

**DATE:** July 14, 2018  
**TO:** ALL ASSOCIATES  
**FROM:** XXXX  
  
**RE:** SUBSTANCE ABUSE POLICY

Company A's Substance Abuse policy was established in order to comply with the "Drug-Free Workplace Act of 1988", the Omnibus Transportation Employee Testing Act of 1991", and the Federal Transit Administration (FTA) regulations. This policy applies to all safety-sensitive and non-safety-sensitive associates.

Company A will provide each and every associate with a copy of the Drug/Alcohol policy on a continuous basis. This policy will be applied consistently and justly throughout the company.

Company A foremost objective is to provide quality work and to maintain a safe and clean work environment for its associates. With the total cooperation and commitment from all of our associates, we can attain these objectives and take great pride in our accomplishments.

Policy Amended 2/14/18

Policy Amended 5/10/17

Policy Amended 7/14/08

Policy Amended 7/31/07

Policy Established 7/29/02

**COMPANY A  
SUBSTANCE ABUSE PROGRAM**

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## **COMPANY A SUBSTANCE ABUSE POLICY**

The Federal Transit Administration (FTA) has published regulations requiring drug testing with the overall goal of ensuring a drug free transportation environment, in turn, reducing accidents and casualties in motor carrier operations. It is well documented that the use of drugs, including alcohol, as well as, other controlled substance represents a serious health risk to the user of the drug, as well as, a safety hazard to the general public, particularly in the context of the use and operation of commercial motor vehicles.

Company A's substance abuse policy was established in order to comply with the regulations, as well as, promote and maintain a safe and healthful working environment for all associates. The portions of this policy that are mandated by Company As' policy (not by the FTA) will be preceded by an \* and the language underlined.

### A POLICY STATEMENT

The Company is responsible for providing quality work to its customers and a safe and clean work environment for its associates. Our associates are our most valuable resource, and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that associates are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances and (4) to encourage associates to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

The Company's philosophy on the detrimental effects of drugs in an individual's life and the added safety risk posed by drug use of the workplace is clear. There is no place for drug use or the lingering effects of off hours use that can be tolerated in our work environment.

### Policy Purpose

The purpose of this policy is to assure worker fitness for duty and to protect our associates and the public from the risks posed by the misuse of alcohol and of prohibited drugs. This policy is also intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA), of the U.S. Department of Transportation, has published 49 CFR Parts 40 and Part 655 as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. FTA has also published 49 CFR Part 40, as amended that sets standards for the collections and testing of urine and breath specimens. In addition, the federal government published 49 CFR Part 29,

The Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. (Overview of these can be found on page 21) This policy incorporates those requirements for safety-sensitive associates and others, when so noted.

### Policy Applicability

This policy applies to all safety-sensitive and \*non-safety-sensitive associates. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors and contractor associates are governed by this policy while on Company premises, and will not be permitted to conduct Company business if found to be in violation of this policy.

The regulations require the Company to randomly test 50% of the safety-sensitive workforce for Drugs and, as of, January, 2007 10% of the safety-sensitive workforce for alcohol.

The FTA safety-sensitive categories are:

- Revenue Vehicle Operations
- Revenue Vehicle Maintenance & Equipment
- Revenue Vehicle Control/Dispatch
- CDL/Non-Revenue
- Security Personnel who carry firearms

At Company A, our safety-sensitive positions are:

- ASSEMBLY-POD
- ASSEMBLY-Quality Captain
- CONVERTER-Assembly
- CONVERTER-Disassembly
- DEPARTMENT HEAD-Department Head
- DISASSEMBLY-Core Prep
- DISASSEMBLY-Core Warehouse
- DISASSEMBLY-Core Warehouse Coordinator
- DISTRIBUTION-Central Receiving
- DISTRIBUTION-Distribution Floater (Kingman Only)
- DISTRIBUTION-Forklift
- DISTRIBUTION-ID/Tag
- DISTRIBUTION-Puller/Stocker
- ENGINEERING-Tech Spec/Engineer
- GENERAL SUPPORT STAF-Misc Project Floater
- GROUP LEADER-Group Leader
- PARTS-Parts
- PARTS-Reclaiming - Disassembly
- PARTS-Reclaiming - Inspection
- PROD DEVELOPMENT-Spec Research
- QUALITY/R&D-R&D

SHIPPING-Shipping  
TEAM LEADER-Team Leader  
TEST ROOM-Test Stand Operator  
WAREHOUSE-Warehouse  
YAMAHA ENGINES-Yamaha Engine Disassembly

Policy Communication

Training is provided to inform all employees of the regulations of this Policy and the effects of prohibited drugs and alcohol misuse in the workplace. All safety-sensitive employees will be given a one-hour training workshop. In addition to the above program, all safety-sensitive supervisors and departmental officials will be given a minimum of a one-hour training workshop on reasonable suspicion testing.

The specific circumstances under which an associate will be tested for prohibited drugs are Pre-Employment, Random, Post Accident, and Reasonable Suspicion. Each of these is described in more detail in Policy sections I thru L. Associates are required to submit to these types of drug tests in accordance with Federal Transit Administration regulations.

Associates exhibiting the following behavior will constitute a Refusal to take a drug test:

- Tampering
- Contamination
- Adulteration
- Substitution
- Providing false information in the connection with the test
- Inability to provide sufficient volume. See Policy section G., Testing Procedures for more information.
- Physical absence
- Any other behavior, which obstructs the testing process

Behavior of this kind constitutes a Refusal, and thus, a verified positive drug test.

All safety-sensitive and \*non-safety-sensitive associate who test positive will be terminated. Such associates will be referred to the Substance Abuse Professional (SAP) for evaluation. The designated SAP for the Company is:

**XXXXXXXXXXXXX**  
**XXXXXXXXXXXXXXXXXXXXX**  
**XXXXXXXXXX**  
**XXXXXX**  
**XXXXXXXXXX**  
**XXXXXXXXXX**  
**XXXXXXXXXX**

The Company affirms the need to protect individual dignity; privacy and confidentiality throughout the testing process and to that end the following measures are taken:

1. Testing shall be conducted in a manner to assure the highest degree of accuracy and reliability using techniques, equipment and laboratory facilities which have been certified by the U.S. Department of Health and Human Services (DHHS).
2. The Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO designated for the Company is:

**XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXX  
XXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXX**

It is his/her responsibility to interpret, verify and validate test results, and determine whether there is a legitimate medical explanation for a confirmed positive test.

3. The Substance Abuse Professional (SAP) is a licensed physician, licensed or certified psychologist, social worker, associate assistance professional or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. He/she has the knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. It is his/her responsibility to evaluate the type and amount of assistance needed to resolve problems associated with drug abuse or alcohol misuse and to recommend a course of action to the associate.
4. Training is provided to inform all associates of the regulations, signs and effects of prohibited drugs and alcohol misuse in the workplace.
5. All safety-sensitive associates will be given a one-hour training workshop. All safety-sensitive supervisors will be given a two-hour training workshop, which includes reasonable suspicion testing.

If you have questions or concerns regarding the Drug/Alcohol policy and Federal Regulation guidelines, please contact:



In the absence of the above person, contact:



B. DEFINITIONS:

Adulterated specimen – A urine specimen containing a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

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

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

Alcohol Positive Test - Any result performed by a certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing Device (EBT) that indicates on the confirmation test a result of .02% Breath Alcohol Concentration (BAC).

Board Certified – Medical approval by either the American Board of Urology or the American Board of Nephrology

Canceled - A drug or alcohol test that has been declared invalid. A canceled test is neither negative nor positive. In the case of Pre-Employment the associate must be retested.

Commercial Vehicle - Any self-propelled or towed vehicle used on public highways to transport passengers or property wherein in the vehicle has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand and one (26,001) or more pounds, the vehicle is designed to transport more than sixteen (16) passengers including driver or the vehicle is used in the transportation of hazardous materials in a quantity requiring placard regulations issued under the Hazardous Materials Transportation Act.

Company – Company A

Confirmation Test - (Drug testing) - A second analytical procedure, used to identify the presence of a specific drug or metabolite. (Alcohol testing) - A second test, that provides quantitative data of alcohol concentration. Its amount becomes the determining result-on-record.

Controlled Substance - Any illegal drug or a prescription drug that has not been prescribed for the individual being tested for a condition under current treatment.

Creatinine – A breakdown or waste product of creatinine, which is an important part of muscle tissue.

Company Premises - Includes, but is not limited to, all property whether owned or leased or used by the Company. For the purposes of this policy, it also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment.

Designated Associate Representative (DER) – The Substance Abuse Program administrator.

Dilute Specimen – A urine sample having creatinine and specific gravity values that are lower than expected for human urine.

Driver - An associate required to hold a Commercial Drivers License to perform his/her duties.

Drug Metabolite - The specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted in urine.

Drug Positive Test - Any test result confirmed by a Department of Health and Human Services (DHHS) certified laboratory where the drug concentration is indicated to be greater than the DHHS cut-off level utilized by DOT. Cutoff levels are as published in 49 CFR Part 40.29 (e), August 19, 1994, which is subject to change by the FTA.

Evidentiary Breath Testing Device (EBT) – A piece of clinical equipment approved by NHTSA for the testing of breath at the 0.02 and 0.04 levels of alcohol concentration. associate Subject to Testing - \*any individual employed with the Company.

FTA – Federal Transit Administration.

Laboratory – A testing facility certified by the Department of Health and Human Services (DHHS).

Metabolite –The specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted as urine.

MRO – Medical Review Officer.

Possession – The act of owning, having, or controlling alcohol or any substance prohibited in this policy. It does include any prohibited or controlled substance secreted concealed on Company property.



Revenue Service Vehicle - Any vehicle picking up passengers and/or involved in fare collection.

Safety-Sensitive Function - Any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle whether or not the vehicle is in revenue service, dispatch and maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms and any other associate who are required to hold a Commercial License.

SAP – Substance Abuse Professional.

Shy Bladder - A medical condition known as “paruresis”. Paruresis is defined as a chronic, persistent fear of urinating in a public restroom. In it’s most severe form, an individual cannot urinate under any circumstances away from home. In this policy, it refers to any physical or psychological condition in which an associate is unable to pass a sufficient specimen.

Split Sample - Second part of primary sample collected from donor.

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

Under the Influence - Any amount of controlled substance or alcohol detected in any specimen greater than the cut-off levels designated by the National Institute for Drug Abuse or established state or federal levels of impairment. An alcohol level of .04% BAC or greater.

### C. LEGAL DRUGS

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning motor skills or judgment may be adversely affected must be reported to the Substance Abuse Program Administrator and medical advise must be sought by the associate, as appropriate, before performing work-related duties.

A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing Company business is prohibited.

#### D. PROHIBITIONS

No associate of the Company shall:

1. While on duty, possess, or test positive as defined in this policy for any prohibited substance, narcotic drug, or any derivative thereof. In addition, no associate while on duty shall possess, be under the influence of, or use any substance, to a degree, which renders the associate incapable of safely performing their duties.
2. Consume an intoxicating beverage regardless of its alcoholic content or be under the influence of an intoxicating beverage, within four (4) hours before going while on duty, or while operating or having physical control of a commercial vehicle.
3. Consume an intoxicating beverage regardless of its alcoholic content, be under the influence of an intoxicating beverage or have any measured alcohol concentration of .02% or greater.
4. Be in possession of a controlled substance or an intoxicating beverage regardless of its alcoholic content while on duty or operate a vehicle.
5. \* Refuse to sign a consent or release form authorizing the collection of the specimen analysis of the specimen and release of the results to the Company.
6. \* Refuse to cooperate with the collection site personnel, Company personnel or in any way refuse to provide a specimen when required.
7. Refuse to provide a specimen when required under this policy.
8. Fail to inform appropriate Company officials of a reportable accident or insure that a FTA drug screen and alcohol test is performed as required by the regulations as soon as possible.
9. Use alcohol or other prohibited substances within eight (8) hours of a reportable accident or until the associate has been drug and alcohol tested, or the associate's conduct has been discounted as a contributing factor in the accident and will not be required to provide a specimen.

#### E. MANDATORY TESTING

Associate shall submit to testing for the presence of a controlled substance and/or alcohol, and other drugs, upon request by the Company. Means of testing shall include urinalysis, evidential breath tests, saliva tests and \*such other tests as the Company may determine.

Testing will be required:

1. As a condition of employment and prior to commencement of employment with the Company or promotions or placement in a safety-sensitive position, and
2. Where reasonable suspicion exists to suspect that an associate is under the influence of a prohibited substance, alcohol or other intoxicating beverage of substance, and
3. As soon as possible, but not later than eight (8) hours following an accident. If the eight (8) hour time limit is exceeded, collection of an alcohol specimen is suspended; the drug specimen will be collected as soon as possible not to exceed thirty-two (32) hours after the accident. The associate is solely responsible for assuring the Company that the required specimen is provided as soon as possible, and
4. As a part of random pool of all associate, and
5. As otherwise required by applicable law, regulations or Company policy.

Associates shall immediately submit to testing for the presence of a controlled substance and/or alcohol, and other drugs, upon request by Company A. Means of testing shall include urinalysis, evidential breath tests, saliva tests and \*such other tests as Company A may determine.

## F. SEARCHES

\*Associates while on Company premises are required to submit to searches of their vehicles, lunch boxes, lockers, personal effects, desks or similar repositories, etc. when management has a reasonable suspicion to believe that (1) the associate possesses a prohibited substance or (2) the associate ingested a prohibited substance.

## G. TESTING PROCEDURES

The Company affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Testing shall be conducted in a manner to assure the highest degree of accuracy and reliability and using techniques, equipment and laboratory facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). **All testing will be conducted consistent with the procedures in 49 CFR Part 40, as amended.**

## 1. Drug Testing Procedures

Upon arrival at the test site the associate's arrival time will be noted and the associate will be required to check all outer garments. Collection site personnel will then verify the associates identification (picture identification is required) and the associate will be asked to sign consent and release forms. Failure to sign the required forms will be deemed to have Refused to Test. An associate determined to have Refused to Test will be treated as though a positive specimen was submitted; removed from duty, referred to a SAP and disciplined in accordance with Company work rules. After completing the forms, the associate will then be taken to a privacy enclosure, which must be inspected by collection center staff before and after a specimen is provided. The privacy enclosure must have a toilet. The associate must wash his/her hands and is then given a sealed/wrapped collection cup. The associate is then directed to the privacy enclosure and asked to provide at least 45 milliliters of urine.

If the associate is unable to submit a specimen or the specimen that is submitted is of insufficient volume; the associate will remain at the test for up to three (3) additional hours. During this three-hour period, any insufficient sample will be discarded and the associate will be allowed to consume up to forty (40) ounces of water in order to provide a sufficient sample. If a sufficient sample is not provided at the end of the three-hour period the associate will be notified that testing will be discontinued. At this point the Shy Bladder Evaluation process will begin. During it\*the associate will be removed from duty pending receipt of the MRO's final determination at the end of the Shy Bladder Evaluation process described at the end of the Drug Testing Procedures section on page13.

The temperature of the urine specimen submitted by the associate will be checked by collection site personnel with the use of a single-use, temperature, measuring device and the sample will be visually examined for signs of tampering or adulteration. If the specimen is suspected of being adulterated or the temperature is out of range, the unusual findings will be noted on the urine Custody and Control form by the collection center worker.

The sample that is suspected of being adulterated will be forwarded to the laboratory for testing and the associate will be required to provide a new specimen under direct observation of a same-gender collection site associate.

When an acceptable specimen is provided, single-use sample bottles will be unwrapped and the associate's specimen will be split into two specimen bottles and both bottles will be labeled and sealed in full view of the associate. Federal urine testing forms and labels with pre-printed unique specimen identification number will be used in compliance with FTA requirement. The associate must initial or sign the identification label on the specimen bottles in order to certify the identity of the specimen. The Federal drug testing Custody and Control form will be completed in the presence of the associate and the

specimens will be packaged for shipment in a single-use shipping container with the Custody and Control forms. The associate must wash his/her hands before and after each specimen is submitted. The sample that is suspected of being adulterated will be packaged and shipped in the same manner as an observed or otherwise acceptable specimen, along with the collection center associates unusual findings notes.

\*Company associates must observe the entire processing and handling of his/her specimen through packaging for shipment. If any irregularities occur the associate must remain at the collection site and notify the designated DER or Substance Abuse Program Administrator.

The Company contracts for laboratory testing with Clinical Reference Lab (CLR) Lenexa Kansas. The drugs that will be tested for, as required by FTA, include Marijuana, Cocaine, Opiates, Amphetamines and Phencyclidines. \*The Company may elect to test for Barbiturates, Benzodiazepines, Methadone, Propoxyhene, Methaqualone, or other substances as deemed appropriate. Substances tested for under the authority of the Company must be tested for under a separate urine specimen and under separate chain of custody forms. All specimens will be tested through a combination of immunoassay screening and positive results confirmed by Gas Chromatograph/Mass Spectrometer (GC/MS). The laboratory will verify that the specimen belongs to the correct associate and can be adequately tested by assuring that specimen bottle identification numbers match; chain of custody block of the Custody and Control Form is complete; primary specimen bottle has adequate volume; specimen bottle seals are unbroken.

All specimens confirmed positive for any of the five (5) prohibited substances through GC/MS will be retained in secure frozen storage by the laboratory for a period of one year in their original specimen bottle; the split sample will be stored with the seal intact.

The laboratory will disclose information related to positive drug test to the individual; the employer; or the decision maker in a lawsuit, grievance, or other proceeding initiated on behalf of the individual that arises as a result of a confirmed positive drug test.

### Shy Bladder Evaluation

The term “shy bladder”, as used in this Policy statement, refers to any condition in which the associate claims that he/she is unable to pass a sufficient specimen. This would include obstructive lesions, neurological disorders, and renal insufficiency.

When an associate claims he/she is unable to pass a 45 ml urine specimen, the collector will provide that associate with 40 ounces of water to drink as he/shi wishes and give that person 3 hours in which to pass a 45 ml urine specimen. The donor must remain at the collection site for that part of the 3 hours he/she needs to pass a 45 ml specimen. Failure to remain at the collection site during this 3 hour period is considered a “refusal to test” unless the D.E.R. or the collector specifically tells the donor he/she can leave the collection site. If the D.E.R. or collector tells the associate he/she can leave the collection

site during the collection, the MRO must cancel the test. The donor's failure to drink the water provided is not a refusal to test.

If the associate has not provided a 45 ml after 3 hours, the collector dismisses the donor and notifies the D.E.R. by phone to inform him/her of the situation. The collector then allows the D.E.R. to speak directly to the donor at which time the D.E.R. suspends the associate from performing safety sensitive jobs and sets up a meeting between them, as soon as possible, in the D.E.R.'s office.

The collector then faxes directly to the MRO a copy of the Custody & Control Form noting the specifics related to the fact that the person had been given the above mentioned 3 hour opportunity to generate the specimen.

The purpose of the meeting between the DER and the associate will be for the DER to give the associate the information needed for the donor to set up an appointment for an evaluation with a Board Certified urologist or nephrologist within 5 days. (NOTE: The scheduling of the appointment must be done in 5 days; the appointment itself does not have to be in 5 days.)

As soon as the Shy Bladder Evaluation Form is returned to the DER it is faxed to the MRO, so that the MRO can send him/her a detailed instruction letter and a reply form in which he/she simply checks the appropriate box, writes an optional one sentence explanation, signs his/her name and faxes it back to the MRO.

Upon receipt of the urologist/nephrologist's letter, the MRO will decide if a medical condition exists which, with a higher degree of likelihood, could have prevented the associate from passing a sufficient specimen. If so, the MRO cancels the test. If such a condition is not proven to exist, the MRO reports "Refusal to Test". Occasionally, the MRO may call the consultant for further clarification, before making a final decision. An associate determined to have "Refused to Test" will be treated as positive specimen, and terminated and referred to the SAP.

When an associate cannot provide a sufficient specimen for pre-employment because of a permanent or long-term condition (such as dialysis or chronic renal insufficiency). The MRO must require a consultation with an acceptable physician to determine if there is clinical evidence of illicit drug use. The consultant may use alternative tests such as blood or hair as part of his evaluation.

When an associate cannot provide a sufficient specimen for random collection he/she is precluded from alternative test modalities such as blood or hair. The associate must undergo shy bladder evaluation as described above. If the associate proves to have a precluding medical condition, the MRO cancels the test and the associate remains in the random pool.

## 2. Medical Review Officer

All drug testing laboratory results must be reviewed by a qualified Medical Review Officer (MRO) prior to the test results being released to the Company. The Company MRO, currently Dr. X, is a licensed physician with knowledge of substance abuse disorders who has training to interpret and evaluate laboratory test result with an associates medical history and other relevant biomedical information as required by FTA. The purpose of the MRO is to verify and validate test results. The MRO receives the drug test results, reviews Custody and Control forms for accuracy; protects the privacy of the associate and the confidentiality of the testing program; maintains testing records and notifies the Company of all test results.

The MRO will discuss confirmed positive laboratory test results with the associate to determine if there is a legitimate medical explanation for the confirmed positive test result. If the MRO is unable to contact the associate within fourteen (14) days after expending a reasonable effort, the test results will be verified to the Company as a confirmed positive. The MRO may re-open the review after the fourteen-day period if the associate provides documentation of circumstances beyond his/her control in failing to contact the MRO. If the associate provides an adequate explanation for the positive test results the MRO will verify the test results to the Company as Negative. If the associate fails to provide an adequate explanation, the test will be reported to the Company as a confirmed positive.

During discussions with the associate where notice of the confirmed positive result is given, the MRO will inform the associate that he/she has 72 hours in which to request that the split sample be tested. If the request to test the split sample is made to the MRO within 72 hours the split sample will be sent to a second DHHS laboratory for testing. If the second laboratory fails to confirm the presence of the same drug/metabolite that was found in the primary sample; if the split sample cannot be tested; or if the results of the split sample are not scientifically adequate, the MRO will Cancel the test. A canceled test will be treated as though the associate has a negative test result. Testing of the split sample can be conducted after the 72-hour period only if the MRO concludes that there is legitimate explanation for the associate's failure to contact the MRO and request a split-sample testing within the required 72-hour period.

## 3. Alcohol Testing Procedures

Breath alcohol testing will adhere strictly with the procedures specified in 49 CFR , Part 40, as amended. It will be conducted using a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath-Testing Device (EBT) operated by a trained Breath Alcohol Technician (BAT).

The test site will verify the associate identity through picture identification and note the associate's arrival time. The associate will be taken to a secure private location at the test site where the EBT is housed. The BAT will explain the testing procedure to the associate and both the associate and the BAT will sign the testing consent form. Refusal to sign the consent form will be considered a Refusal to test and the associate will be treated as though a confirmed positive test with BAC in excess of 0.04 was determined. The EBT that is used for testing must be able to distinguish alcohol from Acetone at the level of 0.02-alcohol concentration and the BAT will use Federal breath-alcohol test forms. The BAT will provide the associate with an individually sealed mouthpiece that is opened in full view of the associate. The BAT will conduct an air blank test that must read 0.00 and the associate will be asked to blow forcefully into the mouthpiece for at least six (6) seconds or until a sufficient volume is obtained. The associate will be shown the results and the BAT will record the results in a log and on test form or affix the printed results to the form. If the test result is less than 0.02 BAC the associate will sign and date the form and the associate will be returned to duty. Results of 0.02 or higher will require a confirmatory test.

The confirmatory test is conducted between 15 to 20 minutes after the completion of the initial test and an EBT with a printout must be used. While waiting for the confirmatory test the associate will be provided information on the consequences of a positive test and the BAT will instruct the associate not to eat, drink or put any object into his/her mouth. The associate will also be cautioned not to belch during the waiting period if possible. A new mouthpiece will be provided for the confirmatory test and an air blank test will again be performed, which must register 0.00 on the EBT. The confirmatory test is performed and the results shown to the associate. The result of the confirmatory test is final. The BAT will sign and date the forms, retain a copy of the test and provide a copy to the associate and to the Company.

FTA regulations state that a confirmatory test of 0.020 to 0.039 BAC will require that the safety-sensitive associate be removed from duty for a period of at least eight hours or until a BAC of less than 0.02 is achieved. The FTA regulations state that a safety-sensitive associate with a confirmatory test of 0.04 or higher must be removed from duty and considered in violation of FTA rules and referred to the Substance Abuse Professional (SAP).

### Shy Lung Evaluation

If at any time during the breath alcohol testing procedure an associate fails to provide a sufficient volume of air to allow for testing of his/her breath alcohol concentration the associate will be referred to a licensed physician to determine if there is legitimate reason for the inability to provide a sufficient volume for testing. If the physician finds that there is a legitimate medical/physiological



reason for the inability to comply, the BAC will be declared a No Test. A No Test will be treated as though the associate had a negative alcohol test result. If the physician can find no legitimate reason for the associates inability to provide the required specimen, the associate will be declared to have Refused to Test and he/she will be treated as though a confirmed positive BAC of 0.04.

#### H. ASSOCIATE REQUESTED TESTING

Any safety-sensitive or \* non-safety-sensitive associate who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different testing DHHS Certified laboratory. The test must be conducted on the split sample that was provided by the associate at the time the original sample was collected. All costs for such testing are paid by the associate unless the result of the split sample test invalidates the results of the original test.

#### I. PRE-EMPLOYMENT TESTING

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment or transfer promotion/demotion into a safety-sensitive position or upon return from a separation from duty. Receipt of a negative drug test Company A is required prior to employment or a transfer/demotion. Failure to successfully complete a drug or alcohol test will disqualify an applicant of employment.

Any safety-sensitive employee who has been out of the random pool for 90 days or more must be given a Pre-Employment test before re-entry into it.

To be considered for employment, all applicants for safety-sensitive positions will be asked to give consent to Company A for a background check of their previous DOT covered employer(s) over the past two years as defined by 49 CFR 40.25. Information requested will include:

- Alcohol test results of 0.04 or higher alcohol concentration.
- Verified positive drug results.
- Refusals to be tested (including verified adulterated or substituted drug tests).

- Other violations of DOT agency drug and alcohol testing regulations
- 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 requirements (including follow-up tests)

An applicant who previously tested positive must provide Company A with proof of having successfully completed a referral, evaluation and treatment plan of a certified Substance Abuse Professional.

An applicant refuses to test only if he/she fails to complete the testing process once it has begun (acceptance of the collection container) and/or when he/she fails to retest after being requested to do so by the MRO or the DER.

#### J. REASONABLE SUSPICION TESTING

All safety-sensitive and \*non-safety-sensitive associates may be subject to a fitness for duty evaluation, and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance.

A drug and/or alcohol test will be required when a supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse has a reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse.

This determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

If an alcohol test required by Reasonable Suspicion is not administered within two hours following the determination, the determining supervisor(s), or other company official(s) shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination, attempts to administer an alcohol test shall cease and the record shall contain the reasons for not administering the test.

If an employee acknowledges alcohol use prior to coming to work but claims to have the ability to do the work, he/she must be tested.

## K POST ACCIDENT TESTING

The FTA regulations 49 CFR Part 655 require drug and alcohol testing of covered employees in the following situations:

- i. -An individual dies (fatality)
- ii. -An individual suffers a bodily injury and receives medical treatment away from the scene
- iii. -Vehicle(s) incurs disabling damage (“Disabling damage “ means damage that prevents departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. It includes damage to vehicles that could have operated but would have been further damaged because they were operated. It does NOT include damage which can be temporarily remedied at the scene without special tools or parts, tire removal without other damage even if no spare is available or damage to headlights, taillights, turn signal, horn, mirrors or windshield wipers that makes them inoperable) and is transported away from the scene by a tow truck or other vehicle.

All safety-sensitive \*and non-safety-sensitive employees will be required to undergo urine and breath testing if they are involved in an accident with a\* Company A vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes all surviving employees who could have contributed to the accident.

All safety-sensitive\*and non-safety-sensitive employees involved in a non-fatal accident will be tested for drug and alcohol unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision. All other safety-sensitive \*and non-safety-sensitive employees whose performance could also have contributed to the accident, based on the best information available at the time of the decision will also be tested for the presence of drugs and alcohol .

Following an accident, Company A will attempt to complete an alcohol test within 2 hours of the accident. If Company A is unable to obtain a test within two hours, they must file a report explaining why and continue attempts to obtain specimen. If not able to obtain specimen in 8 hours, cease attempts to obtain specimen and update the 2 hour written report. Any safety-sensitive or \*non-safety-sensitive employee will be drug tested as soon as possible, but not to exceed thirty-two (32) hours for drug testing.

If not able to obtain drug testing within 32 hours a report must be written as to the reason why.

Any safety-sensitive or \*non-safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their \*employment terminated. All employees involved in this process MUST be readily available for testing. Company A representative MUST, at all times, be aware of their location.

Employees tested under this provision will include not only the operations personnel, but any other covered employees whose performance could have contributed to the accident.

\*The results of a blood, urine or saliva test conducted by Federal, State or Local officials having independent authority can be used by the Company A ONLY IF our FTA testing was not possible in the specified time limits (drug test within 32 hours; alcohol test within 8 hours)

Nothing in the above section shall delay necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

#### L. RANDOM TESTING

Employees in the positions listed on page 24 will be subject to random, unannounced testing. The selection of employees for random alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be spread throughout the year.

The random tests will be immediate. Employees are required to go for the test upon notification, and have little opportunity to circumvent the testing procedures

The regulations require the Company A to randomly test a minimum 25% of the safety-sensitive workforce for drugs and, as of, January, 1998 and 10% of the safety-sensitive workforce for alcohol. \*At Company A we have elected as our goal to test at least 50% for drugs and 10% for alcohol.

#### M. RETURN TO DUTY TESTING & FOLLOW-UP TESTING

Any associates who have lost their position due to a violation of this Policy and hope to regain their position will be required to successfully complete the education/ rehabilitation program as recommended by our SAP and then to test negative on a Return-to-Duty drug and/or alcohol test.

The purpose of the return-to-duty test and the evaluation of an individual's return to duty status by the SAP is to provide some degree of assurance to the employer that the individual is presently free of alcohol and/or any prohibited drugs and is able to return to work without undue concern about continued substance abuse.

No one, except the SAP who made the initial evaluation, can change the SAP's initial evaluation or recommendations. An employee cannot use a "second opinion" to modify either of them.

#### . N. FOLLOW-UP TESTING

Safety-sensitive and \*non-safety-sensitive associates will be required to undergo frequent unannounced urine and/or breath testing following their return-to-duty. The follow-up testing will be performed for a period of twelve (12) months to sixty (60) months with a minimum of six (6) test to be performed the first year.

Testing months are not "calendar months"; the requirements will be adjusted for breaks in service.

Cancelled tests cannot be counted as completed tests; they must be recollected.

#### O \*RETURN-TO-WORK TESTING

\*This testing is required for all safety-sensitive employees who are returning to work after any absence of thirty (30) days or more.

#### P DILUTE SPECIMEN POLICY

DILUTE (Creatinine 5 to 20), NEGATIVE – \*If the MRO reports this specimen, the Company will take no action.

DILUTE (Creatinine 2 to 5), NEGATIVE \*If the MRO reports this specimen, the associate will be required to take ANOTHER (observed) TEST IMMEDIATELY with no advance notice. The result of the second test will be the result of record. If the second test is also a Negative/Dilute, there cannot be a third test.

DILUTE (Creatinine 2-20), POSITIVE - If the MRO reports this specimen the test will be treated as a "Positive Test".

DILUTE (Creatinine 2-20), ADULTERATED – If the MRO reports this

specimen, the test will be treated as “Refusal to Test”.

DILUTE (Creatinine 2-20), INVALID – If the MRO reports this specimen, the test will be treated as “Cancelled”, the associate will be required to take ANOTHER (observed) TEST IMMEDIATELY with no advance notice.

#### Q. REQUIRED HOURS OF TESTING

Required testing hours for Drugs may be performed anytime a safety-sensitive associate is on duty, whether or not the associates may perform covered duties on that shift, or whenever they must be reasonable available for duty (i.e. on call)

Alcohol testing can be performed - Before, during and just after performing a safety-sensitive function.

Associates are prohibited from using alcohol within 4 hours prior to performing a safety-sensitive function.

#### R. EMPLOYMENT ASSESSMENT

The Substance Abuse Professional (SAP) is a licensed physician, or licensed certified psychologist, social worker, employee assistance professional or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. He/she has the knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. It is his/her responsibility to evaluate the type and amount of assistance needed to resolve problems associated with drug abuse or alcohol misuse and to recommend a course of action to the employee.

Any safety-sensitive or \*non-safety-sensitive employee who test positive for the presence of illegal drugs or alcohol above the minimum thresholds set Part 40, as amended, will be referred for evaluation by an Substance Abuse Professional (SAP).

\*Any safety-sensitive or \*non-safety-sensitive employee who test for alcohol between 0.02 and 0.039 will be referred for evaluation and treatment by the SAP.

Assessment by a SAP \* does not shield an employee from disciplinary action or guarantee employment or reinstatement with Company A. Company A

disciplinary policy should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If a safety-sensitive or non-safety-sensitive employee is allowed to return-to-duty, they must properly follow the rehabilitation program prescribed by the SAP. The employee must have a negative return-to-duty drug and alcohol test and will be subject to unannounced follow-up tests for a period of twelve (12) months to sixty (60) months.

\*The costs of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

#### S. RE-ENTRY AGREEMENTS (Last Chance Agreements – LCA's)

An associate who wishes to re-enter the workforce must agree to a re-entry contract (Last Chance Agreement). That contract will include (but is not limited to) a release-to-work statement from the SAP , \*a successfully completed return-to work physical examination and negative Return-to-Duty test results for drugs and/or alcohol.

\*Violators of an initial agreement will not be afforded a second one.

\* Prior to this document being drawn up and signed, however, the associates will have to obtain permission to do so from the Company A. This decision will be based on his/her past performance.

\*Any associate who holds a supervisory position will be demoted for a period of no less than one year. The employee will be eligible to apply for promotion when the position is posted after successfully completing the Company A Review Period.

#### T. PENALTIES FOR POLICY VIOLATIONS

The consequence of violating the drug use and testing requirements contained in this policy and mandated by the FTA is \*an immediate 30-day suspension pending termination. This will be imposed when an employee:

1. tests positive for drugs
2. has a breath alcohol test with an alcohol concentration of 0.04% or greater
3. refuses to test in any way. The following actions are considered to be a “refusal to test”:

- a.) Failure to appear for any test within a reasonable time, as determined by the Company, after being directed to do so by the Company.
  - b) Failure to remain at the testing site until the testing process is complete.
  - c) Failure to provide a urine or breath specimen for any drug or alcohol test required by DDOT or FTA regulations for which, after a required medical evaluation has been performed, no adequate medical explanation can be given.
  - d) In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen.
  - e) Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
  - f.) Failure to take a second test the MRO, Company A, or collector has directed you to take.
  - g) Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process.
  - h) Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process) or verbal or written refusal to provide a required urine specimen.
  - i) Failure to refrain from consuming alcohol within eight (8) hours following involvement in an accident without first having submitted to post accident/drug/alcohol tests.
  - j) Failure to remain at the scene of an accident prior to submission to drug/alcohol tests without a legitimate explanation.
  - k) Providing false information in connection with a drug test, or if verified to have falsified test results through adulteration, or substitution of a urine specimen.
  - l) Refusal to sign Step 2 of the Alcohol Testing Form.
  - m) Obtaining an MRO verified adulterated or substituted drug test result.
- 4) \*does not notify Company A of any criminal drug statute within five(5) days



5)\*is in a supervisory or managerial position and does not use and apply all aspects of this policy in an unbiased and impartial manner

6)\*engages in the unlawful manufacture, distribution, possession or use of prohibited substances on Company A premises or in transit vehicles, in uniform, or while on Company A business

7)\*is in a situation where substance abuse criminal activity is suspected.

An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will immediately be \*suspended for 29 days, required to seek the assistance of the SAP and be re-tested before being allowed to return to work.

#### U. CONTRACTORS

Contractor organizations with employees who provide safety-sensitive services to Company A will adopt an anti-drug and alcohol policy that conforms to FTA requirements. Any contractor who is in violation of this policy will not be allowed to work on Company A's property or provide us with services until this requirement is met.

#### V. RIGHT TO EXAMINE RECORDS

Test related documents kept in a secured area with controlled limited access.

To preserve associate confidentiality, the associate is entitled, upon written request, to obtain copies of any records pertaining to their drug/alcohol test records

The employer is prohibited from disclosing any information concerning the associates test results. However, employers can release results as required by Law, including court orders or subpoenas. Test results may be released to representatives of Federal Government (FTA). Test results may be released to grantee required to certify to FTA compliance

**\*This policy can be amended at anytime according to FTA regulations.**

**DRUG-FREE WORKPLACE ACT (DFWA)**

**POLICY STATEMENT**

The Company requires that the workplace be drug-free. Therefore, the terms of this policy is a condition of employment for all Company associates (Safety-Sensitive and Non-Safety-

Sensitive). Under the requirements of this law, the Company must assure,

The unlawful manufacture, distribution, dispensing, possession or the use of a controlled substance is prohibited in the workplace.

All associates are required to report to the Company any conviction of a drug statute violation occurring in the workplace within 5 days of the conviction.

The Company must then notify the Federal Government of each notification of the violation within 10 days. And within 30 days of conviction, the Company must impose sanctions on the associate. These sanctions are to terminate employment.

The Company has an on-going Drug-Free Awareness Program.

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COMPANY A  
SUBSTANCE ABUSE POLICY

Confirmation of Policy Issuance

THIS IS TO CERTIFY THAT THE ASSOCIATE NAMED BELOW RECEIVED  
THE DRUG AND ALCOHOL TRAINING AND WAS ISSUED A COPY OF THE  
COMPANY A SUBSTANCE ABUSE POLICY.

ISSUED TO:

\_\_\_\_\_ S.S. # \_\_\_\_\_  
NAME (PLEASE PRINT)

\_\_\_\_\_  
SIGNATURE OF ASSOICATE

DATE: \_\_\_\_\_

INSTRUCTOR: XXXXXXXXXXXXXXXX  
Substance Abuse Program Administrator

REVISED JULY 2, 2007