 4. Failing to provide a sufficient amount of breath for an alcohol test when directed and it has been determined, through required medical evaluation, that there was no adequate medical explanation for the failure;
 5. Failing to undergo a medical examination or evaluation, as directed by the DER;
 6. Failing to sign the certification statement (Step 2) on the Alcohol Testing Form (ATF); or
 7. Failing to cooperate with any part of the testing process (including refusal to BAT or an STT conducting the test).
- Refusal to take drug test (*MRO not determined*) include following:
 1. Failing to appear for any drug test within a reasonable time, as determined by the Company, after being directed to do so by the Company;
 2. Failing to remain at the drug collection site until the testing collection is complete;
 3. Failing to provide a urine specimen for any drug test;
 4. Failing to allow a directly observed or monitored collection in a drug test that requires such a collection procedure;
 5. Failing or declining to take an additional drug test the Company or collector has directed the employee to take;
 6. Failing to cooperate with any part of the collection process (e.g., refuse to empty pockets, failure to wash hands when so directed by the collector or behave in a confrontational way that disrupts the collection process);
 7. For an observed collection, fail to follow the observer's instructions to raise clothing above waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
 8. Possess or wear a prosthetic or other device that could interfere with the collection process;
 9. Admit to the collector that the employee adulterated or substituted a specimen.

Test Result Information Required (above Reports): The Company will report the following information required to be reported on above, as applicable: §382.705(b)(2)

10. Reason for the test;
11. Driver's name, date of birth, and CDL number and State of issuance;
12. Company Name, address, and USDOT number;
13. Date of the test;
14. Date the result was reported; and
15. Test result, which must be one of the following:
 1. Negative (only if reporting return-to-duty tests administered by SAP prescribed);
 2. Positive; or
 3. Refusal to take a test

Refusal "Failure to Appear": For each report of a Refusal for "Failure to Appear" violation (as described above), the Company or C/TPA will report the following additional information (This includes the failure of an employee (owner-operator) to appear for a test when called by a C/TPA) : §382.705(b)(3)

- Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at the testing site (Authorization

- Form); and the time, date and testing site location at which the employee was directed to appear (Authorization Form), or an affidavit providing evidence of such notification;
- Documentation, including but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
 - Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer (Company) who employs himself/herself as a driver as the Company's designated C/TPA when the reported refusal occurred (if applicable);
 - Documentation, including a certificate of service or other evidence, showing that the Company provided the driver with all documentation reported above.

Employer's Actual Knowledge of Violations Reporting: The Company will report the following violation by the close of the third business day following the date on which the Company obtains actual knowledge (see definitions): §382.705(b)(4)

- On-duty alcohol use;
- Pre-duty (within 4 hours) alcohol use;
- Alcohol use following an accident, in which post-accident testing has not been complete and driver is not cleared;
- Controlled substance use while on-duty.

Actual Knowledge Violation Information Required (above Reports): For each violation listed above, the Company will report the following information: §382.705(b)(5)

- Driver's name, date of birth, CDL number and State of issuance;
- Employer name, address, and USDOT number, if applicable;
- Date the employer obtained actual knowledge of the violation;
- Witnesses to the violation, if any, including contact information;
- Description of the violation;
- Evidence supporting each fact alleged in the description of the "actual knowledge" violation, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than "Employee Admission of Use" in EPA section of this policy), correspondence, or other documentation; and
- A certificate of service or other evidence showing that the Company provided the employee with all information reported above.

Owner / Self-employed: An employer who employs himself/herself as a driver must designate a C/TPA to comply with the Company "Employer" requirements of this policy related to his or her own alcohol and controlled substances use. §382.705(b)(6)

Consortium / Third Party Administrator (C/TPA) Reporting Requirements

Any Company may designate a C/TPA to perform the Company requirements in the above section of this policy. Regardless of whether the Company uses a C/TPA to perform its requirements, the Company retains ultimate responsibility for compliance with the Company reporting requirements.

Exception: An employer does not retain responsibility where the C/TPA is designated to comply with the "Owner / Self-employed" requirements described above. §382.705(c)

SAP Reporting Requirements

SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process, (see Return-to-duty Process), the following information: §382.705(d)(1)

SAP must report the following information by the close of the business day following the date of the initial substance abuse assessment: §382.705(d)(2)

- SAPs name, address and telephone number; §382.705(d)(1)
- Driver's name, date of birth along with CDL number and State of issuance; §382.705(d)(1)
- Date of the initial substance-abuse-professional assessment; and §382.705(d)(1)

SAP must report the following information by the close of the business day following the determination that the driver has completed the return-to-duty process: §382.705(d)(2)

- Date the SAP determined that the driver demonstrated successful completion of the return-to-duty process in accordance with Part 40 and is eligible for return-to-duty testing under FMCSA. §382.705(d)(1)

Reporting Entities & Circumstances Chart

Reporting Entity	Information to be reported to Clearinghouse
Prospective/Current Company of CDL Driver (or designated C/TPA)	Alcohol confirmation test with 0.04 or higher concentration; Refusal to test (Alcohol);
	Refusal to test (Drug) – not MRO determined/reported;
includes DUI conviction while driving CMV	Actual knowledge (as policy defined), that driver used alcohol on-duty, within 4 hours of coming on-duty, or prior to post-accident testing (8 hours);
includes DUI conviction while driving CMV	Actual knowledge (as policy defined), that driver has used a controlled substance (drugs) on-duty or reported for duty;
	Negative return-to-duty test results (drug & alcohol, as applicable);
	Completion of follow-up testing (schedule prescribed by SAP).
C/TPA / CDL Carrying Owner/Operator	Alcohol confirmation test with 0.04 or higher concentration; Refusal to test (Alcohol);
	Refusal to test (Drug) – not MRO determined/reported;
	Actual knowledge (as policy defined), that driver used alcohol on-duty, within 4 hours of coming on-duty, or prior to post-accident testing (8 hours);
	Actual knowledge (as policy defined), that driver has used a controlled substance (drugs) on-duty or reported for duty;
	Negative return-to-duty test results (drug & alcohol, as applicable);
	Completion of follow-up testing (schedule prescribed by SAP).
MRO	Verified positive, adulterated, or substituted drug test result;
	Refusal to test (drug) only requiring MRO determined/reported;
SAP	Identification of driver and date the initial assessment was initiated;
	Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.

Clearinghouse Registration and Access Requirements

Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse. §382.711(a)

Employer (Company) Registration: Employer Clearinghouse registration must include: §382.711(b)(1)

- Name, address, and telephone number;
- USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
- Name of the person(s) (Company personnel) the Company authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA need to validate his/her identity.

Company Personnel Updates: The Company will verify the name of the person(s) authorized (above) in the Clearinghouse on an annual basis. §382.711(b)(2)

Authorize C/TPA to Report and Query: Identification of the C/TPA or other service agent used to comply with the requirements of FMCSA, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. §382.711(b)(3)

C/TPA Changes: The Company will update any changes to it's C/TPA information within 10 days. §382.711(b)(3)

MROs and SAPs Registration: Each MRO or SAP must provide the following to apply for Clearinghouse registration: §382.711(c)

- Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
- A certification that the applicant's access to the Clearinghouse is conditioned on his/her compliance with the applicable qualification and/or training requirements in Part 40; and
- Evidence or required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements of Part 40.

C/TPAs and other service agents: Each Consortium / Third Party Administrator or other service agent must provide the following to apply for Clearinghouse registration: §382.711(d)

- Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.

C/TPA or Other Service Agent Updates: Each C/TPA or other service agent must verify the names of the person(s) authorized above in Clearinghouse on an annual basis. §382.711(d)(3)

Authorization to Enter Information into the Clearinghouse:

Company - C/TPAs: No C/TPA or other service agent may enter information into the Clearinghouse on the Company's behalf unless the Company designates the C/TPA or other service agent.

Driver - SAPs: A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

Access Duration, Cancellation and Revocation:

Clearinghouse registration is valid for 5 years, unless cancelled or revoked. FMCSA will cancel Clearinghouse registration for anyone who has not queried or reported to the Clearinghouse for 2 years. FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in Part 40.

Driver Information Notifications and Access

A driver may review information in the Clearinghouse about himself/herself, except as otherwise restricted by law or regulations. A driver must register with the Clearinghouse before accessing his/her information. §382.709

FMCSA must notify a driver when information concerning that driver has been added to, revised or removed from the Clearinghouse. FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release. §382.707(a) & (b)

Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail. §382.707(c)

Procedures for Correcting Reported Information

Petition Requests

Inaccurately Reported Information: Petitioners may challenge only the accuracy of information reported, not the accuracy of test results or refusals.

EXCEPTIONS:

- **DUI:** Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or drugs if the citation did not result in a conviction. (For petition purposes, conviction has same meaning as used in 49 CFR Part 383);
- **Actual Knowledge (other):** Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge violations (as listed below) if that

report does not comply with the reporting requirements for "Actual Knowledge Violation Information Required" of this policy (page 43); list of qualifying Actual Knowledge violations (not reported as above DUI Petition):

1. On-duty alcohol use;
 2. Pre-duty (4 hours) alcohol use;
 3. Alcohol use 8 hours prior to post-accident testing (for which testing not already completed);
 4. On-duty drug use.
- **Failure to Appear:** Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a Refusal to test for drugs and/or alcohol due to "Failure to Appear" according to Part 40 if that report does not comply with the reporting requirements for "Refusal "Failure to Appear" according to Part 382 and described in this policy (page 42).

Petition Documents

Petition Content: Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of the information in the Clearinghouse. The petition must include:

- The petitioner's name, address, telephone number, and CDL number and State of issuance;
- Detailed description of the basis for the allegation that the information is not accurate; and
- Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

Request for Expedited Treatment: A driver may request expedited treatment to correct inaccurate information in his/her Clearinghouse record if the inaccuracy is currently preventing him/her from performing covered functions, or to remove employer reports if such reports are currently preventing him/her from performing covered functions. This request may be included in the original petition or as a separate document.

Submission of Petition: The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager; 1200 New Jersey Avenue SE., Washington, DC 20590.

FMCSA Decision Notice to Driver

Within 45 days of receiving a completed petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision. If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

Administrative Request and Review

A driver may request FMCSA to conduct an administrative review if he/she believes that a decision made in accordance with the FMCSA Decision (above) was in error. The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration; 1200 New Jersey Avenue SE., Washington, DC 20590.

The driver's request must explain the error he/she believes FMCSA committed and provide information and/or documents to support his/her argument.

FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final FMCSA Agency action.

FMCSA Notification to Company: When information is corrected or removed in accordance with above "Procedures for Correcting Reported Information" section, or in accordance with 49 CFR Pat 10⁹, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

State Licensing Authorities

In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State. By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle. A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his/her right of access under Clearinghouse Requirements set forth in Part 382.

Clearinghouse Information Availability

Driver Information Not Available: Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

- The SAP reports to the Clearinghouse the information required by the SAP (See "SAP Reporting Requirements" page 43);
- The Company reports to the Clearinghouse that the driver's return-to-duty test results are negative;
- The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with Part 40; and
- Five years have passed since the date of the violation determination.

Driver Information Remains Available: Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements above have been met. §382.719(b) Exceptions:

⁹ Title 49 Code of Federal Regulations (CFR), Part 10, "Maintenance of and Access to Records Pertaining to Individuals", 45 FR 8993, Feb. 11, 1980, as amended.

- Within 2 business days of granting a request for removal due to employer's actual knowledge report that the driver received a dui traffic citation while driving a cmv that the driver was not convicted for, FMCSA will remove information from the Clearinghouse.
- Information about a particular driver's drug or alcohol violation may be removed if the petition for employer's actual knowledge of use (other than dui) or for refusal – "failure to appear" because the report does not comply with the reporting requirements or in accordance with 49 CFR Part 10 (driver privacy act).

Nothing in this policy or Part 382 (FMCSA) shall prevent FMCSA from using information removed under this section for research, auditing or enforcement purposes.

Clearinghouse Prohibited Use

Except as expressly authorized in the "Clearinghouse" section of Part 382 or this policy, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

The Company's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a covered function with respect to a commercial motor vehicle. The Company may not divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a covered function with respect to a commercial motor vehicle

Violations of the Clearinghouse Requirements are subject to civil and criminal penalties in accordance with applicable law, including those set forth at §382.507. Furthermore, an employer, employee, MRO or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty as stated in Part 382 (provisions of 49 U.S.C 521(b)(2)(C)).

Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing or enforcement purposes.

APPENDIX A: Acknowledgement Form

I acknowledge, by signing this form, that my full compliance with the Drug and Alcohol Prevention Policy (The Policy), DOT drug and alcohol regulation requirements and the Federal Motor Carrier Safety Administration (FMCSA) regulation requirements is a condition of my initial and continued employment with the Company. I understand and agree that I may be discharged or otherwise disciplined for any drug and/or alcohol violation, committed by me, as cited in the Policy, the DOT drug and alcohol regulatory requirements and/or the FMCSA regulatory requirements.

I also acknowledge, by signing this form, that a copy of the Policy has been made available to me and that I have read and understand the requirements of the Company and the DOT drug and alcohol program. I have also been provided with information materials on the dangers of drug abuse and alcohol misuse.

Signed, this the _____ day of _____, 20_____.

Employee Name (Please Print)

Employee Signature

Company Representative Name (Please Print)

Company Representative Signature

Appendix C – Designated Personnel and Service Agents

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

Name: Panhandle Employers Services, Inc.
Address: 881 Casino Road; Nocona, TX 76255
Phone Number: (940) 825-3564

DESIGNATED EMPLOYER REPRESENTATIVE (DER)/ALCOHOL & DRUG PROGRAM MANAGER

Name: Larry Coffman
Address: P.O. Box 850, Stinnett, TX, 79083
Phone Number: (806) 878-4010

MEDICAL REVIEW OFFICER (MRO)

Name: Nationwide Medical Review – Dr. Pachall, MD
Address: 7160 Graham Road; Indianapolis, IN 46250
Phone Number: (317) 547-8620

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY

Name: Clinical Reference Laboratories
Address: 8433 Quivira Road; Lenexa, KS 66215
Phone Number: (800) 445-6917

COLLECTION SITE(S) – DRUG AND BREATH ALCOHOL (RESOURCE LOCATOR)

Various collection sites may be utilized. Each collection site will be evaluated to ensure the required criteria is met to act as an approved site.

Name: Panhandle Employers Services, Inc.
Address: 881 Casino Road; Nocona, TX 76255
Phone Number: (940) 825-3564

LIST OF APPROVED EVIDENTIAL BREATH TESTING DEVICES (EBTS) UTILIZED:

Manufacture Name: Intoximeters, Inc.
EBT Model Name: Alco-Sensor IV / RBTIV

SUBSTANCE ABUSE PROFESSIONAL (SAP) – RESOURCE LOCATOR (Various SAPs may be utilized. Each SAP will be evaluated to ensure the required criteria is met to act as approved SAP)

Name: SAP Referral Services, LLC
Address: 9723 Harford Road; Baltimore, MD 21234
Phone Number: (888) 720-7277

EMPLOYEE ASSISTANCE PROGRAM (EAP)

Name: National Council on Alcoholism and Drug Dependency
Phone Number: (800) 622-2255

APPENDIX D: DOT Company Disciplinary Actions & Additional Procedures

DOT Company Disciplinary Actions

Under the Drug and Alcohol Prevention Policy, the Company is committed to a drug and alcohol "free" workplace.

Violations to this Policy include:

- The presence in the body, possession, use distribution, dispensing, and/or unlawful manufacture of prohibited drugs and the misuse of alcohol is not condoned while conducting Company business, or while in work areas or Company vehicles on or off Company premises. No employee will work under the influence of prohibited drugs and alcohol;
- An employee or applicant who tests positive for drug, has an alcohol concentration of 0.04 or higher, or refuses to take any drug or alcohol test as directed by the Company;
- The use of alcohol with a test result of 0.02 or greater, but less than 0.04;
- Failure to provide any consent requested by Company for Company to conduct required query of the FMCSA Clearinghouse (including written or electronic).

Disciplinary Actions: Employees violating this Policy will be subject to disciplinary actions up to and including termination. Disciplinary actions may include, but is not limited to, removal from working in a covered position, suspension, loss of pay and termination of employment.

Additional Company Procedures

Reservation of Rights: The Company reserves the right to interpret, modify, or revise this policy statement in whole or in part without notice. Nothing in this policy statement is to be construed as an employment contract nor does this alter an employee's employment at-will status. The employee remains free to resign his/her employment at any time for any or no reason, without notice. Similarly, the Company reserves the right to terminate any employee's employment, for any or no reason, without notice.

Compliance with All Laws: This policy statement will be amended from time to time to comply with changes in Federal and State laws.

Policy Revisions: The Company reserves the right to revise or amend this policy with or without notice at any time.