

**ORDINANCE NO. 2025-079**

**An Ordinance by the City Council of the City of Del Rio, Texas, adopting a Revised City of Del Rio Transit Services, also known as the City of Del Rio Transportation Drug and Alcohol-Free Workplace Policy, and Establishing an Effective Date**

**WHEREAS**, as a cornerstone of workplace safety, the City of Del Rio's Transit Services, also known as the City of Del Rio Transportation Drug and Alcohol-Free Workplace Policy, provides clear guidance and expectations for all Transit Services Department employees; and

**WHEREAS**, as a recipient of both federal and state funding, the City of Del Rio Transit Services Department, also known as the City of Del Rio Transportation, is obligated to comply with the regulations set forth by the United States Department of Transportation (USDOT) Office of Drug and Alcohol Policy and Compliance (ODAPC); and

**WHEREAS**, the previous policy was approved by City Council on February 22, 2022; and

**WHEREAS**, the proposed policy, if approved by Council, is amended to reflect necessary changes identified during a compliance review conducted by the Texas Department of Transportation of the City of Del Rio's Transit Services Department, also known as the City of Del Rio Transportation Drug and Alcohol-Free Workplace Policy

**WHEREAS**, these updates are considered essential for maintaining a safe, lawful, and supportive work environment for both the city and its employees; and

**WHEREAS**, by amending the policy, the City of Del Rio Transit Services, also known as the City of Del Rio Transportation Department Drug and Alcohol-Free Workplace Policy, the department will comply with USDOT & ODAPC drug and alcohol regulations 49 CFR Part 40; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEL RIO, TEXAS THAT:**

**Section 1.** The revised City of Del Rio Transit Services, also known as the City of Del Rio Transportation Department Drug and Alcohol-Free Workplace Policy, attached as Exhibit "A," is approved.

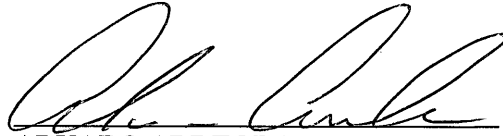
**Section 2.** Severability. If any section, subsection, clause, phrase or provision of this Article, or any application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Article, or any application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

**Section 3.** Repealed. This Ordinance shall be cumulative of all provisions of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**Section 4.** Meeting Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**Section 5.** Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law.

**PASSED AND APPROVED** on this 23<sup>rd</sup> day of September 2025.



**ALVARO ARREOLA**  
Mayor

**ATTEST:**



**MARIA C. ACOSTA**  
City Secretary

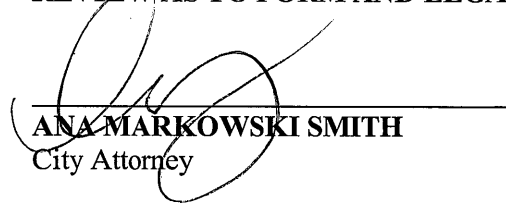
**REVIEWED FOR ADMINISTRATION:**



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**SHAWNA D. BURKHART**  
City Manager

**REVIEW AS TO FORM AND LEGALITY:**



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**ANA MARKOWSKI SMITH**  
City Attorney



CITY OF DEL RIO  
Transit Services Department,  
Also known as the City of Del Rio  
Transportation Department  
**DRUG AND ALCOHOL  
FREE WORKPLACE POLICY**

CITY COUNCIL  
Approved on September 23, 2025

CITY OF DEL RIO  
109 W. BROADWAY ST  
Del Rio, Texas 78840

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## SECTION 1: Introduction

- 1.1 The negative effects of drug and alcohol abuse (also known as substance abuse) are generally well known yet there is still a high incidence of substance abuse within the United States that affects both personal lives and the workplace. While it is disappointing that individuals may be willing to put their lives in jeopardy to support a habit of substance abuse, it is unacceptable that they should be allowed to affect the lives of others. The US Department of Transportation (USDOT), the Federal Transit Administration (FTA), the Texas Department of Transportation (TXDOT), the City of Del Rio (CODR), its rural transportation department - City of Del Rio Transportation (CODRT), and each of CODR's transportation subcontractors is committed to providing safe transportation services for the citizens we serve and for keeping those who provide that service safe as well. Part of this philosophy is a strong policy in opposition to the abuse of controlled substances, alcohol, and prescription and over-the-counter medications.
- 1.2 This policy summarizes USDOT's and CODR's guidelines to combat substance abuse in its rural transportation program. The policy does not cover all aspects of CODR's substance abuse prevention program, but it does address key issues affecting applicants and safety-sensitive personnel within the CODR system. This policy exceeds the regulatory requirements for content of such a policy and is intended to provide information to make you aware of your responsibilities and rights under USDOT's drug and alcohol testing programs. **THIS POLICY IS NOT INTENDED TO FORM A CONTRACT WITH SAFETY-SENSITIVE PERSONNEL AND SHOULD NOT BE READ AS SUCH.** If you wish to become more familiar with the requirements of the regulations governing this program, CODR will provide you access to those or furnish Internet web addresses where you may read and/or print the current regulations.
- 1.3 CODR's substance abuse prevention program will be implemented fairly, equitably, and consistently to meet both our obligation to the safety of our passengers and staff and to ensure compliance with the applicable federal regulations noted in Section 2.
- 1.4 Under the authority and requirements of Title 49, Code of Federal Regulations, Part 655 (49 CFR 655), ***SUBMISSION TO PRE-EMPLOYMENT AND POST-HIRE RECURRING DRUG AND ALCOHOL TESTING IS A CONDITION OF EMPLOYMENT FOR SAFETY-SENSITIVE PERSONNEL.*** [655.15(f)]

## Section 2: Reading This Policy

- 2.1 Bracketed numbers at the end of a paragraph tell you where in the regulations you will find the information covered in that paragraph. All numeric references (e.g., 40.123) are to Title 49 of the Code of Federal Regulations (CFR). The digits prior to the decimal point indicate the Part (regulation) within Title 49 that applies, and the entire number indicates the specific section within that part (e.g., 40.123 means Title 49, Part 40, Section 40.123). Occasionally, the bracketed reference will be to a document other than a regulation. Many paragraphs do not have regulatory references because the reference is provided in the text, a specific regulatory reference is not practical, or the information does not come from the regulations.
- 2.2 Most, but not all, of the information provided in this policy is based on USDOT regulations. Text within the numbered sections of this document that is NOT based on USDOT authority is identified by use of SMALL CAPITALIZATION lettering.
- 2.3 Text to be emphasized will be **bolded**, *italicized*, **BOLDED UPPER CASE**, underlined, or **ANY COMBINATION OF THESE.**

## **SECTION 3: Authority for This Policy and the Substance Abuse Prevention Program**

- 3.1 This policy is established under the authority of 49 CFR 655, *Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations*, and any amendments thereto. [655.12(a)]
- 3.2 The authority and requirement for the establishment of a substance abuse prevention program, to include all types of drug and alcohol testing described herein, also comes from 49 CFR 655. Specific procedures for conducting drug and alcohol testing are found in Title 49, Code of Federal Regulations, Part 40 (49 CFR 40), *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*, and any amendments thereto. [655.11 & 40.11(c)]
- 3.3 **INDIVIDUALS WHO HOLD A CDL SHOULD BE AWARE THAT BY VIRTUE OF HOLDING THE CDL, THEY CONSENT UNDER FEDERAL REGULATION (49 CFR 383.72) TO SUBMIT TO ALCOHOL TESTING. INDIVIDUALS WHO DRIVE A COMMERCIAL MOTOR VEHICLE IN TEXAS ALSO GIVE IMPLIED CONSENT UNDER TEXAS LAW (TITLE 7, TEXAS TRANSPORTATION CODE, §522.102) TO SUBMIT TO BOTH ALCOHOL AND DRUG TESTING. HOWEVER, TESTS UNDER THOSE CIRCUMSTANCES ARE APPLIED UNDER AUTHORITY SEPARATE FROM THAT UNDER WHICH THE CODR DRUG AND ALCOHOL TESTING PROGRAM OPERATES. (Revised 033110)**
- 3.4 CODR AND CODRT MANAGEMENT RESERVE THE RIGHT TO REVISE, SUPPLEMENT, OR RESCIND ANY PART OF THIS POLICY AS DEEMED APPROPRIATE, WITH APPROVAL FROM THE CITY COUNCIL OF THE CITY OF DEL RIO, TEXAS.
- 3.5 **Authorize employers to disclose to State commercial driver licensing (CDLs) authorities the drug and alcohol violations of employees who hold CDLs and operate commercial motor vehicles (CMVs), when a state law requires such reporting (49 CFR 40.331 (g)). Revised 060412] This rule also permits third-party administrators (TPAs) to provide the same information to State CDL Licensing authorities where State law requires the TPAs to do so for owner-operator CMV drivers with CDLs.**

## **Section 4: Definition of Terms and Acronyms**

- 4.1 Accident. An occurrence associated with the operation of a vehicle, whether moving or not (to include operation of the wheelchair lift), where any of the following occurs:
  - a. An individual dies; or
  - b. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
  - c. Where any vehicle involved incurs disabling damage (see definition below) as the result of the accident, and one or more vehicles are transported from the scene by a tow truck or other vehicle. [655.4]
- 4.2 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. [40.3]
- 4.3 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. [40.3]
- 4.4 Alcohol screening device (ASD). A breath or saliva device, other than an evidential breath testing device, 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. [40.3]

- 4.5 Alcohol screening test. An analytic procedure to determine whether an individual has a prohibited concentration of alcohol in a breath specimen. [40.3]
- 4.6 Alcohol Testing Form (ATF). The form used to document the various actions and certifications required as part of the alcohol testing process.
- 4.7 Applicant. A PERSON APPLYING FOR A SAFETY-SENSITIVE POSITION, WHETHER FROM OUTSIDE THE AGENCY OR AN INTERNAL TRANSFEREE. APPLICANTS ARE NOT CONSIDERED SAFETY-SENSITIVE PERSONNEL UNTIL THEY HAVE SUCCESSFULLY MET THE PREREQUISITES FOR ASSIGNMENT TO SAFETY-SENSITIVE DUTIES.
- 4.8 Articulate. Capable of being described.
- 4.9 Breath Alcohol Concentration (BAC). 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. [40.3]
- 4.10 Custody and Control Form (CCF). The form used to document the handling, various actions, and certifications required as part of the drug testing process.
- 4.11 Commercial driver's license (CDL). A license issued by a state or other jurisdiction to a person, in accordance with the standards contained in 49 CFR 383, which authorizes the individual to operate a commercial motor vehicle. CODR vehicles considered commercial motor vehicles are those designed to transport 16 or more passengers, including the driver. [383.5]
- 4.12 CFR. Code of Federal Regulations.
- 4.13 CMV. Commercial Motor Vehicle.
- 4.14 Commercial Motor Vehicle. For CODR operations, any vehicle with a gross vehicle weight rating greater than 26,000 pounds or designed to transport 16 or more passengers, including the driver; [383.5]
- 4.15 Contemporaneous. Originating, existing, or happening during the same period of time.
- 4.16 Conviction. **A FINDING OF GUILT (INCLUDING A PLEA OF NOLO CONTENDERE) OR IMPOSITION OF SENTENCE OR BOTH, BY ANY JUDICIAL BODY CHARGED WITH RESPONSIBILITY TO DETERMINE VIOLATIONS OF FEDERAL OR STATE CRIMINAL DRUG STATUTES. [32.615]**
- 4.17 DAMIS. Drug and Alcohol Management Information System. The system used to report annual drug and alcohol testing data to USDOT.
- 4.18 DAPM. Drug and Alcohol Program Manager.
- 4.19 Designated Employer Representative (DER). A CODR employee authorized by the Rural Transportation Manager to receive information about drug and alcohol test results and take immediate action to suspend or remove personnel from safety-sensitive duties. [40.3]
- 4.20 Direct observation. In the case of urine drug testing, where a person of the same gender watches the flow of urine from the body to the collection container. [40.67]

- 4.21 **Disabling damage.** Damage that precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs, i.e., the vehicle must be towed away. This definition includes damage to a motor vehicle that could have been driven but would have been further damaged if driven. The following circumstances are excluded from this definition:
- a. Damage that can be remedied temporarily at the scene without the need for special tools or parts.
  - b. Tire disablement without other damage, even if no spare tire is available.
  - c. Damage to headlamps or taillights.
  - d. Damage to turn signals or windshield wipers that restrict the vehicle from being driven. [655.4]
- 4.22 **EMPLOYMENT. THE PERFORMANCE OF SERVICE TO CODR, IN A PAID CAPACITY.**
- 4.23 **Evidential breath testing device.** **A device approved by the NTHSA for the evidential testing of breath at the 0.02 and 0.04 breath alcohol concentrations and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specification available from NTHSA. [40.3]**
- 4.24 **Fatal Flaws** (for drug tests). When the laboratory discovers a "fatal flaw" during its processing of incoming specimens (see §40.83), the laboratory will report to you that the specimen has been "Rejected for Testing" (with the reason stated). You must always cancel such a test.
- 4.25 **Federal Transit Administration (FTA).** The agency under the U. S. Department of Transportation responsible for developing, communicating, and interpreting the drug and alcohol testing regulations to which CODR safety-sensitive personnel are subject.
- 4.26 **Follow-up test.** Any of the post-rehabilitation drug and/or alcohol tests prescribed by a SAP to ensure an individual has not relapsed into substance abuse.
- 4.27 **Follow-up testing plan.** A SAP-prescribed regimen of post-rehabilitation drug and/or alcohol testing to ensure an individual has not relapsed into substance abuse. This plan may also incorporate requirements for continuing education and/or treatment.
- 4.28 **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. [40.3]
- 4.29 **Negative-dilute test result.** A negative drug test result indicating creatinine and specific gravity values that are lower than expected for human urine. [40.3]
- 4.30 **Performing safety-sensitive duties.** Any period in which a safety-sensitive individual is actually performing, ready to perform, or is readily available to perform those functions or duties. [655.4]
- 4.31 **Rehabilitation process.** A process of screening by a Substance Abuse Professional to establish and execute a tailored plan of substance-abuse education and/or treatment. [40.307]
- 4.32 **Rehabilitative treatment.** See Rehabilitation process.
- 4.33 **Revenue service vehicle.** Any vehicle in the CODR fleet intended for the transport of passengers.

- 4.34 Safety-sensitive personnel. Individuals filling safety-sensitive positions, whether CODR employees or temporary agency employees.
- 4.35 Safety-sensitive positions. Jobs that do or may require the performance of the following duties:
- a. Operation of a revenue service vehicle, whether in or out of service.
  - b. Maintenance of revenue service vehicles.
  - c. Controlling dispatch or movement of revenue service vehicles.
  - d. Operation of a non-revenue vehicle that requires a CDL to operate.
  - e. Carrying firearms for security purposes. (655.5)
- 4.36 Substance Abuse Professional (SAP). A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.
- 4.37 SHY BLADDER. A TERM USED TO DESCRIBE A SITUATION WHERE AN INDIVIDUAL IS UNABLE, AFTER ONE OR MORE ATTEMPTS, TO PROVIDE A SUFFICIENT URINE SPECIMEN (45 MILLILITERS).
- 4.38 SHY LUNG. A TERM USED TO DESCRIBE A SITUATION WHERE AN INDIVIDUAL IS UNABLE, AFTER ONE OR MORE ATTEMPTS, TO PROVIDE A SUFFICIENT VOLUME OF BREATH FOR THE SCREENING OR CONFIRMATION TEST UNIT TO ANALYZE THE BREATH FOR ALCOHOL CONCENTRATION.
- 4.39 Specimen bottles. The bottle that, after being sealed and labeled according to the procedures in this part, is used to hold a primary ("A") or split ("B") specimen during transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle." [40.3]
- 4.40 Substituted Specimen. An employee's specimen is not consistent with a normal human specimen, as determined by HHS (e.g., 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). [40.3]
- 4.41 Texas Department of Transportation (TXDOT). THE AGENCY RESPONSIBLE FOR ENFORCEMENT OF FEDERAL REQUIREMENTS UNDER 49 CFR 655 AND 49 CFR 40, AS AMENDED, FOR THE STATE OF TEXAS.
- 4.42 USDOT. United States Department of Transportation; All references to USDOT will assume that the FTA is included in that reference.
- 4.43 United States Department of Transportation. The federal department responsible for enforcement of requirements under 49 CFR 655 and 49 CFR 40.
- 4.44 Use of alcohol. The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol. [40.3]
- 4.45 Zero-tolerance policy. A PHILOSOPHY ESTABLISHED UNDER CODR POLICY THAT SAYS VIOLATION OF DRUG AND ALCOHOL REGULATIONS AND/OR LOCAL POLICY WILL NOT BE TOLERATED. TENETS OF THIS PHILOSOPHY ARE:
- a. ANY INDIVIDUAL SUBJECT TO THIS POLICY WHO ABUSES PROHIBITED DRUGS AND/OR ALCOHOL WILL BE TERMINATED.
  - b. PERSONS WHO OTHERWISE VIOLATE APPLICABLE DRUG AND ALCOHOL REGULATIONS AND/OR THE CITY OF DEL RIO DRUG AND ALCOHOL POLICY WILL BE TERMINATED, WITH SOME LIMITED EXCEPTIONS PRESCRIBED BY USDOT REGULATIONS.
  - c. A NO-HIRE POLICY FOR INDIVIDUALS WHO VIOLATE THE DRUG AND ALCOHOL REGULATIONS AND/OR THE CODR DRUG AND ALCOHOL POLICY AND HAVE NOT YET COMPLETED A SUBSTANCE-ABUSE REHABILITATION PROCESS.

## Section 5: Persons Subject to This Policy

5.1 BASED UPON CODR MANAGEMENT ANALYSIS, CODR SAFETY-SENSITIVE POSITIONS (REFER TO DEFINITIONS) SUBJECT TO USDOT REGULATIONS ARE:

- a. DRIVERS, WHETHER CODR EMPLOYEES OR EMPLOYEES OF A TEMPORARY EMPLOYMENT AGENCY. THESE OPERATE REVENUE SERVICE VEHICLES, WHETHER IN OR OUT OF REVENUE SERVICE.
- b. DISPATCHERS. THESE CONTROL THE DISPATCH OR CONTROL MOVEMENT OF REVENUE SERVICE VEHICLES AND MAY SOMETIMES BE REQUIRED TO OPERATE REVENUE SERVICE VEHICLES.
- c. TRANSPORTATION SPECIALIST. THIS PERSON MAINTAINS REVENUE SERVICE VEHICLES OR EQUIPMENT USED IN REVENUE SERVICE AND IS SOMETIMES REQUIRED TO OPERATE REVENUE SERVICE VEHICLES.
- d. ANY OTHER CODR EMPLOYEE OR TEMPORARY EMPLOYMENT AGENCY EMPLOYEE THAT MAY BE REQUIRED FROM TIME TO TIME TO PERFORM THE SAFETY-SENSITIVE DUTIES OF THE POSITIONS LISTED ABOVE.
- e. RURAL TRANSPORTATION MANAGER. THIS PERSON IS SOMETIMES REQUIRED TO OPERATE REVENUE SERVICE VEHICLES.
- f. TRANSPORTATION COORDINATOR. THIS PERSON IS SOMETIMES REQUIRED TO OPERATE REVENUE SERVICE VEHICLES, PERFORM MINOR VEHICLE MAINTENANCE, AND DISPATCH.

## **SECTION 6: Prohibited Substances**

6.1 Use of the following drugs (controlled substances) is prohibited at all times, whether on/or off-duty:

- a. Marijuana (THC)
- b. Cocaine
- c. Amphetamines
- d. Opioids
- e. Phencyclidine (PCP)

These are the substances that safety-sensitive personnel will be tested for during drug testing. [655.21(b) & (c)]

6.2 Use of alcohol is prohibited in the following circumstances:

- a. Four hours prior to performing safety-sensitive duties.
- b. Any time while performing safety-sensitive duties.
- c. While on call to perform safety-sensitive duties. If an employee is called to report for duty while on call and they have been using alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. See Section 15 for the consequences of consumption of alcohol while on-call.
- d. Within eight hours after an accident or until post-accident alcohol testing is performed, whichever occurs first. [655.32, 655.33(a) & (b), & 655.34]

6.3 Covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. [655.31(b)]

6.4 BY CODR POLICY, PRESCRIPTION AND OVER-THE-COUNTER DRUGS AND OTHER MEDICATIONS ARE PROHIBITED IF THEY IMPAIR THE ABILITY OF AN INDIVIDUAL TO PROPERLY PERFORM SAFETY-SENSITIVE DUTIES. SAFETY SENSITIVE PERSONNEL WHO CANNOT PERFORM THEIR DUTIES WITHOUT THE USE OF IMPAIRING MEDICATIONS MUST BE REMOVED FROM SAFETY-SENSITIVE DUTIES.

## **SECTION 7: Pre-employment requirements for Assumption of Safety-sensitive Duties**

7.1 Each applicant wishing to perform safety-sensitive duties will be required to furnish CODR written authorization to check with previous employers to determine if any of the following circumstances exist in the applicant's work history (see Appendix 4).

- a. Alcohol tests confirming a blood-alcohol concentration of 0.04 or more.
  - b. Verified positive drug tests.
  - c. Refusals to take a drug or alcohol test, to include adulterated or substituted specimens.
  - d. Any violations of USDOT drug and alcohol regulations.
  - e. Any information regarding drug and alcohol testing that the former employer has from its own testing program or those of prior employers.
  - f. Information about any successful completion of drug or alcohol rehabilitation. [40.25]
- 7.2 All applicants who will ultimately perform safety-sensitive duties, including anyone who may transfer from a non-sensitive position to a safety-sensitive position, are required to produce a verified negative result on a drug test prior to performing safety-sensitive duties. If a pre-employment drug test is cancelled for whatever reason, another test must be performed and produce a verified negative result before safety-sensitive duties may be assigned. [655.41(a)(1) & (c)]
- 7.3 Applicants with a history of failing or refusing to take a drug or alcohol test, or a history of violation of USDOT regulations, will be required to provide documentation of having successfully completed a post-violation referral, evaluation, and treatment plan (i.e., a substance abuse rehabilitation process, as required by 49 CFR 40, Subpart O). [655.41(a)(2)]
- 7.4 An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.

## **SECTION 8: Persons Out of the Random Testing Pool for 90 or More Days**

- 8.1 Safety-sensitive personnel who have not been performing safety-sensitive functions and who have been out of the random-testing pool during that time for a period of 90 or more days must produce a verified negative result on a pre-employment drug test prior to resuming safety-sensitive duties. For purposes of DAMIS reporting, these tests are considered pre-employment testing.

## **SECTION 9: Post-hire Circumstances for Testing**

- 9.1 There are five [Revised 090910] categories of drug and alcohol testing, which CODR safety-sensitive personnel will or may encounter. All safety-sensitive personnel will be regularly susceptible to random testing and reasonable-suspicion testing. If involved in an accident, safety-sensitive personnel may also be susceptible to post-accident testing. Individuals returning to safety-sensitive duties after substance abuse rehabilitation training will further be subject to follow-up testing. Each of these categories of testing is briefly described in this section.
- 9.2 **RANDOM TESTING**. All safety-sensitive personnel are placed in a random testing "pool" upon assignment to safety-sensitive duties. Employees are placed in a USDOT testing pool. BY CODR POLICY. Each selection period, an external agency selects a pre-determined percentage of all persons placed in those pools for drug and/or alcohol testing using a scientifically valid system for random selections. The number of employees

randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>. Once selected for testing, neither the individuals selected nor CODR management has discretion as to whether selected individuals will be tested. The only discretion allowed to CODR management regards when each individual will be scheduled for testing within the quarter for which they are selected to test. [655.45(e) & (f)]

- 9.3 Each safety-sensitive person has an equal chance of being selected for either or both drug and alcohol testing each time selections are made. Because all names are returned to the random pool at the end of each selection period, there is the possibility that any individual may be required to take more than one drug and/or alcohol test each year. There is also the chance that a given individual may not be selected for random testing in a given quarter, year, or at all during their time with CODR. [655.45(e)]
- 9.4 All random testing will be performed without advance notice to the employee. Random testing will be spread throughout each testing period, and over the course of a year, throughout all operating days and hours in which safety-sensitive duties are performed (to include weekends and holidays, if applicable), so that the timing of a given random test is unpredictable. [655.45(g)] Random alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, or just after an employee has performed covered duties.
- 9.5 Once notified of selection for random testing, safety-sensitive personnel are expected to report immediately to the collection/testing facility to which they are directed. BY CODR POLICY, CODR MANAGEMENT WILL ENSURE THE INDIVIDUAL'S DUTIES ARE COVERED DURING THE TIME THE PERSON IS AWAY FOR TESTING. [655.45(h)]
- 9.6 If a selected individual is unavailable for random testing on a day for which scheduled, that individual will be sent for testing upon returning to work, if such return falls within the testing period. If a person selected for testing in a given period cannot be tested in that period; the reason(s) must be documented and maintained on file.
- 9.7 REASONABLE-SUSPICION TESTING. If a supervisor that has been properly trained in observation of reasonable suspicion determinations has personally made specific, contemporaneous, articulable, observations of a safety-sensitive individual's appearance, behaviors, speech, or body odors and has grounds for reasonable suspicion of prohibited drug use or alcohol misuse, the suspected individual will be immediately suspended from performing safety-sensitive duties and directed to report for drug and alcohol testing as soon as an escort can be provided. THE REQUIREMENT FOR AN ESCORT IS CODR POLICY. [655.43(a) & (b)]
- 9.8 Reasonable-suspicion alcohol testing should occur as soon as practicable following a proper observation. If testing does not commence within two hours of the observation by a trained individual, CODR management must document the reasons for failure to meet the time standard. Attempts to test for alcohol will continue for up to eight hours following the observation. If testing does not occur within the 8-hour period, further attempts will cease, and CODR management must document the reason(s) for failure to complete the alcohol test within prescribed time limits. [655.43(d)]. Covered employees may be subject to reasonable suspicion drug testing at any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.
- 9.9 UNDER CODR POLICY, SAFETY-SENSITIVE PERSONNEL PENDING RESULTS OF REASONABLE-SUSPICION DRUG TESTING WILL BE SUSPENDED FROM SAFETY-SENSITIVE DUTIES AND PLACED TEMPORARILY IN NON-SAFETY-SENSITIVE DUTIES UNTIL RESULTS OF THE TEST(S) ARE KNOWN. IF TEST RESULTS ARE WITHIN ACCEPTABLE STANDARDS, THE INDIVIDUAL WILL BE REINSTATED TO SAFETY-SENSITIVE DUTIES, PROVIDED THERE ARE NO OTHER VIOLATIONS OF USDOT REGULATIONS OR THIS POLICY.
- 9.10 POST-ACCIDENT TESTING. When an accident as defined above occurs, CODR management must quickly, but thoughtfully, assess which individuals might have contributed to the accident and direct testing for those individuals according to the following decision process.
  - a. When there is a fatality. CODR management must direct drug and alcohol testing as soon as practicable for:
    1. Each surviving safety-sensitive individual operating the vehicle at the time of the accident, and
    2. Any other surviving safety-sensitive personnel whose performance could have contributed to the

accident.

b. If the accident does NOT involve a fatality, CODR management must direct drug and alcohol testing as soon as practicable for:

1. Each safety-sensitive individual operating the vehicle UNLESS management, using the best information available at the time of the decision, determines an individual's performance can be completely discounted as a contributing factor to the accident.
2. Any other safety-sensitive personnel whose performance could have contributed to the accident. CODR management must document these determinations, whether testing is performed or not. [655.44(a)&(d)]

9.11 Safety-sensitive individuals involved in the accident must remain readily available at the scene until directed to testing or released by management, with the following exceptions:

- a. The safety-sensitive individual may leave the scene for a period necessary to obtain assistance in responding to the accident.
- b. The safety-sensitive individual may leave the scene if he/she of off-scene medical attention. [655.44(c) & (e)]

Individuals who must leave the scene of an accident must, if practicable, keep the dispatchers or CODR management aware of her/his location. **LEAVING THE SCENE OF AN ACCIDENT. WITHOUT A VALID REASON BEFORE NECESSARY ARRANGEMENTS HAVE BEEN MADE TO PERFORM REQUIRED DRUG TEST SPECIMEN COLLECTION, AND ALCOHOL TESTING IS CONSIDERED A REFUSAL TO TEST.** [655.44(c)]

- 9.12 Post-accident alcohol testing should occur as soon as practicable following an accident. Safety-sensitive personnel must not consume alcohol for 8 hours following an accident or until a post-accident alcohol test is performed, whichever occurs first. If testing does not commence within two hours of the accident, CODR management must document the reasons for failure to meet the time standard. Attempts to test for alcohol will continue for up to eight hours following the accident. If testing does not occur within the 8-hour period, further attempts will cease, and CODR management must document the reasons for failure to complete the alcohol test within the prescribed time standard. [655.34 & 655.44(a)(2)(ii)]
- 9.13 Post-accident drug test specimen collection should occur as soon as practicable, but within 32 hours of the accident. If a specimen collection cannot be accomplished within 32 hours of the accident, CODR management must document the reasons. [655.44(b)] [Revised 033109]
- 9.14 The results of a blood, urine or breath test for the use of prohibited drugs and/or alcohol misuse conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the USDOT requirement for post-accident testing provided that such test(s) conforms to the applicable federal, state, or local testing requirements and the test results are obtainable by CODR. Test results from federal, state, or local authorities, if available, will only be used when CODR management is unable to perform a post-accident test of its own within the required time standard. [655.44(f)]
- 9.15 BY CODR POLICY, IF A SAFETY-SENSITIVE INDIVIDUAL IS REQUIRED TO SUBMIT TO POST-ACCIDENT TESTING TO DETERMINE IF THE INDIVIDUAL WAS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AT THE TIME OF THE ACCIDENT, THAT INDIVIDUAL WILL BE SUSPENDED FROM SAFETY-SENSITIVE DUTIES AND PLACED TEMPORARILY IN NON-SAFETY-SENSITIVE DUTIES UNTIL RESULTS OF THE TEST(S) ARE KNOWN. IF TEST RESULTS ARE WITHIN ACCEPTABLE STANDARDS, THE INDIVIDUAL WILL BE REINSTATED TO SAFETY-SENSITIVE DUTIES, PROVIDED THERE ARE NO OTHER VIOLATIONS OF USDOT REGULATIONS OR THIS POLICY.
- 9.16 FOLLOW-UP TESTING. CODR MAINTAINS A SECOND-CHANCE POLICY FOR INDIVIDUALS BEING CONSIDERED FOR EMPLOYMENT WHO HAVE COMPLETED THE USDOT-PRESCRIBED REHABILITATION PROCESS (REFER TO DEFINITIONS) FOLLOWING A VIOLATION OF US DOT DRUG AND ALCOHOL REGULATIONS AND HAS DOCUMENTATION OF THAT COMPLETION. COMPLETION OF THE REHABILITATION PROCESS MUST BE VERIFIED AND IN FULL COMPLIANCE WITH THE

REQUIREMENTS OF 49 CFR 401 SUBPART 0, FOR APPLICANTS TO BE CONSIDERED FOR HIRE OR RE-HIRE. [655.46]

- 9.17 Following the rehabilitation process, the SAP will develop a follow-up testing plan. ***At a minimum***, the follow-up testing plan must include at least six unannounced follow-up tests in the first 12 months of performing safety-sensitive duties. Testing may be done for drugs and/or alcohol, at the sole discretion of the SAP, whether the regulatory violations include either substance or not. These tests are mandatory and are in addition to any susceptibility for random testing. However, a SAP may prescribe even more testing and other requirements for continuing education and treatment, at the SAP's sole discretion, for a period up to 60 months of safety-sensitive duties. [40.307(d)]
- 9.18 If, after completing the required rehabilitation process, an applicant has had no intervening USDOT-regulated employment in which follow-up testing was fully completed, the new-hire will be required to fulfill the follow-up testing plan prescribed by a Substance Abuse Professional (SAP). [40.307]
- 9.19 If, after completing the required rehabilitation process, an applicant has had intervening USDOT-regulated employment in which follow-up testing was NOT fully completed, the new-hire must complete the follow-up testing plan according to the directions of the directing SAP. [40.307]
- 9.20 If, after completing the required rehabilitation process, an applicant has had intervening USDOT-regulated employment in which follow-up testing was fully completed, the new-hire will NOT be subject to another follow-up testing plan, and CODR may not impose one. [40.307]
- 9.21 RETURN-TO-DUTY TESTING. CODR MAINTAINS A ZERO-TOLERANCE POLICY (REFER TO DEFINITIONS) WITH REGARD TO VIOLATIONS OF USDOT DRUG AND ALCOHOL REGULATIONS WHILE WORKING FOR CODR. SAFETY- SENSITIVE PERSONNEL WHO VIOLATE THE REQUIREMENTS OF USDOT DRUG AND ALCOHOL REGULATIONS WILL BE SUBJECT TO THE CONSEQUENCES DESCRIBED IN SECTION 15 OF THIS POLICY AND WILL BE REQUIRED TO ACCOMPLISH THEIR REHABILITATION PROCESS OFF THE CODR EMPLOYMENT ROLES AND AT THEIR OWN EXPENSE. THEREFORE, RETURN-TO-DUTY TESTING IS NOT APPLICABLE FOR THE CODR SYSTEM. INDIVIDUALS HIRED OR RE-HIRED UNDER CODR'S SECOND-CHANCE POLICY (REFER TO DEFINITIONS) MUST PROVIDE PROOF OF HAVING COMPLETED THE SAP-PRESCRIBED REHABILITATION PROCESS, INCLUDING COMPLETION OF A SAP PRESCRIBED RETURN TO DUTY TEST(S) WITH VERIFIED NEGATIVE RESULTS AND WILL BE SUBJECT TO PRE-EMPLOYMENT TESTING REQUIRED OF ALL PROSPECTIVE NEW-HIRES.
- 9.22 SPECIAL CIRCUMSTANCES FOR PERSONS POSSESSING A CDL. UNDER SEPARATE FEDERAL AND STATE AUTHORITY, ANY PERSON WHO HOLDS A CDL IS CONSIDERED TO HAVE CONSENTED TO TESTING AS REQUIRED BY ANY STATE OR JURISDICTION IN THE ENFORCEMENT OF FEDERAL OR STATE LAW PROHIBITING THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL. CODR PERSONNEL WHO HOLD A CDL ARE EXPECTED TO COMPLY AND FULLY COOPERATE WITH THE REQUEST OF LAW ENFORCEMENT PERSONNEL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST. TESTS PERFORMED BY LAW ENFORCEMENT PERSONNEL ARE GENERALLY PERFORMED OUTSIDE THE AUTHORITY UNDER WHICH CODR OPERATES ITS DRUG AND ALCOHOL TESTING PROGRAM, BUT THIS DOES NOT MEAN THAT TESTS UNDER THESE CIRCUMSTANCES WILL NOT HAVE A POTENTIAL IMPACT ON AN INDIVIDUAL. [49 CFR 383.72 and 7 TTC 522.102]

## **SECTION 10: When Testing May Occur After Assumption of Safety- Sensitive Duties**

- 10.1 Drug test specimen collections for safety-sensitive personnel may be performed during any period in which an individual is on duty, regardless of whether the individual is performing safety-sensitive duties or not. [655.45(i)]
- 10.2 Random, reasonable suspicion, and follow-up alcohol testing of safety-sensitive personnel may only be performed. just prior to, during, and just after performing safety-sensitive duties. [655.45(i)]
- 10.3 Individuals subject to follow-up testing will be tested according to the plan established by the SAP. [40.307 & 40.309)

- 10.4 UNDER CODR POLICY, SAFETY-SENSITIVE PERSONNEL WILL BE COMPENSATED FOR THE TIME NECESSARY TO TRAVEL TO TESTING, ENGAGE IN TESTING, AND RETURN FROM TESTING.

## SECTION 11: Testing Methods And Procedures

- 11.1 Drug testing and documentation will be performed in accordance with the requirements of 49 CFR 40, Subparts D, E, and I, and any amendments thereto. The drug test- specimen collection process is summarized in Appendix 1. **PLEASE NOTE: Per 40 CFR 40.89, specimen testing laboratories are required to perform validity testing on all urine specimens provided for testing under USDOT authority. Validity testing is the evaluation of a urine specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the urine specimen was substituted with some other substance.**
- 11.2 Alcohol testing and documentation will be performed in accordance with the requirements of 49 CFR 40, Subparts K through N, and any amendments thereto. The alcohol testing process is summarized in Appendix 2.
- 11.3 Follow-up testing will be performed in accordance with the requirements of the directing SAP and 49 CFR '40, Subpart O, and any amendments thereto.
- 11.4 Procedures for protection of persons subject to testing, integrity of testing processes, and ensuring test results are accurate and attributed to the correct person shall be in accordance with the requirements of 49 CFR 655 and 49 CFR 40 and any amendments thereto.
- 11.5 Drug & alcohol testing should commence promptly after arriving at the collection/testing facility. When an individual is required to perform both drug test specimen collection and alcohol testing in the same visit, the alcohol test shall be administered prior to the drug test specimen collection unless uncontrollable circumstances prevent doing so. If drug test specimen collection is performed first, this does not invalidate the alcohol test result. [40.61(b) & 40.241(b)]
- 11.6 Safety-sensitive personnel will be tested using the prescribed USDOT drug and alcohol testing forms.

## SECTION 12: Drug Test Specimen Collection Under Direct Observation

- 12.1 49 CFR 40, as amended, requires collections under direct observation in the following circumstances:
- a. The collection technician determines that personal items were brought to the testing facility with the intent to tamper with the urine specimen. [40.61(f)(5)(i) & 40.67(c)(2)]
  - b. Collection facility personnel observe conduct or detect signs of an attempt at substitution, adulteration, or other attempts to tamper with the specimen. [40.63(e), 40.65(c)(1), 40.67(c)(4), & 40.69(d)]
  - c. The urine specimen falls outside the normal human temperature range at the time of collection. [40.65(b)(5) & 40.67(c)(3)]
  - d. All return-to-duty tests (effective August 31, 2009). [40.67(b) [Revised090209]]
  - e. All follow-up tests (effective August 31, 2009). [40.67(b) [Revised 0902091]]
  - f. The laboratory reports to the MRO that a specimen is invalid and that the MRO reports to the employer that there was not an adequate medical explanation for the result.
  - g. The MRO reports to the employer that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.

- h. The laboratory reported to the MRO that the specimen was negative dilute with a creatinine concentration greater than or equal to 2 mg/dl, but less than or equal to 5 mg/dl, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see 40.197(b)(1).
- i. If a directly observed collection was required for a given specimen collection but was not performed. [40.67(n), 40.155(d)(3), 40.159(e)(5), & 40.159(f)(4)]

Any time the MRO directs CODR to perform a collection under direct observation. [40.23(f)(1), 40.67(a)(1), 40.67(a)(g)(2), 40.67(a)(3)(b)(1)-(3), 40.155(c), 40.159(a)(5)(2), 40.159(f)(3), 40.187(b)(2), 40.187(b)(3), 40.187(c)(1)(ii), 40.187(c)(2)(iv)(E), 40.187(e)(2), 40.197(b)(1), 40.197(c)(4), & 40.201(c) - (e)]  
[Revise 033109]

- 12.2 When CODR or a specimen collector directs an immediate collection under direct observation, there will be no advance notice to the employee. For directly observed urine collections, specimen collectors are required to ensure that the collection observer is the same gender as the employee to be tested; however, the observer may be a different person from the collector and does not need to be a qualified collector. [40.67(a)(g)]
- 12.3 ***CODR will direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.*** [40.67(b)]
- 12.4 ***REFUSAL TO PERMIT A COLLECTION UNDER DIRECT OBSERVATION, WHEN REQUIRED, WILL BE CONSIDERED A REFUSAL TO TEST.*** [40.191(a)(4)]

## SECTION 13: Behaviors Constituting Refusal to Test

- 13.1 Once directed to report for drug test specimen collection and/or alcohol testing, applicants and safety-sensitive personnel are expected to complete the collection/testing in a fully cooperative manner or make a good-faith effort to do so. Failure to do so, with few exceptions, is considered a refusal to test, which is the equivalent of a positive drug or alcohol test result. A refusal to test is defined as the following:
  - a. Drug-testing-specific situations:
    - 1. Refusal to allow monitoring or direct observation of a drug specimen collection, when required. [40.67(m), 40.191(a)(4), & 40.193(b)(3)]
    - 2. Failure to submit to an additional drug specimen collection if directed to do so. NOTE: This policy does not address all situations that may require a second or subsequent collection. [40.191(a)(6)]
    - 3. Failure to follow the observer's instructions, during a directly observed urine collection, to raise or lower clothing or to turn around to permit the observer to determine if you have any prosthetic or other device that could be used to interfere with the collection process. [40.191(a)(9)]
    - 4. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process. [40.191(a)(10)]
    - 5. Admitting to the collector or MRO that you adulterated or substituted a specimen. [40.159(c), & 40.191(a)(11)]
    - 6. MRO verification that a drug test was adulterated or substituted. [40.23(b), 40.187(a)(2), 40.187(c)(iv)(D), & 40.191(b)]
    - 7. Failure to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test. (40.191(a)(31).
  - b. Alcohol testing-specific situations:
    - 1. Failure to sign the certification at Step 2 of the Alcohol Testing Form (ATF). [40.241(9), 40.251(d), &

40.261(a)(6)]

c. Situations common to both drug and alcohol testing:

1. Failure to appear at a collection/testing site within a reasonable time or at all after being directed to do so. CODR management, by regulation, shall be the sole judge as to what constitutes a reasonable time. That judgement will be made based upon the circumstances surrounding the delayed arrival. EXCEPTION: This does not apply to pre-employment testing. [40.191(a)(1)] & [40.261(a)(1)]
2. Failure to remain at a collection/testing site until the collection/testing process is completed. EXCEPTION: This does not apply to pre-employment testing IF the applicant leaves the collection/testing site BEFORE the collection/testing process begins. Once the collection/testing process begins, an applicant is obligated to complete the process to avoid incurring a finding of a refusal to test. [40.191(a)(2)] & [40.261(a)(2)]
3. Failure or refusal to provide a specimen for any required drug or alcohol test. This applies to both an initial attempt and any refusal to make additional attempts during a shy bladder or shy lung procedure. EXCEPTION: This does not apply to pre-employment testing, provided the applicant leaves the collection/testing site BEFORE the collection/testing process begins. [40.69(g), 40.191(a)(3), 40.191(c), 40.193(b)(3), & 40.261(a)(3)]
4. Failure to provide a sufficient specimen, and a qualified physician can find no medical basis for the failure to do so. [40.145(g)(1), 40.187(c)(iv)(A), 40.191(a)(5), 40.261(a)(4), & 40.265(c)(1)(iv)(B)]
5. Failure or refusal to undergo a medical examination or evaluation, as directed, by the Medical Review Officer (MRO) or CODR management, as part of a review to determine why an individual failed to provide a sufficient urine or breath specimen. EXCEPTION: A job applicant who fails to undergo a medical examination or evaluation as a result of a pre-employment test will not be considered to have refused to test IF the applicant had not received a contingent offer of employment prior to being told to arrange an examination/review. [40.133(a)(1) - (3), 40.191(a)(7) & 40.261(a)(5)]
6. Failure to cooperate with any part of the drug test specimen collection or alcohol testing processes. [40.191(a)(8), 40.191(d), & 40.261(a)(7)]
7. Leaving the scene of an accident without a valid reason (failure to remain readily available) before necessary arrangements have been made to perform the required drug test specimen collection and alcohol testing. [655.44(c)]

Most of these situations are reiterated in the appropriate sections of this document.

## **SECTION 14: Consumption of Alcohol While On Call for Safety-sensitive Duties**

- 14.1 Safety-sensitive personnel are prohibited from consuming alcohol within four hours of performing safety-sensitive duties. However, if a safety-sensitive individual violates this prohibition, he/she has the opportunity, when requested to report to duty, to acknowledge use of alcohol and the inability to perform safety-sensitive duties. [655.33(b)(1)]
- 14.2 **BY CODR POLICY, AN INDIVIDUAL WHO SELF-REPORTS CONSUMPTION OF ALCOHOL WHILE ON CALL WILL NOT BE PERMITTED TO RETURN TO SAFETY-SENSITIVE DUTIES FOR EIGHT HOURS OR UNTIL THE INDIVIDUAL'S NEXT REGULARLY SCHEDULED SHIFT, WHICHEVER OCCURS LATER, REGARDLESS OF ANY REGULATORY OPTION THAT MIGHT ALLOW FOR AN EARLIER RETURN.**
- 14.3 See Section 15 for the consequences of consumption of alcohol while on-call.

## **SECTION 15: Consequences of Failure to Abide by This Policy and/or Federal or State Regulations**

- 15.1 Applicants who receive a verified positive pre-employment drug test result, refuse to submit to a pre-employment drug test, or have a history of a failed drug and/or alcohol test or a refusal to take either type of test without subsequent proof of completing a rehabilitation process cannot be considered for employment in a safety-sensitive position. These individuals will be provided with contact information for a USDOT-qualified SAPs so they may seek rehabilitative treatment. [655.46, 655.61(b) & 655.62] [Revised33109]
- 15.2 CODR safety-sensitive personnel who receive a verified positive drug test result test positive for alcohol with a blood-alcohol concentration (BAC) of 0.04 or more, or refuse a drug or alcohol test will experience the following consequences:
  - a. Immediate removal from safety-sensitive duties. [655.61(a), 40.23(a)-(c), 40.191(c), & 40.261(b)]
  - b. Referral to a list of USDOT-qualified SAPs for rehabilitative treatment. [655.62 & 40.287]
  - c. **TERMINATION OF EMPLOYMENT BY CODR POLICY**
- 15.3 CODR safety-sensitive personnel who receive an alcohol test result with a BAC equal to or greater than 0.02 but less than 0.04 will experience the following consequences:
  - a. Immediate suspension from safety-sensitive duties without pay (WITHOUT PAY IS BY CODR POLICY) for a period of eight hours or until the next regularly scheduled shift, whichever is later. UNDER CODR POLICY, AND CONSISTENT WITH 49 CFR 655.48, THE MINIMUM SUSPENSION PERIOD WILL BE EIGHT HOURS, REGARDLESS OF AN OPTION AVAILABLE IN THE REGULATIONS ALLOWING AN EARLIER RETURN. [655.35(a)]
  - b. **BY CODR POLICY, IMPOSITION OF A MINIMUM OF A LETTER OF COUNSELING. MORE SIGNIFICANT DISCIPLINARY ACTION MAY BE IMPOSED, AS DEEMED APPROPRIATE FOR THE CIRCUMSTANCES AND THE INDIVIDUAL'S PERFORMANCE HISTORY.**
- 15.4 If a safety-sensitive individual is found to have not disclosed a history of a failed drug or alcohol test or any refusal to perform either type of test, that individual will experience the following consequences:
  - a. Immediate removal from safety-sensitive duties.
  - b. Referral to a USDOT-qualified SAP for rehabilitative treatment.
  - c. **TERMINATION OF EMPLOYMENT, UNDER CODR POLICY.** [655.61 & 655.62]

- 15.5 If a safety-sensitive individual participating in a follow-up testing plan fails to comply with the requirements of that plan, that individual will experience the following consequences:
- a. Immediate removal from safety-sensitive duties.
  - b. Referral to a USDOT-qualified SAP for rehabilitative treatment.
  - c. TERMINATION OF EMPLOYMENT, BY CODR POLICY. [40.303(c) & 40.309(a)]
- 15.6 BY CODR POLICY, AND CONSISTENT WITH 49 CFR 655.33, AN **ADMISSION** OF CONSUMPTION OF ALCOHOL DURING ON-CALL STATUS WILL RESULT IN IMMEDIATE REMOVAL FROM SAFETY--SENSITIVE DUTIES.
- 15.7 UNDER CODR POLICY, **FAILURE TO ADMIT** CONSUMPTION OF ALCOHOL WHILE ON-CALL WILL RESULT IN:
- a. Immediate removal from safety--sensitive duties.
  - b. WILL BE SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION OF EMPLOYMENT
- 15.8 BY CODR POLICY, CODR PERSONNEL WHO HOLD A CDL AND FAIL TO COOPERATE OR COMPLY WITH LAW ENFORCEMENT PERSONNEL REQUEST TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST WILL RESULT IN:
- a. IMMEDIATE REMOVAL FROM SAFETY-SENSITIVE DUTIES.
  - b. TERMINATION OF EMPLOYMENT.
- 15.9 BY CODR POLICY, IT IS THE SOLE RESPONSIBILITY OF THE INDIVIDUAL IN QUESTION TO PAY FOR ANY AND ALL SERVICES RENDERED BY ASAP.
- 15.10 PERSONS WHO POSSESS A COMMERCIAL DRIVER'S LICENSE AND VIOLATE USDOT, FTA, OR FEDERAL MOTOR COACH SAFETY ADMINISTRATION REGULATIONS ARE ALSO SUBJECT TO ADDITIONAL CONSEQUENCES DESCRIBED AT TITLE 49, CODE OF FEDERAL REGULATIONS, PART 383 (49 CFR 383), COMMERCIAL DRIVER'S LICENSE STANDARDS, REQUIREMENTS AND PENALTIES. THESE ADDITIONAL CONSEQUENCES CAN BE FOUND AT SECTION 383.51 OF THAT REGULATION. IF YOU WISH TO BECOME MORE FAMILIAR WITH THAT INFORMATION, CODR WILL PROVIDE YOU ACCESS TO THE REGULATION OR FURNISH AN INTERNET WEB ADDRESS WHERE YOU MAY READ AND/OR PRINT THE REGULATION.
- 15.11 PER CODR POLICY, AND CONSISTENT WITH THE INTENT OF 49 CFR 40.25, APPLICANTS WHO FAIL TO FURNISH AND SIGN A RELEASE OF INFORMATION FORM (REFER TO APPENDICES 4 AND 5) WILL NOT BE CONSIDERED FOR SAFETY--SENSITIVE POSITIONS.

## **SECTION 16: Negative-dilute Test Results**

- 16.1 If an MRO notifies CODR of a negative-dilute drug test and orders a recollection under direct observation, CODR must comply with the order immediately. [40.197(b)(1)]
- 16.2 For all other negative-dilute drug test results, CODR. CODR'S POLICY IS TO ORDER RETESTING IMMEDIATELY WITHOUT ADVANCE WARNING WITHIN UNDER THE SAME CATEGORY OF TESTING FOR WHICH THE NEGATIVE-DILUTE TEST RESULT OCCURRED, FOR PRE-EMPLOYMENT REASONABLE SUSPICION, POST-ACCIDENT, OR RANDOM TESTS. IN THESE CIRCUMSTANCES, THE INDIVIDUAL IN QUESTION SHALL BE RETESTED ONLY ONCE. **Should this second test result in a negative-dilute result, the test will be considered a negative, and no additional testing is allowed unless directed to do so by the MRO. FAILURE TO SUBMIT TO A RE-TEST IS CONSIDERED A REFUSAL TO TEST.** [40.197(b)(2), 40.197(c)(3) & (4), & 40.191(a)(6)]

- 16.3 Recollections will NOT be made under direct observation unless there is some other basis for use of direct observation (must conform with 49 CFR 40.67 (b) and (c)). [40.197(b)(2)]
- 16.4 The results of a second drug test for a negative-dilute situation will be the result of record and shall be the only result that CODR may act upon. [40.197(c)(2)]

## **SECTION 17: Importance of Responding to the MRO**

- 17.1 If the MRO determines there is a reason that they must speak with the tested individual in order to verify the drug test results, the MRO will attempt to contact the affected person. Therefore, it is imperative that all persons tested ensure the contact information they provide on the Custody and Control Form (CCF) is accurate and legible. [40.131(a)]
- 17.2 If you are not available when the MRO calls, he/she will leave a message, if possible, and will make reasonable attempts to follow up. [40.131(c)]
- 17.3 If, after reasonable attempts, the MRO is unable to contact an individual about the results of her/his test, the MRO will contact CODR's Designated Employer Representative (DER) and ask the DER to confidentially contact the affected individual to advise them of the need to contact the MRO. When the affected individual is contacted (actually spoken to) by the DER, the DER is obligated to advise of the potential consequences of failing to contact the MRO within 72 hours (i.e., the MRO will likely declare a positive test as valid or declare a refusal to test, both of which result in termination of employment). If the DER, after reasonable attempts to do so, is unable to contact an affected individual, the DER must leave a message by any practicable means (voice mail, e-mail, or letter) to contact the MRO within 72 hours. The affected individual will have up to 60 days to provide the MRO documentation explaining why serious illness, injury, or other circumstances unavoidably precluded contact with the MRO and DER in the time allowed. [40.131(C) - (d)]
- 17.4 NOT ONLY IS IT REQUIRED, BUT it is to an individual's advantage to respond to the MRO.

## **SECTION 18: Medical Examinations for Inability to Provide a Sufficient Specimen**

- 18.1 When a person to be tested is unable to provide a sufficient specimen within a reasonable period of time, as defined by 49 CFR 40 as amended, the facility performing the collection and/or alcohol test will notify CODR's DER. [40.193(b)(4) & 40.265(b)(3)]
- 18.2 The DER will direct the person in question to obtain, within five days, an evaluation from a licensed physician who has expertise to evaluate potential causes, as applicable. The person in question is required to fulfill the evaluation. In the case of an employee unable to provide a sufficient specimen for a drug test, the physician who sees the employee must be acceptable to the MRO. **CODR PAYS THE COST OF THESE MEDICAL EXAMINATIONS. FAILURE TO PARTICIPATE IN A REQUIRED MEDICAL EVALUATION IS CONSIDERED A REFUSAL TO TEST.** [40.193(c) & 40.265(c)]
- 18.3 During the evaluation, the physician will ask questions and/or perform medical tests, as necessary, to determine if there is a probable medical explanation for a failure to provide a sufficient specimen.
- 18.4 For drug tests: Based on the physician's findings, she/he will advise the MRO whether or not a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of specimen. The MRO is not obligated to follow this recommendation. [40.193(c) - (g).
- 18.5 **For alcohol tests: Based on the physician's findings, the physician will advise the Employer whether or not a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of breath. (40.265)**

## **SECTION 19: Right to Request Split Test Confirmation of Drug Tests**

- 19.1 When drug testing is performed, the specimen is split into two containers. One container is used to perform the initial drug test. The second container - the split specimen - is held in secure storage for a designated period of time, in case a person with an adverse test result wishes to have the initial results verified through the split specimen - a split test. [40.175 - 40.177]
- 19.2 If an MRO notifies an individual of a verified positive drug test and/or a determination of test refusal due to adulteration or substitution, the affected individual has 72 hours from the time of notification to request a test of the split specimen. Such a request may be made verbally or in writing, and it must be made to the MRO. [40.171(a)]
- 19.3 If you do not request a split test within 72 hours, you may present to the MRO information documenting that serious injury, illness, lack of actual notice of the test result, inability to contact the MRO, or other unavoidable circumstances prevented you from making a timely request. [40.171(b)(1)]
- 19.4 Upon receiving a valid request for a split-specimen test, the MRO will document the request and then order the laboratory holding the split specimen to ship it to another Department of Health and Human Services-certified laboratory for confirmation testing. [40.171(c)]
- 19.5 BY CODR POLICY, SAFETY-SENSITIVE PERSONNEL WILL BE SUSPENDED FROM ALL SAFETY-SENSITIVE DUTIES WITHOUT PAY UNTIL THE RESULT OF THE SPLIT SPECIMEN TEST IS RECEIVED. SAFETY-SENSITIVE PERSONNEL WILL BE RETURNED TO THEIR DUTIES IF THE SPLIT TEST INVALIDATES THE FIRST RESULT.
- 19.6 BY CODR POLICY, SAFETY-SENSITIVE PERSONNEL REQUESTING A SPLIT TEST MUST REIMBURSE CODR THE FEE REQUIRED FOR CONDUCTING THE TEST. IF THE SPLIT TEST RESULT IS NEGATIVE FOR DRUGS, CODR WILL WAIVE PAYMENT OF THE TEST FEE. APPLICANTS WILL BEAR FULL RESPONSIBILITY FOR SPLIT-SPECIMEN TESTING, IF THEY CHOOSE TO EXERCISE THIS OPTION.
- 19.7 Please note that drug test results determined to be INVALID do not have recourse to a split specimen test. [40.171(a)]

## **SECTION 20: Training**

- 20.1 Before performing any safety-sensitive duties, all safety-sensitive personnel will receive a minimum 60 minutes of training regarding:
  - a. The effects and consequences of prohibited drug use on personal health, safety, and the work environment, and
  - b. Signs and symptoms that may indicate prohibited drug use. [655.14(b)(1)]
- 20.2 ADDITIONALLY, BY CODR POLICY, ALL SAFETY-SENSITIVE PERSONNEL WILL RECEIVE ADDITIONAL TRAINING REGARDING THE POTENTIAL HAZARDS OF USE OF PRESCRIPTION AND OVER-THE-COUNTER MEDICATIONS.
- 20.3 Supervisory personnel authorized to make reasonable-suspicion determinations shall receive an additional 60 minutes for each of the following topics:
  - a. The physical, behavioral, and performance indicators of probable drug use.
  - b. The physical, behavioral, speech, and performance indicators of probable alcohol misuse. [655.14(b)(2)]
- 20.4 BY CODR POLICY, ALL PERSONNEL RECEIVING TRAINING UNDER THIS SECTION WILL SIGN AND DATE AN ACKNOWLEDGEMENT THAT THEY ATTENDED THE TRAINING. THAT ACKNOWLEDGEMENT WILL BECOME PART OF THEIR PERSONNEL FILES.

## **SECTION 21: Duty to Report Potential Substance Abuse**

- 21.1 CODR safety-sensitive personnel receive basic training in spotting symptoms of substance abuse. Supervisors receive additional training to be alert for signs of potential substance abuse. UNDER CODR POLICY, ALL CODR SAFETY-SENSITIVE PERSONNEL ARE OBLIGATED TO MAKE USE OF THIS TRAINING AND REPORT TO THEIR SUPERVISOR ANY INDICATION THEY HAVE THAT A SAFETY-SENSITIVE INDIVIDUAL MAY BE ABUSING DRUGS OR ALCOHOL.
- 21.2 Once supervisors or other individuals designated to make reasonable-suspicion determinations become aware of or are made aware of the potential for substance abuse, they must personally observe the individual in question and determine if there are grounds for reasonable suspicion of substance abuse. If reasonable suspicion exists, the individual in question will be immediately suspended from safety-sensitive duties and directed to drug and alcohol testing as quickly as possible. BY CODR POLICY, SUPERVISORS ARE TO ENSURE THAT PERSONS UNDER REASONABLE SUSPICION ARE ESCORTED TO AND FROM COLLECTION/TESTING. [655.43(a) - (c)]
- 21.3 BY CODR POLICY, FAILURE OF ANY CODR SAFETY-SENSITIVE PERSONNEL TO REPORT SUSPECTED ABUSE WILL RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION OF EMPLOYMENT. SUPERVISORS WHO FAIL TO ACT ON REPORTED OR OBSERVED POTENTIAL SUBSTANCE ABUSE ARE LIKEWISE SUBJECT TO DISCIPLINARY ACTION.

## **SECTION 22: Requirement to Report Citations and Convictions**

- 22.1 BY CODR POLICY, ALL SAFETY-SENSITIVE PERSONNEL ARE REQUIRED TO ADVISE CODR MANAGEMENT OF CITATIONS AND CONVICTIONS FOR VIOLATION OF CRIMINAL DRUG AND ALCOHOL STATUTES RECEIVED AS A RESULT OF ON- OR OFF- DUTY BEHAVIOR. NOTIFICATION WILL

BE MADE BY ANY PRACTICAL MEANS TO EITHER YOUR SUPERVISOR OR THE TRANSPORTATION MANAGER WITHIN ONE WORKING DAY OF THE CITATION OR CONVICTION.

## **SECTION 23: Drug-free Workplace Act Requirements**

- 23.1 PER CODR POLICY IN SUPPORT OF THE DRUG-FREE WORKPLACE ACT, ALL EMPLOYEES ARE SUBJECT TO A PROHIBITION AGAINST MANUFACTURING, DISTRIBUTING, DISPENSING, POSSESSING, OR USING CONTROLLED SUBSTANCES IN THE WORKPLACE. VIOLATIONS OF THIS PROHIBITION CARRY POTENTIAL DISCIPLINARY ACTIONS UP TO AND INCLUDING TERMINATION. UNDER THE REQUIREMENTS OF THE DRUG-FREE WORKPLACE ACT AND CODR POLICY, ALL CODR PERSONNEL (WHETHER SAFETY-SENSITIVE OR NOT) ARE REQUIRED TO MAKE CODR MANAGEMENT AWARE OF A CONVICTION FOR DRUG-RELATED ACTIVITY WITHIN 5 DAYS OF THAT CONVICTION. [CODR Personnel Policy 3.051]
- 23.2 CODR safety-sensitive personnel are also subject to the more stringent requirements of 49 CFR 655 and 49 CFR 40 (as amended), as outlined in this document, and any consequences prescribed therein.

## **SECTION 24: Access to Drug and Alcohol Testing Records**

- 24.1 All information regarding drug and alcohol testing is maintained in a confidential manner in secure files. Testing results are transmitted to CODR by controlled means.
- 24.2 All CODR safety-sensitive personnel subject to CODR's substance abuse testing procedures are entitled, upon written request, to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol, including records pertaining to their own drug or alcohol tests. CODR may charge reasonable fees for providing copies, but not for review. [655.73(b)]
- 24.3 When employers request information about former CODR safety-sensitive personnel, CODR is obligated to furnish that information, provided the request is accompanied by a signed release from the person to whom the request pertains stating what information may be released. CODR may release only the information specifically authorized by the person in question and is obligated to document what information was released, to whom it was released, the date of release, and a summary of the information provided. [655.73(f) & (h)]
- 24.4 CODR may disclose information it is required to maintain on a safety-sensitive individual to that individual or the decisionmaker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual to whom the records pertain and arising from the results of a drug or alcohol test. [655.74(9)]
- 24.5 AS REQUIRED BY TITLE 37 OF THE TEXAS.. ADMINISTRATIVE CODE, RULE 4.21, CODR MUST REPORT ALL VALID POSITIVE DRUG AND ALCOHOL TEST RESULTS FOR DRIVERS POSSESSING A CDL TO THE DEPARTMENT OF PUBLIC SAFETY. [40.331(g)]
- 24.6 If you are ever referred to a SAP, you may request a copy of any SAP report created under the requirements of 49 CFR 40.311. However, the SAP is required to redact (eliminate) follow-up testing plan information from the report before providing it to you.

## **SECTION 25: Designated Contact Persons for Questions Regarding This Policy**

- 25.1 Questions regarding the interpretation of this policy and all matters related to it should be referred to the Drug and Alcohol Program Manager/HR Director, Mario Garcia at 830-774-8792.
- 25.2 CODR's primary Designated Employer Representative, Marianna Briones, may be reached at 830-774-8617, Celina Mendoza, secondary Designated Employer Representative, 830-774-8552.

## **SECTION 26: When Inconsistencies Exist Between This Policy and USDOT or State Regulations**

- 26.1 Where this policy is found to be inconsistent with federal or state regulations or statutes, the federal or state documents take precedence. An error in any portion of this policy shall invalidate only that portion of the policy.

## **SECTION 27: Acknowledgement of Receipt Requirement**

- 27.1 BY CODR POLICY, ALL SAFETY-SENSITIVE PERSONNEL WILL BE REQUIRED TO SIGN AND RETURN AN ACKNOWLEDGEMENT OF RECEIPT OF THE INITIAL ISSUE, REVISION, OR RE-ISSUE OF THE CODR DRUG AND ALCOHOL POLICY.
- 27.2 BY CODR POLICY, IT IS THE RESPONSIBILITY OF EACH SAFETY-SENSITIVE INDIVIDUAL TO READ THE ENTIRE CONTENTS OF THIS POLICY WITHIN ONE WEEK OF PRESENTATION TO THE INDIVIDUAL. DUTY TIME WILL BE AFFORDED FOR THIS PURPOSE.

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## **APPENDICES**

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# APPENDIX 1

## Summary of the Drug Test Urine Specimen Collection Process

This appendix overviews the drug test specimen collection process to give personnel an understanding of what to expect when directed to provide a urine specimen. This summary does not contain all details of the collection process. For full details, consult 49 CFR 40, Subpart E, as amended.

**FAILURE OF APPLICANTS AND SAFETY-SENSITIVE PERSONNEL TO COOPERATE FULLY WITH ANY PART OF THE COLLECTION PROCESS MAY BE CONSIDERED A REFUSAL TO TEST. [40.191(a)(8)]**

### Directions to Test

Upon being directed to report for testing, you are escorted to Human Resources for CCF, you will then be escorted to the designated testing facility. **PER CODR POLICY, YOU WILL BE ESCORTED TO REASONABLE SUSPICION TESTING. OTHER THAN FOR APPLICANTS, FAILURE TO ARRIVE AT THE COLLECTION FACILITY WITHIN A REASONABLE PERIOD OF TIME IS CONSIDERED A REFUSAL TO TEST. [40.191(a)(1)]**

### Upon Arrival

- You are to check in with the reception staff upon arrival, provide your name, identify that you have been directed to accomplish a urine collection, and follow whatever instructions you receive. You should NOT be asked to sign a consent form. If you are asked to do so, you must refuse. [40.27 & 40.355(a)]
- The collection process should begin shortly after your arrival. Normally, an alcohol test will precede the drug test specimen collection, if both are being performed. [40.61(b)]

**OTHER THAN FOR APPLICANTS, LEAVING THE COLLECTION FACILITY PRIOR TO INITIATING THE REQUIRED COLLECTION JS CONSIDERED A REFUSAL TO TEST. [40.191(a)(2)]**

**FOR ALL INDIVIDUALS, INCLUDING APPLICANTS, LEAVING THE COLLECTION FACILITY ONCE THE COLLECTION PROCESS HAS BEGUN AND PRIOR TO THE SPECIMEN TRANSMITTAL POUCH BEING SEALED WILL BE CONSIDERED A REFUSAL TO TEST. [40.191(a)(2)]**

### Prior to Collection of the Urine Specimen

- You will be asked to furnish a photo identification to verify who you are. If you do not have such identification with you, only designated CODR personnel may verify your identity. [40.61(c)]
- The collection technician will explain the collection procedure and should show you the collection instructions. NOTE: You are not to write anything on the CCF other than what the collection technician instructs or authorizes you to include. [40.61(e)]
- The collection technician will inspect the collection room in advance of the collection to verify it is free of materials that might be used to tamper with the urine specimen.
- You will be asked to remove all outer garments (coat, sweater, vest, shoes, hat, purse, etc.) and to empty the contents of all pockets. You may keep your wallet with you after displaying its contents to the collector to verify that there is nothing that can be used to tamper with the collection process. The collection technician may ask questions about items that could be used to tamper with the urine specimen. The collection technician will tell you which items are to be secured until after collection is completed. You may request a receipt for those items. **FAILURE TO COMPLY WITH DIRECTIONS TO REMOVE ALL OUTER GARMENTS AND PERSONAL BELONGINGS (OTHER THAN A WALLET) WILL BE CONSIDERED A REFUSAL TO TEST. [40.61(f) & (g)]**
- The collection technician will complete Step 1 of the CCF. [40.63(a)]
- You will be asked to wash and dry your hands in view of the collection technician, and you will be advised not to wash again until after delivering your specimen. From this point until you enter the collection room, you must stay in the presence of the collection technician. [40.63(b)]

- The collection technician will unwrap or break the seal of the collection container in your presence (the seals to the two specimen bottles are not to be broken at this time). Once the collection container is unwrapped or its seal is broken, the collection container should not leave your sight until the specimen has been checked, split, and the specimen transmittal pouch sealed. [40.63(c)]

#### **Collection of the Urine Specimen**

- You will be given the collection container and instructed to provide a urine specimen of at least 45 milliliters (the container will be marked) directly into the container. You will also be instructed not to flush the toilet. **REFUSAL TO ATTEMPT TO PROVIDE A URINE SPECIMEN WILL BE CONSIDERED A REFUSAL TO TEST. ALSO, A REFUSAL TO PROVIDE A SPECIMEN THROUGH SELF-CATHETERIZATION, IF THAT IS YOUR NORMAL METHOD OF VOIDING URINE, WILL BE CONSIDERED A REFUSAL TO TEST.** [40.61(b)(4) & 40.63(d)]
- You are to take nothing into the collection room from the collection kit but the collection container. [40.63(c)]
- If the collection facility must make use of a restroom with multiple stalls, there may be a need to monitor the collection. This involves having an individual, usually of the same gender (does not have to be the same gender if the monitor is a nurse, doctor, physician's assistant, technologist, or technician licensed or certified to practice in Texas), stand outside the stall in which you will void your sample to ensure you do not tamper with the specimen. A monitor is not allowed to watch the flow of urine from the body to the collection container. However, if the monitor hears or observes anything indicating an attempt to tamper with the specimen, the collection technician may order a collection under direct observation. **REFUSAL TO ALLOW A MONITORED SPECIMEN COLLECTION WILL BE CONSIDERED A REFUSAL TO TEST.** [40.69 & 40.191(a)(4)]
- If you are unable to urinate or provide a sufficient specimen within a reasonable period of time the collection technician must implement the shy bladder procedure. [40.193(a)]

#### **Shy Bladder Procedure**

- When you cannot provide a sufficient specimen, you will be asked to drink not more than 40 ounces of fluid over a three-hour period to help generate enough urine to successfully complete the specimen collection. You will be informed as to when the three-hour period begins. You are not obligated to drink any fluids, and unwillingness to do so is not a refusal to test, but it is to your advantage to drink the fluids. The collection technician will document the amount and frequency of the fluids provided. [40.193(b)]
- YOU ARE NOT TO LEAVE THE COLLECTION SITE WHILE WAITING TO GENERATE ADEQUATE URINE, AND ANY ATTEMPT TO DO SO WILL BE CONSIDERED A REFUSAL TO TEST.** [40.193(b)(3)]
- You may attempt to furnish the required specimen at any time within the three-hour period. If further attempts to furnish a sufficient specimen are unsuccessful, you may continue to drink liquid (up to the 40-ounce limit) and try again to deliver a sufficient specimen until the three-hour period is concluded. All additional attempts to provide a sufficient specimen will be documented. If you can provide a sufficient specimen before the three hours are up, the collection process will continue. If you cannot provide a sufficient specimen within the three hours, the collection technician will note the failed attempt(s) on the CCF, discontinue the collection process, and notify the DER. [40.193(b)(4)]

#### **Upon Providing a Sufficient Urine Specimen**

The following steps must be performed in full view of the donor (you), and you must remain in sight of the collection technician until the split specimen containers are sealed, dated, initialed, and bagged.

- Upon exiting the collection room, you must take the specimen directly to the collection technician conducting your collection. No person other than yourself and your collection technician is to handle the specimen until it is split, sealed, initialed, and bagged. You may wash your hands once the specimen has been handed to the collection technician. [40.63(b), 40.65]
- The collection technician will verify there is a sufficient specimen, check for signs of tampering, and document the temperature of the specimen. This is all to be done within four minutes of you providing the specimen. [40.65(a) - (c)]

- If the collection technician has reason to suspect that the specimen has been tampered with, he/she may require a new collection under direct observation (refer to Definitions). **REFUSAL TO ALLOW DIRECT OBSERVATION OF A DRUG SPECIMEN COLLECTION WILL BE CONSIDERED A REFUSAL TO TEST.** [40.63(e), 40.65(b)(5), 40.65(c)(1), & 40.191(a)(4)]
- The collection technician will document on the CCF that the specimen has been split and then split the specimen into two specimen bottles. The specimen to be used for the primary test is marked as bottle "A" and will contain 30 milliliters of urine. The specimen to be held for possible split testing is marked as bottle "B" and will contain 15 milliliters of urine. [40.71(b)(1) & (3)]
- The collection technician will then secure the lids to the specimen bottles, seal each with\_ a tamper-proof seal (each seal is to be fully applied), and date the seals. For your protection, the collection technician is allowed to date the seals ONLY AFTER they have been affixed to the specimen bottles. [40.71(b)(4) - (6)]
- The collection technician will then ask you to initial the affixed seal of each specimen bottle to validate that the specimens are yours. For your protection, you must initial the seals ONLY AFTER they have been affixed to the specimen bottles. [40.71(b)(7)]
- You will be asked to read a statement at Step 5 of the CCF, fill in the requested information, and sign there. [40.73(a)(1)]
- The collection technician will then complete the remainder of the CCF and sign it. [40.73(a)(2) & (3)]
- You will be provided with Copy 2 of the completed CCF. [40.73(a)(4)]
- The collection technician will then pull Copy 1 of the CCF and place it and the two specimen bottles into a tamper-proof specimen transmittal pouch. The pouch must be sealed in your presence. You should watch to ensure the adhesive seal fully covers the opening of the pouch. [40.73(a)(5) & (6)]
- Once the pouch is properly sealed, you are free to leave. [40.73(a)(7)]

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## APPENDIX 2

### Summary of the Alcohol Testing Process

This appendix overviews the alcohol testing process to give personnel an understanding of what to expect when directed to test. This summary does not contain all the details of the testing process. For full details, consult 49 CFR 40, Subparts L & M, as amended.

**FAILURE OF APPLICANTS AND SAFETY-SENSITIVE PERSONNEL TO COOPERATE FULLY WITH ANY PART OF THE TESTING PROCESS MAY BE CONSIDERED A REFUSAL TO TEST.** [40.261(a)(7)]

#### Directions to Test

Upon being directed to report for testing, you are escorted to Human Resources for CCF, and you will then be escorted to the designated testing facility. **BY CODR POLICY, YOU WILL BE ESCORTED TO REASONABLE SUSPICION TESTING. OTHER THAN FOR APPLICANTS, FAILURE TO ARRIVE AT THE TESTING FACILITY WITHIN A REASONABLE PERIOD OF TIME IS CONSIDERED A REFUSAL TO TEST.** [40.261(a)(1)]

#### Upon Arrival

- You are to check in with the reception staff upon arrival, provide your name, identify that you have been directed to accomplish an alcohol test, and follow whatever instructions you receive. You should NOT be asked to sign a consent form. If you are asked to do so, you must refuse. [40.27 & 40.355(a)]
- The testing process should begin shortly after your arrival. Normally, an alcohol test will precede the drug test specimen collection, if both are being performed. [40.241(b)]

**OTHER THAN FOR APPLICANTS, LEAVING THE TESTING FACILITY PRIOR TO INITIATING THE REQUIRED TEST IS CONSIDERED A REFUSAL TO TEST.** [40.261(a)(2)]

**FOR ALL INDIVIDUALS, INCLUDING APPLICANTS, LEAVING THE TESTING FACILITY ONCE THE TESTING PROCESS HAS BEGUN WILL BE CONSIDERED A REFUSAL TO TEST.** [40.261(a)(2)]

#### Prior to Collection of the Screening Breath Specimen

- You will be asked to furnish a photo identification to verify who you are. If you do not have such identification with you, only designated CODR personnel may verify your identity. [40.241(c)]
- The testing technician will explain the testing procedure and should show you the instructions on the back of the Alcohol Testing Form (ATF). [40.241(e)]
- The testing technician will complete Step 1 of the ATF. [40.241(f)]
- You will then be instructed to complete and sign Step 2 of the ATF. **REFUSAL TO SIGN THE CERTIFICATION WILL BE CONSIDERED A REFUSAL TO TEST.** [40.241(g)]

#### Collection of the Screening Breath Specimen

NOTE: Alcohol testing is done in one or two phases, depending upon the circumstances. Phase 1 -- the alcohol screening test, which is done in all alcohol tests -- is a breath test performed using an alcohol-screening device to determine if there is an indication of intoxication (a breath alcohol concentration (BAC) of 0.02 or greater). Phase 2 -- the alcohol confirmation test -- is performed using an evidential breath-testing device only if the alcohol screening device indicates a BAC of 0.02 or greater. [49 CFR 40, Subparts L & M, as amended].

- The testing technician must open a sealed mouthpiece and insert it into the testing device in your presence. [40.243(a) & (b)]
- The testing technician will instruct you regarding how to provide the screening breath specimen. [40.243(c)]

- You will blow into the mouthpiece until the machine indicates it has received a sufficient volume of breath to analyze (typically about 6 seconds). **REFUSAL TO ATTEMPT TO PROVIDE A BREATH SPECIMEN IS CONSIDERED A REFUSAL TO TEST.** [40.243(c) & 40.261(a)(3)]
- The testing technician is required to show you the displayed test result. [40.243(d)]
- The testing technician will then print the result and show it to you, so you may confirm the print matches the display.
  - If the result is not printed directly to the ATF but to a separate strip, the testing technician will attach that strip to the ATF with tamper-proof tape.
  - If the machine does not print the information, the testing technician will write it at Step 3 of the ATF and show it to you for verification. [40.243(e)- (g)]

#### **Shy Lung Procedure**

- If you are unable to deliver a sufficient breath specimen (what is called shy lung), the testing technician will re-instruct you about blowing a specimen and ask you to repeat blowing a breath specimen until a sufficient specimen is obtained or the testing technician feels that further attempts will be fruitless. If you cannot provide a sufficient breath specimen within a reasonable number of attempts (as determined by the testing technician), the testing technician will note the failed attempts on the ATF, discontinue the testing process, and notify the DER. [40.263]

#### **Upon Providing a Sufficient Breath Specimen With a Result Below 0.02 BAC**

- If you provide a sufficient specimen with a BAC below 0.02, the testing technician will date and sign the ATF at Step 3. [40.247(a)(1)]
- You will be given Copy 2 of the ATF and allowed to leave.

#### **Upon Providing a Sufficient Breath Specimen With an Invalid Result**

- The testing technician will advise you of the invalid result, document that fact on the ATF, and sign and date Step 3. [40.247(c)]
- You will be given Copy 2 of the ATF.
- The testing technician will begin the testing process again with a new ATF. [40.247(c)]

#### **Upon Providing a Sufficient Breath Specimen With a BAC of 0.02 Or Greater**

- If your test result is 0.02 BAC or greater, you will be advised of the need to complete an alcohol confirmation test. [40.247(b)]
- If the confirmation test is to be done by a testing technician other than the one who administered the screening test, the testing technician will complete Step 3 of the ATF used for screening, sign it, and date it. You will be given Copy 2 of that ATF. [40.247(b)(2)]
- You will be advised of the need to rest for 15 minutes and told not to eat, drink, put anything into your mouth, or belch during the rest period. You will also be advised of the purpose of the waiting period, that following the testing technician's instructions is to your benefit, and the test will be conducted at the end of the waiting period whether you follow the instructions or not. The fact that these instructions were provided to you will be documented on the ATF. You will be told when the rest period begins. This rest period is used to prevent accumulation of mouth alcohol from causing an improperly high reading. You will be tested at the end of the 15-minute rest period whether you follow the instructions or not. [40.251(a)(1) &(2)]
- You must remain in the testing area under the observation of a testing technician for the entire 15-minute period. [40.251(a)(1)(iii)]

- At the end of the 15-minute rest period, you will be taken to the evidential breath-testing device. The confirmation test must be conducted no more than 30 minutes after your 15-minute rest period begins. [40.25 1(a)(1)]
- If a different testing technician performs the alcohol confirmation test, a new ATF will be started. You will again be asked to provide photo identification and complete Step 2 of the ATF. **REFUSAL TO SIGN THE CERTIFICATION WILL BE CONSIDERED A REFUSAL TO TEST** [40.251(c) & (d)]
- The testing technician will conduct an 11-air blank test of the machine in your presence to demonstrate that the machine is properly calibrated. You will be asked to observe the reading. If the air blank test yields anything other than 0.00 two times in a row, the testing technician must use another machine. [40.253(a)]
- A new mouthpiece will be opened in your presence and inserted into the confirmation machine. [40.253(b)]
- You will be asked to read the unique test number displayed on the screen. [40.253(c)]
- The testing technician will instruct about how to blow a good specimen. [40.253(d)]
- You will blow into the mouthpiece until the machine indicates it has received a sufficient volume of breath to analyze (typically about 6 seconds). **REFUSAL TO ATTEMPT TO PROVIDE A BREATH SPECIMEN IS CONSIDERED A REFUSAL TO TEST.** [40.253(d) & 40.261(a)(3)]
- The testing technician is required to show you the displayed test result. [40.253(e)]
- The testing technician will then print the result and show it to you, so you may confirm the print matches the displayed test number and reading. If the result is not printed directly to the ATF but to a separate strip, the testing technician will attach that strip to the ATF with tamper-proof tape. [40.253(f) & (g)]
- If the alcohol confirmation test is invalid, the testing process begins again with a new ATF. [40.255(a)(4)]
- If you are unable to provide a sufficient specimen for the alcohol confirmation test, the testing technician will implement the shy lung procedure described above. [40.265(a)]
- If the alcohol confirmation test result is valid and returns a BAC less than 0.02, the testing technician will sign and date Step 3 of the ATF and provide you with Copy 2. [40.255(a)(2)]
- If the alcohol confirmation test result is valid and returns a BAC of 0.02 or more, the testing technician will sign and date Step 3 of the ATF, ask you to sign and date at Step 4, and provide you with Copy 2. [40.255(a)(3)]
- You are free to leave once a valid test is achieved or no further testing can be attempted. If found to be intoxicated (BAC of 0.02 or greater), you will not be allowed to drive.

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## Appendix 3

### Contractors

The following are contractors who provide services related to CODR's Drug and Alcohol Program:

#### **Medical Review Officers (MRO)**

Abraham Hammell, D.O.  
First Advantage  
11800 Exit Five Parkway, Suite 120  
Fishers, IN 46037  
(800)939-4782

#### **Texas Alcohol Testing Service**

Cadena Family Practice (Primary)  
2201 N. Bedell  
Del Rio, TX 78440  
(830)775-8700

#### **Substance Abuse Professional**

Tia Brisco  
AllOne Health  
126 E. Main Plaza  
San Antonio, TX 78205  
1-888-993-7650

Michael Contreras  
AllOne Health  
126 E. Main Plaza  
San Antonio, TX 78205  
817-875-5845

#### **Authorized Department of Health and Human Services (DHHS) Laboratory**

Labcorp  
7207 North Gessner,  
Houston, TX 77040  
(800)833-3984

Appendix 4  
Drug & Alcohol Collection Sites

Cadena Family Practice (Primary)  
2201 N. Bedell  
Del Rio, TX 78440  
(830)775-8700

Field Diagnostics (Secondary)  
401 W. Cantu Rd. Suite F  
Del Rio, TX 78840  
(830)313-7060

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# Appendix 4

## CONFIDENTIAL

### AUTHORIZATION FOR RELEASE OF INFORMATION FROM PREVIOUS EMPLOYER ON US DOT DRUG AND ALCOHOL TESTING

(A separate form must be filled out for each US DOT-regulated employer that employed the applicant during the two-year period preceding the date of the employee's application or transfer)

I authorize that:

Print First Name, Middle Initial, Last Name

Last 4 digits of Social Security Number

Contact Person: \_\_\_\_\_

Previous Employer: \_\_\_\_\_

Street Address or

P.O. Box: \_\_\_\_\_ Telephone: \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Fax: \_\_\_\_\_

may release the information requested below concerning my US DOT drug and alcohol testing records to:

Contact Person: \_\_\_\_\_

Prospective Employer: \_\_\_\_\_

Street Address or

P.O. Box: \_\_\_\_\_ Telephone: \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Fax: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's Signature*

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

This information will be used solely for the purpose of ascertaining whether I am eligible to perform safety-sensitive functions for the. This authorization for release of information is valid for one year from the date of signature.

### COMPLETED BY PREVIOUS EMPLOYER

Check here  if this employee did **not** participate in US DOT-regulated drug and alcohol testing while under your employment. Then sign below and return this form;

**OR**, respond to the following questions regarding this employee's US DOT-regulated drug and alcohol testing history while employed with your agency/firm.

- |  |             |
|--|-------------|
| 1. Has this employee tested positive (0.04 or greater) for alcohol in the last two years?                    | Y ___ N ___ |
| 2. Has this employee had a verified positive drug test result in the last two years?                         | Y ___ N ___ |
| 3. Has this employee refused a required drug or alcohol test in the last two years?                          | Y ___ N ___ |
| 4. Has this employee violated any other US DOT drug or alcohol testing regulation within the last two years? | Y ___ N ___ |
| 5. Has a previous employer reported a drug and alcohol rule violation to you?                                | Y ___ N ___ |
| 6. If you answered yes to any of the above items, did the employee complete the return to duty process?      | Y ___ N ___ |

*Note: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).*

\_\_\_\_\_  
Previous Employer's Signature

\_\_\_\_\_  
Date

Please return this form to the prospective employer at the address listed above

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## Appendix 5

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

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

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

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

I further understand that the information contained in the approved policy dated September 23, 2025, is subject to change, and that any such changes, or addenda, shall be disseminated in a manner consistent with the provision of 49 CFR Part 655, as amended.

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

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