

NATIONAL PIPE LINE AGREEMENT

ALCOHOL MISUSE PREVENTION POLICY

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
A. Alcohol Misuse Prevention Policy (“AMPP”)	1
B. Implementation of Alcohol Misuse Prevention Policy (“AMPP”)	1
C. Background	2
D. Preemption Provisions	2
E. Definitions	2
F. Contractor Responsibilities.....	5
II. APPLICABILITY OF ALCOHOL-TESTING PROVISIONS.....	6
A. Individuals Subject to Alcohol Testing.....	6
B. Procedure for Notifying Employees	6
C. Employee Notification Criteria.....	6
D. Documentation and Certification of Alcohol Tests	8
III. ALCOHOL TESTS REQUIRED	8
A. Post-Accident Testing.....	8
B. Reasonable Suspicion Testing	10
C. Return-to-Duty Testing.....	13
D. Follow-up Testing.....	14
IV. ALCOHOL PROHIBITED CONDUCT	14
A. DOT Prohibited Conduct	14
1. General.....	14
2. Alcohol Concentration	14
3. Pre-Duty Use.....	14
4. On-Duty Use	15
B. Contractor Prohibited Conduct	15
V. RETESTING AND DISCIPLINE	15
VI. VOLUNTARY TESTING/EDUCATION	16
VII. OTHER TESTING, SEARCHES AND INVESTIGATIONS	17

VIII.	ALCOHOL TESTING EQUIPMENT	17
	A. General	17
	B. Screening Devices.....	17
	C. Confirmation Devices	17
	D. NHTSA Conforming Products List	17
IX.	ALCOHOL TESTING REQUIREMENTS	18
	A. Scope.....	18
	B. General.....	18
X.	BREATH ALCOHOL TECHNICIAN (“BAT”) GUIDANCE	18
	A. General	18
XI.	DISCLOSURE OF ALCOHOL INFORMATION/RECORDS	20
	A. General	20
	B. Disclosure Provisions.....	20
XII.	EMPLOYEE ASSISTANCE PROGRAM (“EAP”)	21
	A. Scope of Program	21
	B. Supervisor Training	21
XIII.	RECORDKEEPING PROCEDURES	22
	A. General	22
	B. Record Retention Provisions.....	22
	C. Maintenance of Specific Types of Records	23
XIV.	CONTRACTOR MONITORING	24
XV.	GENERAL	24
XVI.	DURATION	25
	ATTACHMENT A.....	37

NATIONAL PIPE LINE AGREEMENT

ALCOHOL MISUSE PREVENTION POLICY

PREAMBLE

The Pipe Line Contractors Association (“Association”) and other contractors which execute an acceptance of the terms and provisions of the National Pipe Line Agreement (“Agreement”) and the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO (“Union”) recognize that federal law, specifically, 49 CFR §§ 40 and 199 (2003 Amend.), requires alcohol-testing under certain circumstances to promote safety in the pipeline industry.

To ensure compliance with the above-referenced regulations, the Parties agree that limited alcohol testing will be permitted when required by said regulations and hereby adopt the following Alcohol Misuse Prevention Policy (“Policy”) setting forth the rules and procedures for administering alcohol tests. This Policy shall be implemented by each individual signatory contractor (“Contractor”) to the Agreement, which shall have the responsibility for conducting alcohol tests when required and for ensuring compliance with the requirements of this Policy.

I. INTRODUCTION

A. Alcohol Misuse Prevention Policy (“AMPP”)

1. The Parties seek to maintain the highest standards for employee safety and health and to prevent accidents/injuries resulting from the misuse of alcohol by employees who perform covered functions.
2. In addition, the Parties recognize that the Contractor must comply with all DOT regulations and other regulations which require affirmative action to eliminate the impact of the misuse of alcohol in the workplace. The purpose of the alcohol misuse prevention Policy is to reduce accidents that result from the misuse of alcohol, thereby reducing fatalities, injuries and property damage.

B. Implementation of Alcohol Misuse Prevention Policy (“AMPP”)

1. The Contractor has implemented the Research and Special Programs Administration, Alcohol Regulations as set forth in 49 CFR Part 199, Subpart C and the Department of Transportation, Procedures for Transportation Workplace Alcohol Testing Programs as set forth 49 CFR Part 40, Subparts J through P.
2. The privacy/confidentiality of any covered employee subject to this Policy must be maintained at all times.

C. Background.

1. The catalyst for the alcohol misuse Policy is Title 49 Code of Federal Regulations (“CFR”) Part 199 Subpart C which requires pipeline operators subject to 49 CFR Parts 192, 193, and 195, and their contractors to test their employees for misuse of alcohol under the following work-related conditions:
 - a. Post-Accident
 - b. Reasonable Suspicion
 - c. Return-to-duty
 - d. Follow-up
2. Except as required by 49 CFR Part 199 Subpart C, and except where specifically required as a condition for bidding, access, or performance of a job or contract by an owner, client, general contractor, or federal or state law or other regulation, alcohol testing shall not be permitted. If such testing is required, it shall be performed in strict accordance with the procedures and requirements set forth in this Policy.

D. Preemption Provisions.

1. Except as provided in paragraph 2 of this section, Part 199 Subpart C preempts any state or local law, rule, regulation, or order to the extent that:
 - a. compliance with both the state or local requirement and this regulation is not possible;
 - b. compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement as set forth in 49 CFR Part 199, Subpart C; or
 - c. the state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.
2. This provision shall not be construed to preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

E. Definitions. For purposes of the AMPP the following definitions apply:

1. Accident - means an incident reportable under Part 191 involving gas pipeline facilities or liquefied natural gas (“LNG”) facilities or an accident reportable under Part 195 involving hazardous liquid pipeline facilities.
 - a. § 191.3 - An accident on a gas pipeline or LNG facility is defined as an “incident,” as follows:

- (1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and:
 - (a) A death, or personal injury necessitating inpatient hospitalization;
 - (b) Estimated property damage, excluding cost of gas lost, to the operator or others, or both, of \$50,000 or more; or
 - (c) Unintentional estimated gas loss of three million cubic feet or more
 - (2) An event that results in an emergency shutdown of an LNG facility.
 - (3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (1) or (2).
- b. § 195.50 - An accident report is required for each failure in a pipeline system in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:
- (1) Explosion or fire not intentionally set by the operator.
 - (2) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - (a) Not otherwise reportable under this section;
 - (b) Not one described in Sec. 195.52(a)(4);
 - (c) Confined to Contractor property or pipeline right-of-way; and
 - (d) Cleaned up promptly;
 - (3) Death of any person.
 - (4) Personal injury necessitating hospitalization;
 - (5) Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

2. Air Blank means a reading by an evidential breath testing device (“EBT”) of ambient air containing no alcohol.
3. Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
4. Alcohol Concentration - means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test conducted under the federal regulations.
5. Alcohol Use - means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
6. Breath Alcohol Technician (“BAT”) - means an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
7. Canceled or invalid test - means a test that is deemed to be invalid as listed in Appendix C of the AMPP.
8. Confirmation Test - means a second test following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.
9. Covered Employee – means any person who performs on a pipeline or LNG facility operating, maintenance, or emergency response function regulated by Parts 192, 193, or 195. As applied in the regulations, “employee” and “applicant for employment” have the same meaning for the purpose of these requirements. Covered employee and “individual” or “individual to be tested” have the same meaning for the purposes of the alcohol regulations. Such persons may be employed directly by the Contractor, or by a contractor engaged by the Contractor. Clerical, truck driving, accounting, or other job functions not covered by Parts 192, 193, or 195 are not subject to the regulations.
10. Covered Function (safety-sensitive function) – means an operations, maintenance, or emergency-response function regulated by Parts 192, 193 or 195 that is performed on a pipeline or on an LNG facility.
11. EBT (or evidential breath testing device) - means an EBT approved by the National Highway Safety Traffic Safety Administration (“NHTSA”) for the evidential testing of breath and placed on NHTSA’s “Conforming Products List” (“CPL”) or evidential breath measurement devices.
12. Operator - means an owner or operator of pipeline facilities subject to part 192, 193, or 195.
13. Performing (a covered function) - means an employee is considered to be performing a covered function (safety-sensitive function) during any period in which he/she is actually performing, ready to perform, or immediately available to perform such covered functions.

14. Pipeline - means all parts of the physical facilities through which product moves in transportation. This includes pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, delivery stations, holders, and fabricated assemblies.
15. Pipeline Facilities - means the pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of product.
16. Refusal to Submit (to an alcohol test) - means that a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of 49 CFR Part 199 and the Contractor's alcohol misuse prevention Policy or engages in conduct that clearly obstructs the testing process.
17. Screening Test (or initial test) - means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
18. State Agency - means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. §§ 60101 *et seq.*).
19. Substance Abuse Professional ("SAP") - means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.
20. Breath Alcohol Testing Form - means the U.S. Department of Transportation Breath Alcohol Testing Form (attached as Attachment A to this Policy).

F. Contractor Responsibilities.

1. Alcohol Program Manager ("APM"): Appendix A to this Policy (to be completed by the Contractor) shall contain the name, address, and phone number of the responsible individual(s). The APM or other Contractor-designated individual shall be responsible for the preparation of an alcohol misuse Policy which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 Subpart C and 49 CFR Part 40 Subparts J through P. The APM shall be responsible for providing oversight and evaluation on the Policy; providing guidance and counseling; reviewing of all discipline applied under this Policy for consistency and conformance to human resources policies and procedures; scheduling for types of testing (post-accident, reasonable suspicion, etc); maintaining a locked file system on all alcohol test results; and overseeing the referral of employees for evaluation and treatment as it is defined in 49 CFR Part 199.243. The Contractor shall ensure that all covered employees are aware of the provisions and coverage of the Contractor's AMPP.

2. **Supervisor(s)**: Contractor individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable suspicion; and post accident testing if determined that it is applicable.
3. **Employees**: The Contractor shall ensure that each employee is notified and aware of the provisions of the Contractor AMPP and is knowledgeable of the requirements of the Contractor's AMPP.

II. APPLICABILITY OF ALCOHOL-TESTING PROVISIONS

- A. **Individuals Subject to Alcohol Testing** - Any applicant/employee who performs on a pipeline or on an LNG facility in an operating, maintenance, or emergency response function regulated by Part 192, 193, or 195, is subject to alcohol testing under this program. This does not include clerical, truck driving, accounting, or other functions not subject to Part 192, 193 or 195. The person may be employed by the operator, a contractor engaged by the operator, or an individual employed by such a contractor. Appendix B to this Policy (to be completed by the Contractor) contains the specific employee titles/job classifications subject to testing under this Policy.
- B. **Procedure for Notifying Employees** - This AMPP shall be included in the appropriate Contractor manual. Upon receipt of the Contractor's AMPP, each manager shall post the Policy in a prominent location that is readily accessible to all covered employees. All covered employees will be provided a complete copy of the AMPP or a condensed/summarized version of the Policy. The condensed document must indicate where the entire Policy may be obtained for review by an employee.
- C. **Employee Notification Criteria**
 1. **General Criteria**. The Contractor shall provide written educational materials explaining the alcohol misuse requirements and the Contractor's policies and procedures on how they will comply with those requirements.
 - a. The Contractor will distribute the educational materials to each covered employee prior to the start of alcohol testing and to each person subsequently hired/transferred to perform covered functions.
 - b. The Contractor shall provide written notice to the Union on the availability of this written educational information.
 2. **Required Information**. The Contractor shall provide written materials to all covered employees that shall include detailed information and discussion of the following elements:
 - a. Name of the Contractor representative designated to answer questions for covered employees about the alcohol regulations. See Appendix A.

- b. List of categories of covered employees who are subject to the alcohol regulations. See Appendix B for listing of employee/supervisor job classification/titles.
- c. Information about covered functions which provides sufficient guidance on which portions of the work day the covered employee is required to be in compliance with the AMPP.
- d. Information concerning covered employee conduct which specifies what is prohibited by the AMPP.
- e. Circumstances under which a covered employee will be tested for alcohol under the AMPP.
- f. Procedures that cover:
 - (1) testing for presence of alcohol
 - (2) protection of employee rights
 - (3) integrity of breath testing process
 - (4) safeguarding validity of test results
 - (5) verifying test results are for the proper employee
- g. Information concerning requirement for covered employee to submit to various types of alcohol tests.
- h. Information detailing what constitutes a refusal to submit to an alcohol test and consequences of such refusal.
- i. Information detailing consequences of covered employees who violate the prohibitions as set forth in the AMPP. It must address removal from performing covered functions and guidance upon referral for evaluation and/or treatment.
- j. Information detailing consequences of covered employees who test at an alcohol concentration of 0.02 or greater but less than 0.04.
- k. Information detailing alcohol misuse and:
 - (1) how it impacts an individual's health, work and personal life;

- (2) detecting signs and symptoms of an alcohol problem; and
- (3) intervening, evaluating and resolving problems associated with alcohol misuse (suspicions, confrontation, referral to EAP and referral to management official).

D. Documentation and Certification of Alcohol Tests - For each alcohol test conducted under this Policy, a U.S. Department of Transportation Alcohol Testing Form, which shall document and certify the results of any alcohol tests, shall be completed by the Contractor's Breath Alcohol Technician and the tested employee. (*See Attachment A*).

III. ALCOHOL TESTS REQUIRED

A. Post-Accident Testing.

1. As soon as practicable following an accident, the Contractor shall determine and test each covered employee for alcohol if that employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer an alcohol test under this section shall be based on the Contractor's determination, using the best available information at the time of the determination, that the employee's performance could have not have contributed to the accident.
2. Each employee shall be required to submit to an alcohol test within 2 hours of the accident. If a required test is not administered within 2 hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test is not administered within 8 hours following the accident, the Contractor shall cease all attempts to conduct an alcohol test and shall prepare and maintain on file written documentation indicating why the alcohol test was not conducted.
3. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Contractor or Contractor representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the Contractor to have refused to submit to testing.
4. The employee must remain available for alcohol testing and may not consume any alcohol for 8 hours following the accident or until the alcohol test has been conducted. Notwithstanding the previous statement, employees should seek and obtain emergency medical care whenever necessary.
5. Union Representation: An employee subject to post-accident testing has a right to have a union representative present during testing, provided one is reasonably available. The decision of whether a union representative is reasonably available or not shall be made by the Contractor. The employee should be specifically

informed of this right immediately prior to testing and should specifically state whether he or she wishes to have a union representative present. This communication and the employee's response should be recorded and signed by the supervisor and the employee. If an employee requests a union representative and one is not reasonably available, this fact should be recorded. An employee subject to post-accident testing is obligated to comply with testing whether his/her union representative is present or not.

6. The following steps will be used to guide supervisors in carrying out their alcohol testing responsibilities in a post-accident situation.
 - a. Verify the post-accident decision. Immediately following an accident, supervisors should consider the following inquiries. Does the definition of accident in Section I apply to the current situation? Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a factor which contributed to the accident? If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, individual may need to obtain approval from the division manager/department head or designee to proceed with post-accident testing.
 - b. Isolate and inform the employee. Remove the employee from the work place. Explain that you have reason to believe his/her performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident and therefore, he/she will be required to submit to an alcohol test. Offer the employee the right to have a union representative present. (See paragraph 5 above).
 - c. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site (the collection site may be at the accident scene). In addition to the safety concerns for the employee, accompanying the employee also ensures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the outcome of the alcohol test.
 - d. Document the events. Record all of the activities that support the determination to conduct a post-accident alcohol test. This documentation of the employee's activity should be prepared and signed by the supervisor and remain on file.
 - e. Following administration of alcohol test. After returning from the collection site, the employee should not be allowed to return to performing any covered functions if his/her alcohol test result is positive and if any disciplinary action is pending.

B. Reasonable Suspicion Testing. Reasonable suspicion testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of alcohol misuse) to identify alcohol affected employees who may pose a danger to themselves and others in their job performance. Employees at work may be in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reasonable suspicion to believe an employee is using or has used alcohol.

1. Supervisor Reasonable Suspicion Determinations:

- a. The Contractor's determination that reasonable suspicion exists to require a covered employee to undergo an alcohol test shall be in writing and based on specific, contemporaneous, articulable first hand observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a Supervisor who has received at least 60 minutes of training in detecting the symptoms of alcohol misuse. Observation by two (2) supervisors will be required if Contractor has over fifty (50) employees.
- b. The Supervisor who determines that reasonable suspicion exists shall not be authorized to conduct the breath alcohol test on that employee.
- c. Alcohol testing is authorized by this section only if the observations required by paragraph B (1)(a) of this section are made during, just preceding or just after the period of the work day for which the employee is required to be in compliance with this subpart. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions.

2. In making a determination of reasonable suspicion, the factors to be considered include, but are not limited to the following:

- a. Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of alcohol related behavior on or off the work site. A written report describing the employee's condition shall be completed, dated and signed by the observer(s), and copies made available to the employee and the Union; third party reports that an employee is impaired in his duties due to the use of alcohol shall not constitute reasonable cause, but may be cause for the observation of the employee; and persons refusing to submit, under the aforementioned circumstances, to a test which complies with the minimum procedural guidelines contained in

Appendix C of this Policy, may be subject to discipline, including discharge, subject to the terms below.

- b. Physical signs and symptoms consistent with alcohol abuse.
 - c. Evidence of prohibited alcohol use, possession, sale, or delivery while on duty.
 - d. Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operations procedures.
3. Union Representation. Union representation shall be available to employees subject to reasonable suspicion testing in the same manner as provided by Article III, Section A, Paragraph 5 above.
4. The following steps will be used to guide the supervisor in reaching an appropriate resolution to a reasonable suspicion situation.
- a. Verify the reasonable suspicion decision. Hearsay is not an acceptable basis for reasonable suspicion referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was alcohol related? On what basis did they reach their conclusion? Before proceeding further, obtain concurrence or approval from the manager/department head or designee to proceed with reasonable suspicion alcohol testing.
 - b. Isolate and inform the employee. Remove the employee from the work location. Offer the employee the right to have a union representative present. (See Article III, Section A, Paragraph 5 above). Explain that there is reasonable suspicion to believe the employee's performance is being affected by alcohol. Ask the employee to explain the suspected behavior and to describe the events that took place from his/her prospective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for the employee to submit to an alcohol test. If there is still a reasonable belief that alcohol is a factor in the situation/incident, a request for testing should be made; if no reasonable belief is determined then a request for testing should not be made. If the decision to test is made, inform the employee that he/she is being requested to accompany the appropriate Contractor official or representative to the specimen collection site to conduct an alcohol test. Inform the employee of the consequences of refusal to submit to alcohol testing.

- c. Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable suspicion decision must be made by a supervisor who has received the required training. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable cause determination.
 - d. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also ensures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the alcohol test result.
 - e. Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion alcohol test. This documentation of the employee's conduct should be prepared and maintained on file to document the request for reasonable suspicion alcohol testing.
 - f. Following administration of alcohol test. After returning from the collection site, the employee should not be allowed to return to performing any covered functions if his/her alcohol test result is positive and if any disciplinary action is pending. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable suspicion belief that he/she may be under the influence of alcohol.
5. If a reasonable suspicion test is not administered within two hours following the determination, the Contractor shall prepare and maintain on file a record stating the reasons why the test was not promptly administered. If the required test is not administered within eight hours of the determination, the Contractor shall cease all attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Upon request, such records shall be made available to the Pipeline and Hazardous Materials Safety Administration (PHMSA).
6. The Contractor shall not permit a covered employee to report for duty or remain on duty:
- a. requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall the employee be permitted to perform or continue to perform covered functions until:

- (1) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
 - (2) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in the AMPP; but
- b. Notwithstanding paragraph (a) above the Contractor retains its absolute discretion to immediately terminate (subject only to rehire rights of Art. V(c) herein) any employee who is found under the influence of or impaired by alcohol while on the job site or on Contractor property and whether performing a covered function or not.
7. Except as provided above, the Contractor shall not take any action under 49 CFR Part 199 against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test.
8. In the event any supervisor or other individual on three (3) consecutive occasions reports that he has reasonable suspicion to have an employee tested for alcohol abuse as provided for in this Policy and the tests prove negative, that supervisor or other reporting individual shall be relieved of any responsibility or authority for determining reasonable suspicion for having an employee tested and shall be barred from the job site for three (3) days.

C. Return-to-Duty Testing.

1. The Contractor shall ensure that before an employee returns to duty to perform covered functions after engaging in prohibited conduct, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. The Contractor shall not permit an employee who refuses to submit to an alcohol test to perform or continue to perform covered functions.
2. If the substance abuse professional makes a determination that some form of evaluation and/or treatment is required then the employee must comply with the recommended provisions in order to be considered eligible to return-to-duty.
3. Union Representation. Union representation shall be available to employees subject to return-to-duty testing as provided by Article III, Section A, Paragraph 5 above.
4. Return to duty testing is subject to Contractor discretion. (See Art. III, Section B, Paragraph 6(b)).

D. Follow-up Testing.

1. Following the determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, the employee will be subject to unannounced follow-up alcohol tests as directed by a substance abuse professional. An employee who returns to duty shall be subject to a reasonable program of follow-up alcohol testing, without prior notice, for up to 18 months after his or her return to duty.
2. The employee shall be subject to at least 6, unannounced follow-up alcohol tests during the first 12-months following his/her return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the initial six tests have been completed, if the substance abuse professional makes the determination that such testing is no longer warranted.
3. The Contractor may require a covered employee to submit to drug follow-up testing when the substance abuse professional has reason to suspect drug involvement. The drug testing must comply with the requirements contained in 49 CFR Part 40, Subpart O.
4. Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.
5. Union representation shall be available to employees subject to follow-up testing as provided by Article III, Section A, Paragraph 5 above.

IV. ALCOHOL PROHIBITED CONDUCT

A. DOT Prohibited Conduct.

1. General. The Contractor shall provide guidance to all covered employees regarding the various types of alcohol prohibited conduct.
2. Alcohol Concentration. A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. If a Contractor representative has actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, the employee shall not be permitted to perform or continue to perform covered functions.
3. Pre-Duty Use. The Contractor shall prohibit a covered employee from using alcohol within four hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. If the Contractor has actual knowledge that a covered employee has used alcohol within four hours

prior to performing covered functions or within the time period after the employee has been notified to report for duty, the employee shall not be permitted to perform or continue to perform covered functions.

4. On-Duty Use. The Contractor shall prohibit a covered employee from using alcohol while performing covered functions. If a Contractor representative has actual knowledge that a covered employee is using alcohol while performing covered functions, the employee shall not be permitted to perform or continue to perform covered functions.

B. Contractor Prohibited Conduct.

On Duty Use of Alcohol. On duty use of alcohol on Contractor time (including the right of way) may result in discipline including discharge.

V. RETESTING AND DISCIPLINE

- A. A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform covered functions until:
 1. The employee's alcohol concentration measures less than 0.02 in another alcohol test administered in compliance with this Policy; or
 2. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the alcohol test.
- B. Except as provided above, the Contractor shall not take any action under 49 CFR Part 199 against a covered employee based solely on test results showing an alcohol concentration less than 0.04. The Contractor, however, reserves the right to discipline including discharge any employee (subject to paragraph C below) who is found under the influence of or impaired by alcohol pursuant to testing administered under this Policy.
- C. An employee who receives test results showing an alcohol concentration greater than 0.04 may be subject to disciplinary action, including discharge, provided the results are derived from tests administered in accordance with the rules and procedures of this Policy.
 1. An employee who is terminated in accordance with section C above and who is a first offender, shall be eligible for rehire after thirty (30) days provided he/she satisfies the following:
 - a. the employee passes an alcohol test administered under this Policy; and
 - b. a SAP determines that the employee may return to duty.

2. An employee who returns to duty under this section shall be subject to a reasonable program of follow-up alcohol testing without prior notice for eighteen (18) months after his or her return to duty.
 3. An employee who returns to employment pursuant to the provisions of this Policy and tests positive for a second time shall be barred from employment for a period of ninety (90) days.
 4. An employee who returns to employment pursuant to the provisions of this Policy and tests positive for a third time shall be barred from employment until both completing a rehabilitation program and six (6) months have elapsed.
 5. An employee who complies with the provisions of this Policy shall not be refused work based on the fact that he/she has, in the past, tested positive.
- D. Refusal to submit to a post-accident, reasonable suspicion, return-to-duty or follow-up alcohol tests shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.
- E. No covered employee who has violated the rules on alcohol misuse or refuses to submit to testing can perform any covered function unless and until that employee has:
1. Been evaluated by a SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol misuse.
 2. Completed any treatment recommended by the SAP.
 3. Been evaluated by a SAP to ensure that the employee has properly followed the treatment program.
 4. The employee has undergone a return-to-duty alcohol test with resulting alcohol concentration of less than 0.02.
- F. The Contractor reserves the right to discipline including discharge any employee who refuses to submit to testing under this Policy.

VI. VOLUNTARY TESTING/EDUCATION

Employees who are eligible for coverage of the costs of alcohol abuse/addiction treatment, in accordance with a Health and Welfare Policy or Benefits, may volunteer (prior to being required by the Contractor to submit to testing) for testing and avail themselves of the treatment available under the Policy of Benefits. Such employee is not guaranteed continued employment or any right to be rehired.

VII. OTHER TESTING, SEARCHES AND INVESTIGATIONS

Psychological testing of employees shall not be conducted except to the extent required by federal law. Other investigations of employees shall not be conducted except to the extent required by federal or state law or regulation or by the owner, client or general contractor as a precondition for bidding or access to a job or performance of a contract.

VIII. ALCOHOL TESTING EQUIPMENT

- A. General. The Contractor shall use only approved evidential breath testing (“EBTs”) devices for conducting the alcohol testing provisions required in the AMPP.
- B. Screening Devices.
1. The Contractor shall utilize a log book to record information relative to screening alcohol tests, if the EBT being utilized does not have:
 - a. capabilities to be attached independently or by direct link to a separate printer, print a result in triplicate (or three consecutive identical copies) of each breath test;
 - b. capabilities to assign a unique and sequential number to each completed test so that the number can be read by the breath alcohol technician (“BAT”) and the employee before each test and be printed out on each copy of the result;
 - c. capabilities of printing out the manufacturer’s name of the device, serial number and time of the test.
 2. A log book shall be used for each device that does not meet the above criteria and the log book shall include the following information: test number, date of test, name of BAT, location of test, test result and initials of the employee taking each test.
- C. Confirmation Devices. The Contractor shall utilize an EBT for confirmation testing that has the capabilities listed above in paragraph 1. The EBT shall also be able to distinguish alcohol from acetone; be capable of testing an air blank prior to each collection of breath and performing an external calibration.
- D. NHTSA Conforming Products List. All devices that will be used by the Contractor for alcohol testing are National Highway Transportation Safety Administration (“NHTSA”) approved evidential breath alcohol testing (“EBT”) devices. NHTSA has model specifications for evidential breath testing devices. NHTSA periodically publishes an updated Conforming Products List, which states which devices have met NHTSA standards.

IX. ALCOHOL TESTING REQUIREMENTS

A. Scope.

1. The alcohol testing procedures contained herein and in Appendix C shall be complied with by the designated alcohol testing sites.
2. These procedures address the requirements contained in 49 CFR Part 40 Subparts J through P.

B. General.

1. The alcohol testing site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the testing and processing of alcohol test results. An independent medical facility may also be utilized as an alcohol testing site provided the other applicable requirements of Appendix C are met.
2. An alcohol testing site shall be any suitable location where a breath alcohol test can be collected under conditions set forth in Appendix C, including a properly equipped mobile facility. A designated alcohol testing site shall provide for privacy during the testing period and completion of all necessary record procedures.
3. Detailed alcohol testing procedures are outlined in Appendix C.

X. BREATH ALCOHOL TECHNICIAN (“BAT”) GUIDANCE

A. General.

1. The breath alcohol technician (“BAT”) shall receive sufficient training and be certified to proficiency in the specific operation of the evidential breath testing (“EBT”) device he/she uses in the required alcohol testing procedures as outlined in the AMPP. These procedures include the following:
 - a. Each BAT used by the Contractor shall be able to demonstrate by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

- b. The Contractor shall ensure that only courses of instruction that are equivalent to the Department of Transportation Model Courses may be used to train BATs to proficiency. Upon request, the Department of Transportation's Office of Drug and Alcohol Policy and Compliance ("ODAPC") will review a BAT instruction to determine equivalency.
 - c. The Contractor shall ensure that the course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) to be used by the Contractor.
 - d. The Contractor shall ensure that any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of the EBT to be used by the Contractor. The BAT training shall also include practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in the maintenance and calibration of the particular EBT.
 - e. The Contractor shall ensure the BAT(s) receive sufficient additional training to ensure proficiency concerning any new or additional devices or changes in technology for equipment used by the Contractor.
 - f. The Contractor shall ensure that BAT(s) satisfy their refresher training requirements no less frequently than every five years from the date on which each individual satisfactorily completed the requirements to qualify as a BAT. The Contractor shall ensure that each BAT completes refresher training that meets all of the requirements of 49 CFR Part 40.213(b) and (c).
 - g. The Contractor or its designated agent, who is involved in conducting alcohol testing, shall establish documentation regarding the training and proficiency testing of any BAT it uses to test employees. The documentation shall be maintained in accordance with the requirements of the AMPP.
2. The Contractor may authorize a direct supervisor who has previously qualified as a BAT after satisfying all of the training requirements under 49 CFR Part 40.213, including the completion of seven error-free, mock tests, to conduct an alcohol test on a subordinate employee only if another BAT is unavailable to perform the required test in a timely manner. However, the supervisor who makes a determination that reasonable suspicion exists shall not be authorized to conduct the alcohol test on that employee.
3. The Contractor may permit law enforcement officers who have been certified by state or local governments to conduct breath alcohol tests. In order for a test to be accepted under the DOT requirements, the officer must have been certified by a state or local government to use the EBT that was used for the test.

XI. DISCLOSURE OF ALCOHOL INFORMATION/RECORDS

A. General.

1. The Contractor shall maintain all alcohol related testing information including all test results and other appropriate records in a secure manner to prevent the disclosure of such information to unauthorized personnel.
2. The APM or designee shall maintain a locked file system which will contain the alcohol testing information and records. This file shall be maintained as confidential. Employee files shall be handled on strict "need to know" basis.
3. Alcohol test results shall not be included in personnel files.

B. Disclosure Provisions.

1. The Contractor shall not release covered employee information that is contained in records required to be maintained by the provisions of the AMPP and in accordance with federal laws and regulations, except as required by law or when expressly authorized or required by 49 CFR Parts 199 and 40.
2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his/her alcohol tests. The Contractor shall promptly provide the requested records. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.
3. The Contractor shall permit access to all facilities utilized in complying with the requirements of 49 CFR Parts 199 and 40 to the Secretary of Transportation or any DOT or state agency with regulatory authority over the Contractor.
4. The Contractor shall make available copies of all results for alcohol testing and any other information pertaining to the administrative process of its AMPP as required by 49 CFR Parts 199 and 40 when requested by the Secretary of Transportation or any DOT or state agency with regulatory authority over the Contractor. When specified by the agency the information shall include name-specific alcohol test results, records, and reports.
5. When requested by the National Transportation Safety Board as part of an accident investigation, the Contractor shall disclose information related to its administration of any post-accident alcohol tests administered following the accident under investigation.
6. The Contractor shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the

subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.

7. The Contractor may disclose required information pertaining to a covered employee to the employee or to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, including, but not limited to, a workers compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee, and arising from the results of an alcohol test administered as required by the AMPP and the regulations set forth in 49 CFR Parts 199 and 40 or from the Contractor's determination that the covered employee engaged in prohibited alcohol conduct, in accordance with DOT Procedures concerning the disclosure of information for certain legal proceedings., 49 C.F.R. 40.323
8. The Contractor shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

XII. EMPLOYEE ASSISTANCE PROGRAM ("EAP")

A. Scope of Program.

The EAP will provide education and training on alcohol misuse to all employees. The education shall include:

1. Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees.
2. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees.
3. Distribution of Contractor's policy regarding the alcohol misuse to all employees. The policy shall be displayed prominently throughout the Contractor's place of business (i.e. employee bulletin board, break room, locker rooms).

B. Supervisor Training.

1. Supervisory personnel responsible for those employees covered under Part 199 will receive training under the AMPP. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, speech, and performance indicators of probable alcohol misuse. This training shall be for supervisors who may determine whether an employee must be alcohol tested for reasonable suspicion.

XIII. RECORDKEEPING PROCEDURES

- A. **General.** The Contractor APM or designee shall maintain the alcohol testing records in accordance with the provisions set out in the AMPP. Records shall be maintained for the specified periods of time as required in 49 CFR Parts 199 and 40.

- B. **Record Retention Provisions.**
 - 1. The following types of records shall be maintained for a minimum period of five years.
 - a. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
 - b. Documentation of refusals to take required alcohol tests.
 - c. Calibration documentation of each EBT used in alcohol testing, including records of the results of external calibration checks.
 - d. Employee referrals and evaluations.
 - e. MIS annual alcohol misuse report data.

 - 2. The following types of records shall be maintained for a minimum period of two years.
 - a. Records related to the collection process (except calibration of EBT devices)
 - b. Records related to training.
 - c. Records of the inspection and maintenance of each EBT used in employee testing.
 - d. Documentation of the Contractor's compliance with the Quality Assurance Policy ("QAP") for each EBT it uses for alcohol testing under the AMPP.
 - e. Records of the training and proficiency testing of each BAT used in employee testing.
 - f. Log books used in conjunction with EBTs.

 - 3. The following types of records shall be maintained for a minimum period of one year.
 - a. Records of all test results below 0.02.

C. Maintenance of Specific Types of Records.

1. The following types of records related to the collection process shall be maintained.
 - a. Collection log books, if used.
 - b. Calibration documentation for EBT devices.
 - c. Documentation of BAT training.
 - d. Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
 - e. Documents generated in connection with decisions on post-accident alcohol tests.
 - f. Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for alcohol testing.
2. The following types of records related to test results shall be maintained:
 - a. Contractor's copy of the alcohol test form, including the results of the test.
 - b. Documents related to the refusal of any covered employee to submit to a required alcohol test.
 - c. Documents presented by a covered employee to dispute the result of an alcohol test administered under the AMPP.
3. Records related to other violations outlined in the AMPP shall be maintained.
4. The following types of records related to referrals and evaluations shall be maintained:
 - a. Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
 - b. Records concerning a covered employee's compliance with the recommendations of the SAP.
5. Records related to the Contractor's MIS annual alcohol misuse testing data. The Contractor shall submit the required alcohol misuse MIS testing data to PHMSA as prescribed by the regulations.

6. The following types of records related to education and training of employees and supervisors:
 - a. Materials on alcohol misuse awareness, including a copy of the Contractor's policy on alcohol misuse.
 - b. Documentation of compliance with the requirements of 49 C.F.R. § 199.231.
 - c. Documentation of training provided to supervisors for the purposes of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.
 - d. Certification that any training conducted under the AMPP complies with the requirements of 49 CFR Part 199 and Part 40.

XIV. CONTRACTOR MONITORING

- A. The Contractor may (1) cover subcontractor employees under this Policy or (2) may provide in the contract that the subcontractor must establish and implement alcohol breath testing, education, and training in accordance with 49 CFR Part 199 and Part 40 for covered functions.
- B. Subcontractors shall retain copies of appropriate alcohol testing records as required by 49 CFR Part 199 and Part 40. The records and access to the subcontractors' property shall be readily accessible for inspection by the Contractor, PHMSA, and representatives of those state agencies under which jurisdiction the Contractor operates.
- C. Confirmation of subcontractor compliance/monitoring - Refer to Appendix D for specific guidance in how to develop an effective subcontractor compliance and monitoring program.
- D. The Contractor can, as an alternative to the above guidance, provide coverage for the subcontractor employees by including them in the Contractor's alcohol testing program for the duration of the contract or work project. When subcontractor employees are covered under the Contractor's AMPP, the subcontractor shall ensure that its employees comply with all the provisions contained in the Contractor's AMPP.

XV. GENERAL

- A. The rules and requirements contained in this Policy shall apply to management and supervisory personnel to the same extent as other employees.
- B. The Contractor, all of its medical personnel, supervisors and other personnel, shall adhere to all applicable federal and state laws or regulations.

- C. No employee shall be required to sign any waiver limiting liability of employer, owner/client, testing lab, or any person involved in alcohol testing under this policy nor any consent abrogating any provision of this Policy.
- D. The Union is not responsible for ascertaining or monitoring the alcohol-free status of any employee or applicant for employment. The purpose of the Union's participation in developing this Policy to ensure that proper safeguards are in place to protect the employment rights and privacy interests of represented employees.
- E. Any dispute regarding the interpretation or implementation of any provision of this Policy may be submitted by the affected employee or the Union or the Contractor to the grievance procedure established in the collective bargaining agreement between the Parties.

XVI. DURATION

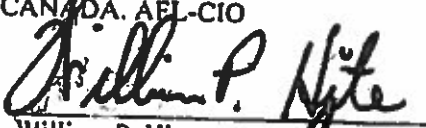
- A. This Alcohol Misuse Prevention Policy shall remain in effect for a period of time to coincide with the current National Pipe Line Agreement executed on June 7, 2014, effective June 2, 2014 through June 4, 2017, and any agreed-upon extensions of that Agreement or successor agreements between the Parties. The Parties agree that either party may move annually to reopen the Alcohol Misuse Prevention Policy only, for purposes of modification by mutual agreement, by giving notice sixty (60) days prior to the anniversary date of the execution of the National Pipe Line Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Alcohol Misuse Prevention Policy as a Supplement to the National Pipe Line Agreement, effective this 2nd day of June, 2014.

THE UNITED ASSOCIATION OF
 JOURNEYMEN AND APPRENTICES OF
 THE PLUMBING AND PIPEFITTING
 INDUSTRY OF THE UNITED STATES
 AND CANADA, AFL-CIO

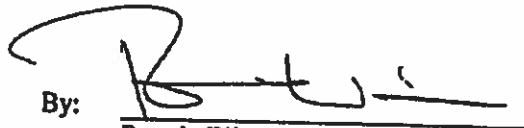
PIPE LINE CONTRACTORS
 ASSOCIATION

By:



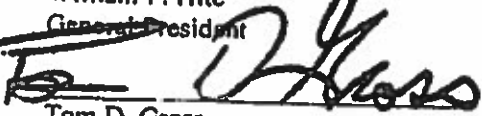
William P. Hite
 General President

By:



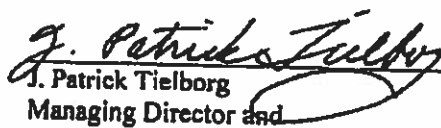
Ronnie Wise
 President

By:



Tom D. Gross
 Department of Pipeline and
 Gas Distribution

By:



J. Patrick Tielborg
 Managing Director and
 General Counsel

246031_1

APPENDIX A

1. ALCOHOL PROGRAM MANAGER (APM)

2. SUBSTANCE ABUSE PROFESSIONAL (SAP)

3. BREATH ANALYSIS TECHNICIAN (BAT)

4. EMPLOYEE ASSISTANCE PROGRAM (EAP)

APPENDIX B

**EMPLOYEE/SUPERVISORY POSITIONS
(JOB CLASSIFICATIONS/TITLES)
SUBJECT TO ALCOHOL TESTING**

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

APPENDIX C

EVIDENTIAL BREATH TESTING (“EBT”) PROCEDURES

A. Scope.

1. The evidential breath testing procedures set forth in this appendix address all the requirements as set forth in 49 CFR Part 40, Subparts J through P, and specify the required form and disposition of such testing forms.

B. Alcohol Testing Form and Log Book.

1. The BAT shall utilize the Breath Alcohol Testing form attached as Attachment A to the Alcohol Misuse Prevention Policy. The Company may not modify or revise the form.
2. The Company may utilize a form that is directly generated by an EVT and may omit the space for affixing a separate printed result to the testing form. The form shall provide triplicate or three consecutive identical copies with copy 1 (white copy) shall be retained by the Company, copy 2 (green copy) shall be provided to the employee, and copy 3 (blue copy) shall be retained by the BAT.
3. The Company shall use a log book in conjunction with any EBT used for a screening test that does not meet the requirements listed under Section VIII of the AMPP.
4. The Breath Alcohol Testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, provided that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.

C. Breath Testing Locations.

1. The Company shall ensure that there are sufficient breath testing sites or available BATs located within reasonable proximity to each of the Company’s work locations.
2. The Company shall conduct the testing in a location that affords visual and aural privacy to the employee being tested. The location shall prevent unauthorized personnel from seeing or hearing test results. All necessary equipment, personnel, and materials for conducting the alcohol testing shall be provided at the testing site.
3. A mobile collection facility, such as a van that is equipped for alcohol testing, that meets the requirements set forth in the AMPP may be utilized.
4. No unauthorized persons shall be permitted access to the testing site when the EBT remains unsecured, or in order to prevent such individuals from seeing or hearing a test result.

5. In some circumstances, the Company may have to conduct such alcohol testing outdoors at the scene of an accident that does not meet the requirements as specified in post-accident provisions of the AMPP, then the BAT shall provide the necessary visual and aural privacy to the employee to the greatest extent practicable.
6. The BAT shall supervise only one employee's use of the EBT at a time. The BAT shall not leave the alcohol testing site while the testing process is in progress.
7. **Employees shall be informed that they have the right to have a union representative present during any alcohol test administered under the AMPP. (See Policy, Article III, Section A. ¶ 5).**

D. Breath Alcohol Testing Preparations.

1. When an employee arrives at the alcohol testing site, the BAT shall ensure that the individual is positively identified as the employee selected for alcohol testing (e.g., through presentation of photo identification or identification by the Company's representative). If the employee's identity cannot be established, the BAT shall not proceed with the alcohol test. If the employee requests, the BAT shall show proper identification to the employee.
2. The BAT shall explain the alcohol testing process to the employee.
3. If the employee fails to arrive at the assigned time, the BAT should contact the appropriate authority to obtain guidance on any action to be taken.

E. Screening Test Procedures.

1. The BAT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The BAT shall select an individually-sealed mouthpiece, and it shall be opened in full view of the employee and attached to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT instrument indicates that an adequate amount of breath has been obtained.
4. If the EBT does not meet the requirements listed under Section VIII of the AMPP, the BAT shall show the employee the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, time and quantified result in Step 3 of the form. The BAT shall record in the log

book the test number, date of the test, name of the BAT, location, and quantified test result. The employee shall then initial the log book entry.

5. If the EBT provides a printed result but does not print the results directly on the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the Breath Alcohol Test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
6. If the EBT prints the test result directly on the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
7. If the result of the screening alcohol test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then sign the certification and fill in the date in Step 4 of the form. If the employee does not sign the certification in Step 4 or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.
8. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the Company representative and the employee shall be so advised.
9. At this point, no further testing is authorized. The BAT shall transmit the result of less than 0.02 to the APM or other appropriate Company representative in a confidential manner. The Company shall receive and store the information so as to ensure that confidentiality is maintained as required by the AMPP.
10. If the result of the screening test is an alcohol concentration of 0.02 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will, upon completion of the alcohol test, provide the employee with Copy 2 of the Breath Alcohol Testing form.

F. Confirmation Test Procedures.

1. When a BAT other than the one who conducted the screening test is required to conduct the conformation test, the new BAT will require the employee to provide positive identification, such as photo ID Card or identification by a Company representative. The BAT will, upon request of the employee being tested, provide proper identification to the employee.
2. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/her mouth and, to the extent possible, not belch during the waiting period just

prior to the conformation test being conducted. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 20 minutes of the completion of the screening test. The BAT shall explain to the employee that the reason for this is to prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions. The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided, the BAT shall note the observations in the "Remarks" section of the form.

3. When a BAT other than the one who conducted the screening test is required to conduct the conformation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall then complete Step 1 on the form and the employee shall then complete Step 2 by signing the certification. If the employee should choose not to sign the certification, the BAT shall then make an appropriate notation in the "Remarks" section indicating the employee's refusal to take the alcohol test. The BAT shall note in the "Remarks" section that a different BAT conducted the screening test.
4. The BAT shall open, in the presence of the employee, a new individually-sealed mouthpiece and attach the mouthpiece to the EBT in accordance with the manufacturer's instructions. The BAT will then instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
5. The BAT shall ensure, prior to the confirmation test being administered to the employee, that the EBT shall register 0.00 on an air blank. If the reading is greater, the BAT shall conduct one more air blank. Should the EBT again register greater than 0.00, the testing shall not proceed using that EBT. An EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within the accepted tolerance limits. Alcohol testing using another EBT may proceed.
6. In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result on which any disciplinary action by the Company may be taken in order to comply with the requirements of the AMPP and any applicable federal requirements.
7. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the Breath Alcohol Test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.

8. If the EBT prints the test result directly onto the alcohol form, the BAT shall show the employee the result displayed on the EBT.
9. After the confirmation test is completed, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then be instructed to sign the certification and fill in the date in Step 4. If the employee should elect to not sign the certification or to provide his/her initials in the log book entry for the test conducted, it shall not be considered as a refusal to be tested. The BAT shall then note the employee's failure to sign or initial the log book entry in the "Remarks" section of the testing form.
10. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and employee shall initial or sign the notation on the testing form. The test shall be considered "invalid" and the Company representative and the employee shall be so advised.
11. The BAT shall transmit all alcohol testing results to the APM or other designated Company representative in a confidential manner. All communications by BATs shall be to the APM or designee only and may be provided in writing, in person, or by telephone or electronic means. The BAT shall ensure that immediate transmission of test results to the Company is conducted in order for the Company to prevent the employee from performing any covered functions.
12. Should the initial transmission not be accomplished in writing, but via telephone notification, the APM or designee shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing to the APM or designee the Company's copy of the Breath Alcohol Testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

G. Confirmation Test Procedures.

1. Refusal by an employee to complete and sign Step 2 of the Breath Alcohol Testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the "Remarks" section of the form. The testing Process shall be terminated and the BAT immediately notify the Company APM or designee.
2. If a screening or confirmation test cannot be completed or if an event occurs to invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test using a new Breath Alcohol Testing form with a new sequential test number.

H. Inadequate Amount of Breath.

1. If the employee is unable, or alleges that he/she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT shall immediately inform the APM.
2. If the employee attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "Remarks" section of the testing form and shall immediately inform the APM. The APM shall direct the employee to obtain as soon as practical after the attempt, an evaluation from a licensed physician who is acceptable to the Company concerning the employee's medical ability to provide an adequate amount of breath.
3. If the physician determines, in his/her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the Company APM a written statement of the basis of his/her conclusion.
4. If the physician, in his/her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for his/her conclusion to the Company APM.

I. Invalid Tests. A Breath Alcohol Test shall be invalid under the following circumstances:

1. The EBT does not pass its next external calibration check. This invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test. This would not invalidate any negative tests conducted.
2. The BAT does not observe the minimum 15-minute waiting period prior to conducting the confirmation test.
3. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to the administration of an alcohol test.
4. The BAT does not sign the Breath Alcohol Testing form.
5. The BAT fails to note in the "Remarks" section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test results.

6. An EBT fails to print a confirmation test result.
7. The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

APPENDIX D

SUBCONTRACTOR ALCHOL MONITORING PROCEDURES

A. Objective.

In order to ensure a subcontractor's compliance with DOT's regulations, the following procedures are to be followed in determining compliance with the alcohol misuse testing regulations as set forth in 49 CFR Part 199 Subpart C and 49 CFR Part 40, Subparts J through P.

B. Procedures for Determining Compliance.

1. Qualifying Potential Subcontractor(s). Qualifications of the potential subcontractor as it pertains to alcohol testing policies/procedures are ensured by requesting the potential subcontractor to submit a copy of its AMPP for review and compliance with PHMSA/DOT regulations. After review of the AMPP is completed, written correspondence to the subcontractor will advise it whether or not the AMPP plan is acceptable or in need of further additions, deletions, revisions or clarifying language. The review of the subcontractor plan shall be completed utilizing the criteria established in the PHMSA Alcohol Misuse Audit and Inspection Protocol Form. Addendums made to the subcontractor's plan shall be attached to the previously submitted AMPP plan. Upon approval of the addendum, a letter of acceptance is then sent to the subcontractor. The subcontractor is now eligible to bid on Company subcontractor work that would be covered under Parts 199 and 40.
2. Monitoring Subcontractor's Compliance. The subcontract may be required to provide information on their employees who will perform covered functions for the operator. This information may include the name and job title of its employees who will perform any work or functions covered by Part 199 under the contract. A list of each subcontractor's covered employees may be distributed to appropriate Company field management personnel and job sites.
3. Statistical Submission. All subcontractors will be required to submit AMPP testing statistical information on a periodical basis which may be based on the duration of the contract. Typically this requirement will be conducted on a monthly or quarterly basis. The Company may require a more frequent schedule for submission of data should they determine a need for such statistics.
4. Statistical Record Retention. The Company shall maintain a complete file on each subcontractor's statistical alcohol testing data reports. The Company shall make available these reported when requested by the PHMSA Administrator, designated representative, or representatives of those state agencies under which jurisdiction the Company operates.

Note: This is only one method of “monitoring” the subcontractor’s compliance with the requirements set forth in 49 CFR 199.245. Other methods and guidance materials will be published by DOT at a later date.

ATTACHMENT A

U.S. Department of Transportation (DOT) Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Print Screening Results
Here or Affix with
Tamper Evident Tape

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street _____
City, State, Zip _____

DER Name and Telephone No. _____
DER Name _____ DER Phone Number _____

D: Reason for Test: Random Reasonable Susp Post-Accident Return to Duty Follow-up Pre-employment

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

Print Confirmation
Results Here or Affix
with Tamper Evident
Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: BAT STT DEVICE: SALIVA BREATH* 15-Minute Wait: Yes No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)

Test #	Testing Device Name	Device Serial # <u>OR</u> Lot # & Exp Date	Activation Time	Reading Time	Result

CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.

REMARKS:

Alcohol Technician's Company _____ Company Street Address _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) _____ Company City, State, Zip _____ Phone Number _____

Signature of Alcohol Technician _____ Date _____/_____/_____
Month Day Year

Print Additional
Results Here or Affix
With Tamper Evident
Tape

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

U.S. Department of Transportation (DOT)

Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Print Screening Results
Here or Affix with
Tamper Evident Tape

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street _____
City, State, Zip _____

DER Name and Telephone No. _____
DER Name _____ DER Phone Number _____

D: Reason for Test Random Reasonable Susp Post-Accident Return to Duty Follow-up Pre-employment

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

Print Confirmation
Results Here or Affix
with Tamper Evident
Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN BAT STT DEVICE: SALIVA BREATH* 15-Minute Wait: Yes No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result
--------	---------------------	-------------------------------------	-----------------	--------------	--------

CONFIRMATION TEST: Results **MUST** be affixed to each copy of this form or printed directly onto the form.

REMARKS:

Alcohol Technician's Company _____ Company Street Address _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) _____ Company City, State, Zip _____ Phone Number _____
Signature of Alcohol Technician _____ Date _____/_____/_____
Month Day Year

Print Additional
Results Here or Affix
With Tamper Evident
Tape

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

U.S. Department of Transportation (DOT)

Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Print Screening Results
Here or Affix with
Tamperevident Tape

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street _____
City, State, Zip _____

DER Name and Telephone No. _____ () _____
DER Name DER Phone Number

D: Reason for Test: Random Reasonable Susp Post-Accident Return to Duty Followup Preemployment

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

Print Confirmation
Results Here or Affix
with Tamperevident
Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN BA STT DEVICE: SALIVA BREATH* 15-Minute Wait Yes No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result
--------	---------------------	-------------------------------------	-----------------	--------------	--------

CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.

REMARKS:

Alcohol Technician's Company _____ Company Street Address _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) _____ Company City, State, Zip _____ Phone Number _____
Signature of Alcohol Technician _____ Date _____/_____/_____
Month Day Year

Print Additional
Results Here or Affix
With Tamperevident
Tape

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee _____ Date _____/_____/_____
Month Day Year

PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2105-0529. Public reporting for this collection of information is estimated to be approximately 8 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE, Suite W62-300, Washington, D.C. 20590.

BACK OF PAGES 1 and 2

INSTRUCTIONS FOR COMPLETING THE U.S. DEPARTMENT OF TRANSPORTATION ALCOHOL TESTING FORM

NOTE: Use a ballpoint pen, press hard, and check all copies for legibility.

STEP 1 The Breath Alcohol Technician (BAT) or Screening Test Technician (STT) completes the information required in this step. Be sure to print the employee's name and check the box identifying the reason for the test.

NOTE: If the employee refuses to provide SSN or I.D. number, be sure to indicate this in the remarks section in STEP 3. Proceed with STEP 2.

STEP 2 Instruct the employee to read, sign, and date the employee certification statement in STEP 2.

NOTE: If the employee refuses to sign the certification statement, do not proceed with the alcohol test. Contact the designated employer representative.

STEP 3 The BAT or STT completes the information required in this step and checks the type of device (saliva or breath) being used. After conducting the alcohol screening test, do the following (as appropriate):

Enter the information for the screening test (test number, testing device name, testing device serial number or lot number and expiration date, time of test with any device-dependent activation times, and the results), on the front of the AFT. For a breath testing device capable of printing, the information may be part of the printed record.

NOTE: Be sure to enter the result of the test exactly as it is indicated on the breath testing device, e.g., 0.00, 0.02, 0.04, etc.

Affix the printed information to the front of the form in the space provided, or to the back of the form, in a tamper-evident manner (e.g., tape) such that it does not obscure the original printed information, or the device may print the results directly on the ATF. If the results of the screening test are less than 0.02, print, sign your name, and enter today's date in the space provided. The test process is complete.

If the results of the screening test are 0.02 or greater, a confirmation test must be administered in accordance with DOT regulations. An EVIDENTIAL BREATH TESTING device that is capable of printing confirmation test information must be used in conducting this test.

Ensure that a waiting period of at least 15 minutes occurs before the confirmation test begins. Check the box indicating that the waiting period lasted at least 15 minutes.

After conducting the alcohol confirmation test, affix the printed information to the front of the form in the space provided, or to the back of the form, in a tamper-evident manner (e.g., tape) such that it does not obscure the original information, or the device may print the results directly on the ATF. Print, sign your name, and enter the date in the space provided. Go to STEP 4.

STEP 4 If the employee has a breath alcohol confirmation test result of 0.02 or higher, instruct the employee to read, sign, and date the employee certification statement in STEP 4.

NOTE: If the employee refuses to sign the certification statement in STEP 4, be sure to indicate this in the remarks line in STEP 3.

Immediately notify the DER if the employee has a breath alcohol confirmation test result of 0.02 or higher.

Forward Copy 1 to the employer. Give Copy 2 to the employee. Retain Copy 3 for BAT/STT records.

BACK OF PAGE 3