



CITY OF  
**GULF BREEZE**  
— 1961 —

**Pipeline & Hazardous Materials  
Safety Administration  
PHMSA/DOT POLICY  
49 CFR Part 199  
49 CFR Part 40**

Reviewed March 2023

**City of Gulf Breeze**  
**DOT DRUG AND ALCOHOL TESTING POLICY**  
**Pipeline & Hazardous Material Safety Administration**  
**PHMSA 49 CFR Part 199**  
**&**  
**49 CFR Part 40**

**I. GENERAL**

**City of Gulf Breeze**, also referred to as "the company" has a firm commitment to provide all employees with a safe and drug/alcohol-free work environment. In order to accomplish this goal, the company has implemented this policy, which will provide the necessary guidelines and procedures to augment measures taken in the past to achieve a drug/alcohol-free workplace.

Within this context, a drug and alcohol testing program, designed to help prevent accidents and injuries resulting from the misuse of drugs and alcohol, will be inaugurated on the effective date of this policy. All safety sensitive employees are subject to the provisions of this policy and will be alcohol and drug tested, accordingly.

All employees (and applicants for employment) that perform duties covered by DOT regulations are covered by these policies and procedures IN ADDITION TO any and all other company policies and procedures related to alcohol and drug use.

**Anti-Drug Plan**

Each PHMSA employer is responsible for implementing a written anti-drug plan, to include: (1) methods and procedures for compliance with the relevant regulations, to include: (1) methods and procedures for compliance with regulations, including the employee assistance program; (2) the name and address of each laboratory used to analyze specimens for drug testing; (3) the name and address of the Medical Review Officer and Substance Abuse Professional; and (4) procedures for notifying employees of the coverage and provisions of the plan.

**Applicability:**

PHMSA rules require operators of pipeline facilities subject to 49 CFR Part 192, 193, or 195 to test employees working in the United States or its territories, including the outer continental shelf, for the presence of prohibited drugs and alcohol. Operators of master meter systems and pipeline systems that transport only petroleum gas or petroleum gas/air mixtures are not subject to the rule.

**Procedures:**

The anti-drug and alcohol programs required by these rules must be conducted according to 49 CFR Part 40.

**Preemption:**

The DOT regulations expressly state that they pre-empt any state or local law, rule, regulation, or order, except for state criminal laws.

**Key Definitions:**

Many of the following terms are used throughout the Policy and may be helpful in better understand the alcohol/drug testing procedures.

**§191.3 Definitions.**

As used in this part and the PHMSA Forms referenced in this part—

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate

*Confirmed Discovery* means when it can be reasonably determined, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation.

*Gas* means natural gas, flammable gas, or gas which is toxic or corrosive.

*Incident* means any of the following events:

(1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility, liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

(i) A death, or personal injury necessitating in-patient hospitalization.

(ii) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost; or

(iii) Unintentional estimated gas loss of three million cubic feet or more.

(2) An event that results in an emergency shutdown of an LNG facility or an underground natural gas storage facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

(3) An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

*LNG facility* means a liquefied natural gas facility as defined in §193.2007 of part 193 of this chapter.

*Master Meter System* means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

*Municipality* means a city, county, or any other political subdivision of a State.

*Offshore* means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

*Operator* means a person who engages in the transportation of gas.

*Outer Continental Shelf* means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Person* means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

*Pipeline or Pipeline System* means all parts of those physical facilities through which gas moves in transportation, including, but not limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

*State* includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

*Transportation of gas* means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

*Underground natural gas storage facility* means an underground natural gas storage facility as defined in §192.3 of this chapter.

[35 FR 320, Jan. 8, 1970, as amended by Amdt. 191-5, 49 FR 18960, May 3, 1984; Amdt. 191-10, 61 FR 18516, Apr. 26, 1996; Amdt. 191-12, 62 FR 61695, Nov. 19, 1997; 68 FR 11749, Mar. 12, 2003; 70 FR 11139, Mar. 8, 2005; 75 FR 72905, Nov. 26, 2010; Amdt. 191-24, 81 FR 91871, Dec. 19, 2016; Amdt. 191-25, 82 FR 7997, Jan. 23, 2017]

### **§ 195.50 Reporting accidents.**

An accident report is required for each failure in a pipeline system subject to this part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

- (a) Explosion or fire not intentionally set by the operator.
- (b) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
  - (1) Not otherwise reportable under this section.
  - (2) Not one described in § 195.52(a)(4).
  - (3) Confined to company property or pipeline right-of-way; and
  - (4) Cleaned up promptly.
- (c) Death of any person.
- (d) Personal injury necessitating hospitalization.
- (e) Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

[Amdt. 195-22, 46 FR 38360, July 27, 1981, as amended by Amdt. 195-39, 53 FR 24950, July 1, 1988; Amdt. 195-45, 56 FR 26925, June 12, 1991; Amdt. 195-52, 59 FR 33396, June 28, 1994; Amdt. 195-63, 63 FR 37506, July 13, 1998; Amdt. 195-75, 67 FR 836, Jan. 8, 2002]

**§199.3 Definitions.** As used in this part—

*Accident* means an incident reportable under part 191 of this chapter involving gas pipeline facilities or LNG facilities, or an accident reportable under part 195 of this chapter involving hazardous liquid pipeline facilities.

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

*Covered employee, employee, or individual to be tested* means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

*Covered function* means an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a pipeline or on an LNG facility.

*DOT Procedures* means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in part 40 of this title.

*Fail a drug test* means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

*Operator* means a person who owns or operates pipeline facilities subject to part 192, 193, or 195 of this chapter.

*Pass a drug test* means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

*Performs a covered function* includes actually performing, ready to perform, or immediately available to perform a covered function.

*Positive rate for random drug testing* means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (*i.e.*, positives, negatives, and refusals) under this part.

*Prohibited drug* means any of the substances specified in 49 CFR part 40.

*Refuse to submit, refuse, or refuse to take* means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.

*State agency* means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 *et seq.*)

[53 FR 47096, Nov. 21, 1988, as amended by Amdt. 199-2, 54 FR 51850, Dec. 18, 1989; 59 FR 62227, Dec. 2, 1994; Amdt. 199-13, 61 FR 18518, Apr. 26, 1996; Amdt. 199-15, 63 FR 13000, Mar. 17, 1998; Amdt. 199-19, 66 FR 47117, Sept. 11, 2001; 68 FR 11750, Mar. 12, 2003; 68 FR 75465, Dec. 31, 2003; 70 FR 11140, Mar. 8, 2005; 84 FR 16775, Apr. 23, 2019]

## DOT Rule 49 CFR Part 40 Section 40.3 – Definitions

### § 40.3 What do the terms used in this part mean?

In this part, the terms listed in this section have the following meanings:

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 control or has the power to control both. Indicators of control include but are not limited to interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a public interest exclusion, an organization having the same or similar management, ownership, or principal employees as the service agent concerning whom a public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Subpart R of this part.

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 this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Chain of custody. 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) as approved by the Office of Management and Budget.

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.

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.

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 this part.

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.

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 covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part.

Service agents cannot act as DERs.

Designated employer representative - Stephanie D. Lucas, Administrative Services Director

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

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 (OST). For purposes 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.

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

Employee. Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Employer. A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.

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 that is approved by the National Highway Traffic Safety Administration (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. 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.

Invalid result. The result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

Laboratory. Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

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

Limit of Quantitation. For quantitative assays, the lowest concentration at which the identity and concentration of the measurand 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.

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 this part.

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.

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.

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.

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.

Refresher Training. The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

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.

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 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Third Party Administrator

Drug Free Workplace

27 West Romana Street

Pensacola, FL 32502

(850) 434-3782

[www.drugfreeworkplaces.com](http://www.drugfreeworkplaces.com)

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 this part, 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 urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal 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.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41950, Aug. 9, 2001; 71 FR 49384, August 23, 2006; 71 FR 55347, Sept. 22, 2006; 73 FR 35969, June 25, 2008; 75 FR 49861, August 16, 2010; 76 FR 59577, September 27, 2011; 80 FR 19553, April 13, 2015; 81 FR 52365, August 8, 2016; 82 FR 52243, November 13, 2017]

Updated: Thursday, January 17, 2019

### **Drug Testing Laboratory**

Operators must use HHS-certified laboratories to perform drug tests pursuant to the DOT procedures. The laboratory must allow unannounced inspections by the Operator, the Administrator, and by state agency, if the Operator is subject to that state's jurisdiction.

LabCorp of America #0082

1904 Alexander Drive

Research Triangle Park, NC 27709

800-833-3984

### **Drugs, Controlled Substances:**

For purposes of this policy, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning unless otherwise specified. The following five drugs or classes of drugs are in a DOT drug test. These terms refer to:

- \* Marijuana (THC)
- \* Cocaine
- \* Opioids
- \* Phencyclidine (PCP)
- \* Amphetamines, including methamphetamine

See Appendix A for additional information.

**Medical Review Officer (MRO):** Every Operator must designate a Medical Review Officer. Each MRO is a licensed physician (medical doctor or doctor of osteopathy) responsible for

receiving laboratory results generated by the drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history and other relevant biomedical information and perform functions required by 49 C.F.R. Part 40 and report all drug tests.

MRO: Dr. Richard Weaver, M. D. AAMRO  
Drug Free Workplaces, Inc.  
27 W. Romana Street  
Pensacola, FL 32502  
800-430-3782

**Sample Retention and Additional Testing:** Positive results are retained for one year, or longer if requested in writing by the employee or Operator. A split specimen must be tested if the employee makes a written request after notification of a positive result. The employee may request the original or another HHS certified laboratory perform the test. The MRO will report results of the second test to the employee and designated employer representative.

**Employee Assistance Program and Employee Education**

Each operator must provide an EAP for its employees and supervisors. Education must include at least display and distribution of informational material, a community service hot-line number for employee assistance, and the policy regarding the prohibited use of drugs and alcohol.

**Supervisor Training**

Each employer must provide Reasonable Suspicion Training to Supervisors to include at least 60 minutes of alcohol training and 60 minutes of drug training on behavioral, speech and performance indicators of misuse.

**Referral, Evaluation, and Treatment:**

The PHMSA/DOT drug testing rules, following the Omnibus Act of 1991, require employees be provided with an opportunity for alcohol or drug abuse treatment. The rules, however, do not require that the employer pay for rehabilitation or hold a job open for an employee.

Specifically, the alcohol and drug ruling require:

1. That the employee who violate alcohol or drug prohibitions be advised of the resources available to evaluate and resolve the problem.
2. That the employee be evaluated by a substance abuse professional (SAP) to determine what assistance is necessary.
3. That before returning to safety-sensitive duties an employee must:
  - a. produce a return-to-duty alcohol test of 0.02 alcohol concentration or less if violation was alcohol related; and/or produce a verified negative return-to-duty drug test if the violation was drug related.
  - a. if assistance was recommended, the driver must be follow-up evaluated by a Substance Abuse Professional (SAP) to determine if treatment recommendations were followed.
  - b. be subject to a minimum of six (6) unannounced follow-up tests within the first year back to work

**NOTE:** Follow-up testing can be required for up to five (5) years after return to work.

### **Contractor Employees**

Operators utilizing contractor employees may provide the drug and alcohol testing, education and training requirements to be carried out by the contractor, but the operator remains responsible for ensuring the requirements of the rule are followed.

### **Record Retention and Reporting**

Operators must maintain records regarding their drug and alcohol testing program from one to five years. There are no requirements to report employee violations to PHMSA.

Operators with more than 50 covered employees must submit a detailed MIS Report to PHMSA no later than March 15 for the prior calendar year. Operators with less than 50 must submit MIS Report upon written notice by PHMSA.

### **Evidential Breath Testing (EBT) Device:**

A device used for alcohol breath testing that has been approved by the National Highway Traffic Safety Administration (NHTSA) and placed on NHTSA's Conforming Product's List (CPL)

### **Refusal to Submit (to an alcohol or drug test):**

An employee:

- fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with federal regulations, or
- fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement of urine drug testing in accordance with Federal regulations, or
- engages in conduct that clearly obstructs the testing process.

### **Saliva Alcohol Test (initial test only):**

**In alcohol testing:** the Screening Test Technician may use the saliva ASD in the initial test, if positive, the confirmation must be a breath alcohol test.

### **Screening Test (initial test):**

**In alcohol testing:** a procedure to determine if an employee has a prohibited concentration of alcohol in his or her system by a saliva ASD or a breath test.

**In drug testing:** an immunoassay screen to eliminate "negative" urine specimens from further consideration.

### **Substance Abuse:**

Refers to patterns of use that result in health consequences or impairment in social, psychological, and occupational functioning.

### **Stand Down:**

Employers are prohibited from standing employees down before the MRO has completed the verification process, except consistent with a waiver from the PHMSA.

### **Substance Abuse Professional (SAP):**

A licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor [certified by the National Association of Alcoholism and

Drug Abuse Counselors (NAADAC)] with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Substance Abuse Professional (SAP) in Pensacola  
Office of Maric Shemaria, LMHC, NCC, CAP, SAP  
John E. Bingham, EdD

Contact the City's EAP for assistance with SAP  
EAP Lifestyle Management, LLC  
(800)788-2077

**PROHIBITIONS:**

The Department of Transportation (DOT) defines the restrictions for the use of both alcohol and controlled substances.

**A. Alcohol Use**

Since alcohol is a legal substance, the prohibitions for its use are closely tied to the performance of safety-sensitive functions. The DOT regulations prohibit an employee with an alcohol concentration of 0.04 or greater to perform any safety-sensitive functions until the employee has been evaluated by a SAP, completed the counseling program, follow-up evaluation and has passed a return-to-duty test.

An employee with an alcohol concentration of 0.02 or greater but less than 0.04, must be removed from duty for 8 hours. If an alcohol testing device is unavailable, the employer is required to remove the employ from performing safety sensitive functions until 8 hours have elapsed. The employer is prohibited from taking additional action under PHMSA authority against an employee based solely on the employee's behavior and appearance. The company may have, however, additional policies under the company's own authority.

**Prohibitions for Alcohol:**

1. An employee may not report to duty or stay on safety-sensitive duty (a) with an alcohol concentration of 0.02 or greater, (b) while in possession of alcohol (c) if using alcohol; or (d) within four (4) hours of using alcohol.  
An employee may not perform a safety-sensitive function who has a concentration of 0.04 or greater for any DOT employer until an evaluation by a SAP and has completed the recommended treatment.
2. An employee who has had an accident may not use alcohol until post-accident testing is done or for a period of eight (8) hours, whichever comes first. *Post-accident alcohol testing should be conducted within two (2) hours of the accident. If it cannot be performed within eight (8) hours, the employer must cease attempts and record reasons.*
3. Employees cannot refuse to submit to alcohol testing. The company reserves the right to take disciplinary action against any employee who refuses to be tested.

**B. Drug Use**

The PHMSA bans the use of controlled substances by covered employees. Employees who use drugs are considered medically unqualified to perform safety-

sensitive functions.

**Prohibitions for drugs, controlled substances:**

1. Employees may not report for duty or stay on safety-sensitive duty while using any controlled substance. The exception to this prohibition is if a physician has prescribed the substance and has advised the employee that it does not interfere the performance of safety-sensitive duties.
2. Employees may not report for duty or stay on safety-sensitive duty if they have tested positive for a controlled substance.
3. The company reserves the right to require employees to report the use of any therapeutic drugs. Also, the company reserves the right to remove employees from safety-sensitive duties until a physician's opinion can justify safe resumption of safety-sensitive functions.

**Consequences:**

An employee who has violated any of the prohibitions concerning alcohol misuse with a concentration of 0.04 or greater or a positive drug test, including a refusal to be tested, will be removed from any safety-sensitive function and will not be allowed to return to a safety-sensitive function with the company until an evaluation by a Substance Abuse Professional (SAP) has been done and any recommended treatment has been completed. The company reserves the right to take disciplinary action against an employee who violates these alcohol/drug prohibitions.

An employee found to have an alcohol concentration of 0.02, but less than 0.04, will not be allowed to return to a safety-sensitive position for 8 hours or the BAC retest is below 0.02.

**Required Testing:**

Each employer that has a covered employee who performs multi-DOT agency functions (e.g., an employee performs pipeline maintenance duties and drives a commercial motor vehicle), count the employee only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. Employers may have to explain the testing data for these employees in the event of a DOT agency inspection or audit. A service agent, (e.g., Consortia/Third Party Administrator may prepare the MIS report. However, each report shall be certified by the employer's anti-drug manager or designated employee representative for accuracy and completeness.

**§199.105 Drug tests required.**

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

(a) *Pre-employment testing.* No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this part.

(b) *Post-accident testing.* (1) As soon as possible but no later than 32 hours after an accident, an operator must drug test each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph, but such a decision must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

(2) If a test required by this section is not administered within the 32 hours following the accident, the operator must prepare and maintain its decision stating the reasons why the test was not promptly administered. If a test required by paragraph (b)(1) of this section is not administered within 32 hours following the accident, the operator must cease attempts to administer a drug test and must state in the record the reasons for not administering the test.

(c) *Random testing.* (1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

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

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

(4) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of §199.119 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.

(5) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(6) The operator shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the Administrator. If the operator conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual operator or may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under this subpart or any DOT drug testing rule.

(7) Each operator shall ensure that random drug tests conducted under this subpart are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

(8) If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for the same operator, the employee shall be subject to random drug

testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

(9) If an operator is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the operator may—

(i) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

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

(d) *Testing based on reasonable cause.* Each operator shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. However, in the case of operators with 50 or fewer employees subject to testing under this part, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

(e) *Return-to-duty testing.* A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has complied with applicable provisions of DOT Procedures concerning substance abuse professionals and the return-to-duty process.

(f) *Follow-up testing.* A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

[53 FR 47096, Nov. 21, 1988, as amended by Amdt. 199-2, 54 FR 51850, Dec. 18, 1989; 59 FR 62227, Dec. 2, 1994; Amdt. 199-15, 63 FR 13000, Mar. 17, 1998; Amdt. 199-15, 63 FR 36863, July 8, 1998. Redesignated and amended by Amdt. 199-19, 66 FR 47118, Sept. 11, 2001; Amdt. 199-27, 82 FR 8001, Jan. 23, 2017]

### **199.225 Alcohol tests required. Each operator must conduct the following types of alcohol**

Each operator must conduct the following types of alcohol tests for the presence of alcohol:

(a) *Post-accident.* (1) As soon as practicable following an accident, each operator must test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to

the accident. The decision not to administer a test under this section must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

(2)(i) If a test required by this section is not administered within 2 hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by paragraph (a) is not administered within 8 hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(ii) [Reserved]

(3) A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the operator or operator representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the operator to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people 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.

(b) *Reasonable suspicion testing.* (1) Each operator shall require a covered employee to submit to an alcohol test when the operator has reasonable suspicion to believe that the employee has violated the prohibitions in this subpart.

(2) The operator's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

(3) Alcohol testing is authorized by this section only if the observations required by paragraph (b)(2) of this section are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with this subpart. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions.

(4)(i) If a test required by this section is not administered within 2 hours following the determination under paragraph (b)(2) of this section, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within 8 hours following the determination under paragraph (b)(2) of this section, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to PHMSA upon request of the Administrator.

(ii) [Reserved]

(iii) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, an operator shall not permit a covered employee to report for duty or remain on duty requiring the

performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an operator permit the covered employee to perform or continue to perform covered functions, until:

(A) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

(B) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination under paragraph (b)(2) of this section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this subpart.

(iv) Except as provided in paragraph (b)(4)(ii), no operator shall take any action under this subpart against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an operator with the authority independent of this subpart from taking any action otherwise consistent with law.

(c) *Return-to-duty testing.* Each operator shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§199.215 through 199.223, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

(d) *Follow-up testing.* (1) Following a determination under §199.243(b) that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, each operator shall ensure that the employee is subject to unannounced follow-up alcohol testing as directed by a substance abuse professional in accordance with the provisions of §199.243(c)(2)(ii).

(2) Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.

(e) *Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.* Each operator shall retest a covered employee to ensure compliance with the provisions of §199.237, if an operator chooses to permit the employee to perform a covered function within 8 hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

[Amdt. 199-9, 59 FR 7430, Feb. 15, 1994, as amended at 59 FR 62239, 62246, Dec. 2, 1994; Redesignated by Amdt. 199-19, 66 FR 47119, Sept. 11, 2001; 70 FR 11140, March 8, 2005; Amdt. 199-27, 82 FR 8001, Jan. 23, 2017]

#### **Refusal to Be Tested:**

A refusal to be tested for alcohol or controlled substances constitutes a violation and the company reserves the right to take additional disciplinary actions against an employee who refuses to be tested.

#### **Alcohol Testing Procedures and Employee Safeguards**

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

A "breath alcohol technician" is an individual who instructs and assist individuals in the alcohol testing process and operates an "evidentiary breath testing" device (EBT). The BAT is required to be properly trained, as follows:

1. Proficiency shall be demonstrated by successful completion of a course of

instruction which, at a minimum, provides training in the principals of EBT methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required in this part for obtaining a breath sample, and interpreting and recording EBT results.

2. Only courses of instruction for operation of EBT's that are equivalent to the Department of Transportation (DOT) model course, as determined by the National Highway Traffic Safety Administration (NHTSA), may be used to train BATs to proficiency.
3. The course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) he/she will use.
4. Any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of EBT.
5. The BAT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that he or she will use.
6. The company will establish documentation of the training and proficiency test of each BAT it uses to test the Company employees.

#### Breath Alcohol Technician (BAT)

ProHealth

3298 Summit Blvd, Suite 33

Pensacola, FL 32503

(850)435-4991

**NOTE:** A BAT-qualified supervisor of an employee may conduct the alcohol test for that employee only if another BAT is unavailable.

#### **Evidential Breath Testing (EBT) Device:**

EBT's used to perform alcohol tests on the company employees are approved by the National Highway Traffic Safety Administration (NHTSA) and are placed on the "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

An EBT used for a screening test of a company employee will be capable of printing out results and numbering each result sequentially. A logbook may also be kept.

The EBT used will have a Quality Assurance Plan (QAP) developed by the manufacturer and approved by NHTSA. The company will remove from service any EBT that fails a calibration check as set forth in the QAP.

#### **Breath Alcohol Testing Form/Logbook:**

An alcohol testing form, published by the Department of Transportation (DOT) will be used to ensure the integrity of the test result, properly identify the employee with the test result, and serve as a documented record of the testing event.

The logbook, if used, will become additional documentation of the testing event by providing a sequential test number, date, name of BAT, location of test, quantified test result and initials of the employee each test.

### **Preparation for Testing:**

Alcohol testing will be conducted in a location that affords, to the greatest extent practicable, visual and aural privacy to the company employee being tested.

The employee is required to show positive identification (picture I.D.) to the BAT and may request the BAT to also show positive identification. The BAT must supervise only one employee's use of the EBT at a time and must not leave the testing site while the test is in progress.

### **Screening Test Procedure:**

After the employee has been positively identified, the **alcohol** screening test procedure will be conducted, as follows:

1. The employee will provide the STT or BAT with identifying information and employer information to be entered on the Breath or Saliva Alcohol Testing Form. The employee will be asked to certify, by signature, that the information provided is correct. A refusal by an employee to sign the certification will be regarded as a refusal to take the test.
2. An individually sealed mouthpiece will be opened in view of the employee and attached to the EBT or ASD.
3. The BAT will instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.
4. After showing the employee the quantitative alcohol concentration results printed out by the EBT or ASD, the BAT will enter the results, test number, testing device, serial number of the EBT, time, and date on the proper section of the Breath or Saliva Alcohol Testing Form. The BAT may also record the test number, date, name of BAT, location, and quantified test result in the logbook. The employee will then initial the logbook.
5. Depending on whether the result is less than 0.02 or greater, the following procedures will be done:
  - a. If the result is less than 0.02, the BAT or STT will date the form and sign the certification to the effect that all procedures were followed as required by DOT regulations. No further testing is required. The BAT will transmit the result of less than 0.02 to the company designated official in a confidential manner, and the company official will receive and store the information so as to ensure that confidentiality is maintained. The employee will receive a copy of the alcohol form.

**NOTE:** Failure of the employee to sign the alcohol test form or initial the logbook after a test has been conducted will be noted by the BAT in the remarks section of the alcohol form.

**NOTE:** If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the remarks section, both BAT and employee will initial the remarks. The test result will be considered invalid and the employee and the company will be so notified.

- b. If the result is 0.02 or greater, a confirmation test will be performed. If the confirmation test will be performed by a different BAT, the BAT who

conducted the screening test will complete and sign the form and logbook entry. The BAT will give the employee a copy of the alcohol form.

**Confirmation Testing Procedures:**

If a different BAT is conducting the alcohol confirmation test, the new BAT will require positive identification of the employee, explain the testing procedure, and initiate a new Breath Alcohol Testing Form, requiring a repetition of information and certification by signature. In addition, the following instructions must be followed:

1. The BAT will instruct the employee not to eat, drink, or put any object or substance in his or her mouth for at least fifteen (15) minutes. The BAT will explain that the reason for these instructions is to ensure against an artificially high reading. The BAT will note in the "Remarks" section of the form any non-compliance with instructions.
2. The confirmation test will be conducted within twenty (20) minutes of the completion of the screening test.
3. A new mouthpiece will be opened and used for the confirmation test.
4. Before the confirmation test is administered for each employee, the BAT will ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, after two attempts, that EBT will not be used for testing.  
**NOTE:** Any EBT taken out of service because of failure to register 0.00 on an air blank will not be returned to service until an external calibration is conducted and the EBT is, once again, to be found within tolerance limits.
5. In the event that the screening and confirmation test results are not identical, the confirmation test result is to be deemed to be the final result upon which any action will be taken in compliance with federal rules or the company authority.
6. The BAT will affix the confirmation test printout to the alcohol test form using tamper-evident tape.
7. Following completion of the test, the BAT will date and sign the form. The employee will also sign the certification statement at the designated place.  
**NOTE:** The refusal of the employee to sign the alcohol form will not defeat the test result but will be noted by the BAT in the "Remarks" section.  
**NOTE:** Disparity between the displayed result and the printed result will be "noted", signed by employee and BAT, and will be considered an invalid test.
8. The BAT will conduct an air blank. If the reading is greater than 0.00, the test is invalid.
9. The BAT will transmit all results to the company in a confidential manner. The BAT will ensure immediate transmission to the company of results that require the company to prevent an employee from performing a safety-sensitive function.
10. The company will designate one or more representatives for the purpose of receiving and handling alcohol testing results in a confidential manner. All communications by BATs to the company concerning the alcohol testing results of employees will be to a designated company representative.

**Employee Test Information:**

The company will maintain employee test information records in a secure manner, so that

disclosure of information to unauthorized persons does not occur. Employee test information will only be released as required by law or as expressly authorized. The release of employee test information is allowed in the following instances:

1. An employee will have access to any of his/her alcohol testing records upon written request.
2. The company will allow any DOT-authorized agency access to facilities and records in connection with the company alcohol misuse prevention program.
3. When requested, the company will disclose post-accident testing information to the National Transportation Safety Board (NTSB) as part of an accident investigation.
4. The company may disclose information to the employee or to a decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee.
5. The company will release information regarding an employee's alcohol testing records as directed by the specific, written consent of the employee authorizing release of the information to an identified person.

## **Drug Testing Procedures and Employee Safeguards**

### **Chain of Custody (C.O.C.):**

The company employee drug testing program will utilize a clear and well-documented procedure for collection, shipment and accession of urine specimens from the specimen collection site to the laboratory. For this purpose, a standard drug testing chain of custody and control form (C.O.C.) will be used.

### **Definition of Chain of Custody (C.O.C.):**

Federal regulations define "chain of custody" in the following way: "Procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen."

### **The C.O.C. Form:**

The drug testing custody and control form (C.O.C.) is used to document the chain of custody to the laboratory. These forms are multiple-part carbonless forms to allow for copies to be retained by the laboratory, to be shared by the MRO, the employee, and the company designated representatives. These forms will be maintained as a permanent record on which all necessary identifying data and the collection process are retained.

### **Preparation for Testing:**

In addition to using a custody and control form, other safeguard procedures, in preparation of testing, include:

1. Use of clean, single use specimen bottle.
2. Use of a tamper proof seal system.
3. Use of a shipping container that can be sealed and initialed after depositing both specimen and C.O.C. documentation.
4. Written procedures and instructions for collection site person.

### **Written Procedures:**

The written procedures for the collection site person emphasize that the collection site person is responsible for maintaining the integrity of the specimen collection and transfer process. Unless it is impractical for any other individual to perform this function, a direct supervisor of an employee will not serve as the collection site persons for testing purposes. In any case, where a collection is monitored or directly observed, the collection site person will be of the same gender as the employee/donor.

### **Specimen Collection: Security Procedures**

The collection site will be a secure location, closed to allow for maximum privacy. Security procedures require restricted access to collection materials and specimens. No unauthorized personnel will be permitted access to the collection site. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.

To minimize the chance of error, the collection site person will collect only one specimen at any given time. The collection procedure for each specimen is completed when the urine bottle has been sealed and initialed, the custody and control form has been executed, and the employee has departed the collection site.

### **Laboratory Analysis:**

In compliance with the PHMSA/DOT drug testing regulations, the company will only authorize laboratories certified by the Department of Health and Human Services (DHHS) to be used for the analysis of urine specimen drug testing program.

Certified laboratories, so utilized by the company, will take security measures to ensure accurate identification of each specimen. Internal chain-of-custody forms will be used at all times to track each specimen from the time it is received to the time it is destroyed.

LabCorp of America  
1904 Alexander Drive  
Research Triangle Park, NC 27709  
800-833-3984

### **Reporting of Results:**

The certified laboratory, chosen by the company to analyze urine specimens of covered employees, will report the test results directly to the company designated Medical Review Officer (MRO). Both positive and negative results will be reported in a secure and confidential manner, and never verbally.

The report, as certified by the responsible laboratory individual, will indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number signed by the company and the drug testing laboratory identification number. Only specimens confirmed by GC/MS testing as positive are reported as positive.

The laboratory will also transmit to the MRO the original or certified copy of the chain-of-custody and control form and will identify the individual at the laboratory responsible for the day-to-day management of the laboratory process.

### **Review of Results / MRO:**

The Medical Review Officer (MRO), designated by the company to review drug test results, will

be a fully licensed physician and possess a knowledge of drug abuse disorders. It is the primary responsibility of the MRO to review and interpret positive results obtained from the laboratory. The MRO will assess and determine whether alternate medical explanations could account for the positive test results.

To accomplish this task, the MRO may conduct medical interviews of the individual, review the individual's medical history and review any other relevant bio-medical factors. Additionally, the MRO will examine all medical records and data made available by the tested individual, such as evidence of prescribed medications. The MRO will not consider any drug test results that arise from urine collection or analysis which do not comport with PHMSA/DOT regulations.

The MRO will give the individual testing positive an opportunity to discuss the test results prior to making a final decision. After the final decision is made, the MRO will notify the company.

### **Testing of Split Sample:**

The MRO will notify each employee who has a confirmed positive test that the employee has seventy-two (72) hours in which to request a test of the split specimen. If the employee makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or unsuitable, the MRO will cancel the test and report cancellation and the reason for it to the DOT, the company, and the employee.

### **MRO Unable to Contact Employee:**

If the company's designated MRO, after making and documenting all reasonable efforts is unable to contact a tested employee, the MRO will contact a designated management official of the company to arrange for the individual to contact the MRO prior to going on duty. The MRO may verify a positive test without having communicated with the employee about the results of the test if:

1. The employee expressly declines the opportunity to discuss the results of the test, or
2. Within five (5) days after a documented contact by a designated management official of the company instructing the employee to contact the MRO, and the employee has not done so.

### **Employee Assistance Program and Employee Education**

Each operator must provide an EAP for its employees and supervisors. Education must include at least display and distribution of informational material, a community service hot-line number for employee assistance, and the policy regarding the prohibited use of drugs and alcohol.

#### EAP Program Providers

- \* EAP Lifestyle Management Services: 800-788-2077 [eap@eaplifestyle.com](mailto:eap@eaplifestyle.com)  
[www.EAPLifestyle.com](http://www.EAPLifestyle.com)
- \* Resources for Living: 800-272-3626  
[www.resourcesforliving.com](http://www.resourcesforliving.com) Username: PRM Password:8002723626

### **Supervisor Training**

Each employer must provide reasonable suspicion training to Supervisors to include at least 60 minutes of alcohol, and 60 minutes of drugs behavioral, speech and performance indicators of misuse.

### **Referral, Evaluation, and Treatment:**

The PHMSA/DOT drug testing rules, following the Omnibus Act of 1991, require employees be provided with an opportunity for alcohol or drug abuse treatment. The rules, however, do not require that the employer pay for rehabilitation or hold a job open for an employee.

Specifically, the alcohol and drug ruling require:

1. That the employee who violate alcohol or drug prohibitions be advised of the resources available to evaluate and resolve the problem.
3. That the employee be evaluated by a substance abuse professional (SAP) to determine what assistance is necessary.
3. That before returning to safety-sensitive duties an employee must:
  - a. produce a return-to-duty alcohol test of 0.02 alcohol concentration or less if violation was alcohol related; and/or produce a verified negative return-to-duty drug test if the violation was drug related.
  - c. if assistance was recommended, the driver must be follow-up evaluated by a Substance Abuse Professional (SAP) to determine if treatment recommendations were followed.
  - d. be subject to a minimum of six (6) unannounced follow-up tests within the first year back to work

**NOTE:** Follow-up testing can be required for up to five (5) years after return to work.

Substance Abuse Professional (SAP) in Pensacola  
Office of Maric Shemaria, LMHC, NCC, CAP, SAP  
John E. Bingham, EdD

Contact the City's EAP for assistance with SAP  
EAP Lifestyle Management, LLC  
(800)788-2077

### **Contractor Employees**

Operators utilizing contractor employees may provide the drug testing, education and training requirements be carried out by the contractor, but the operator remains responsible for ensuring the requirements of the rule are followed.

### **Record Retention and Reporting**

Operators must maintain records regarding their drug and alcohol testing program for up to five years. There are no requirements to report employee violations to PHMSA.

Operators with more than 50 covered employees must submit a detailed MIS Report to PHMSA no later than March 15 for the prior calendar year. Operators with less than 50 must submit MIS Report upon written notice by PHMSA.

## **APPENDIX A**

### **APPENDIX A**

#### **DOT Drug Testing**

Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. This screen-confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine. The drug testing panel is listed below:

#### **Initial Test Analyte**

Marijuana metabolites

Cocaine metabolite

Codeine

Morphine

Hydrocodone/

Hydromorphone

Oxycodone

Oxymorphone

6-Acetylmorphine

Phencyclidine

Amphetamine/

Methamphetamine

MDMA/MDA

## **APPENDIX B**

Administrative Services Director, Stephanie Lucas is designated by the company to be available to all drivers for the purpose of answering any questions about company's Substance Abuse and Alcohol Misuse Policy, including information about the availability of materials on substance abuse and alcohol misuse.

## **APPENDIX C**

Educational materials about the effects of substance abuse, including alcohol, are available to all company drivers at the following locations:

All City Building locations including:

1. Gulf Breeze City Hall, 1070 Shoreline Dr, Gulf Breeze, FL 32561
2. Community Center
3. Water Reclamation Facility
4. Field Operations
5. Police Department

**NOTE:** A copy of the company Substance Abuse and Alcohol Misuse Policy is available to representatives of employee organizations. Specifically, this Appendix will serve as written notification to such representatives regarding the availability of educational materials for drivers.

## **APPENDIX D**

### HELP FOR SUBSTANCE ABUSE PROBLEMS:

Employees who want help with a substance abuse problem (self or other) can begin the helping process by calling the following telephone numbers:

- \* EAP Lifestyle Management Services: 800-788-2077 [eap@eaplifestyle.com](mailto:eap@eaplifestyle.com)  
[www.EAPLifestyle.com](http://www.EAPLifestyle.com)
- \* Resources for Living: 800-272-3626  
[www.resourcesforliving.com](http://www.resourcesforliving.com) Username: PRM Password:8002723626

Reviewed March 2023