



SAL LICATA, CHAIRMAN
DR VALERIE KEPNER, PH.D., FIRST VICE CHAIRMAN
ANTHONY BALDO, TREASURER
DR JOHN KOCH, PH.D., ASSISTANT SECRETARY

Members

ARTHUR BOBBOUINE

ROBERT CHEPALONIS

ATTORNEY SEAN ROBBINS

SID HALSOR

PATRICK CONWAY

Norman Gavlick, Interim Executive Director

Policy for Drug and Alcohol Abuse Testing

Revised 12/01/1994

Effective 01/01/1995

Revised 10/26/1999

Revised 01/01/2003

Revised 10/03/2005

Revised 01/31/2006

Revised 12/10/2014

Revised and Re-Adopted by the LCTA Board of Directors on ####/####

Mission Statement

The Luzerne County Transportation Authority (LCTA), through the operation of fixed route and shared ride divisions, seeks to provide high quality affordable public transportation services that are safe, reliable, useful, accessible and efficient. To this end, members of the Board of Directors and all employees shall conduct themselves in a professional manner; work to ensure the safety and security of passengers; seek new opportunities to improve and/or expand services; and coordinate public transit services with other agencies, organizations, and transit providers.

About LCTA

The Luzerne County Transportation Authority currently provides the Wilkes-Barre urbanized area with scheduled mass transportation bus service. A soon to be new bus fleet operates on routes serving 31 municipalities within the urbanized area, so that approximately 88% of the population resides within one-quarter of a mile of a bus route. Route frequency of the various routes averages out to about every forty-five minutes, with some routes operating every half-hour. Our current service hours are between 5:00 am and 7:00 pm, Monday thru Friday and between 9:00 am and 5:30 pm on Saturdays. The Luzerne County Transportation Authority also assists persons with disabilities in fulfilling their transportation needs and to meet requirements of the Americans with Disabilities Act of 1990. This special Transportation Efforts Program (S.T.E.P) is available in the General Service Area of the Luzerne County Transportation Authority. This program permits approved disabled persons to ride on vans operated by the Luzerne/Wyoming Counties Transportation Department.

Policy for Drug and Alcohol Abuse Testing Luzerne County Transportation Authority

Table of Contents

| | |
|--|----|
| Policy Statement..... | 3 |
| 1.0 Introduction..... | 4 |
| 2.0 Definitions..... | 5 |
| 3.0 Prohibited Activities..... | 7 |
| 4.0 Required Testing..... | 8 |
| 5.0 Method of Testing..... | 15 |
| 6.0 Test Results..... | 18 |
| 7.0 Company and Certified Medical Review Officer Communications..... | 20 |
| 8.0 Information on Drug and Alcohol Testing..... | 21 |
| 9.0 Program Confidentiality..... | 21 |

Addendum A: Drug and Alcohol Program Contacts

Addendum B: Substance Abuse Information and Counseling Assistance

STATEMENT OF POLICY

The Luzerne County Transportation Authority (the Company) is dedicated to providing safe and dependable transportation services to our transit system passengers. The Company's employees are our most valuable resource and it is our goal to provide a healthy, safe working environment. In meeting these goals, it is our policy to 1.) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; 2.) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; 3.) prohibit the unlawful manufacture, distribution, dispensing possession, or use of controlled substances; and 4.) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs.

The Company is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse this policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

In addition to its own authority, LCTA also has an obligation under state laws and local ordinances to establish certain policies related to use of drugs and/or alcohol or to conduct additional tests that are not required under the FTA rules. Any provisions set forth in this policy or any aspects of our drug and alcohol testing program that are based on the sole authority of LCTA, rather than 49 CFR Part 655 and Part 40, or other Federal regulations have been underlined.

DRUG-FREE WORKPLACE ACT OF 1988 and OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

In 1988, Congress passed “The Drug-Free Workplace Act of 1988,” which requires all recipients of federal financial assistance to establish drug-free workplace policies and to report certain drug-related offenses. In 1991, Congress passed the “Omnibus Transportation Employee Testing Act of 1991 (the Act)” mandating the Secretary of Transportation to issue regulations to combat prohibited drug use and alcohol misuse in the transportation industry. The Act requires the Federal Transit Administration (FTA) to issue regulations requiring direct and indirect recipients of Federal transit funds under 49 U.S.C. 5307, 5309, and 5311, and 23 U.S.C. 103(e)(4) to test safety-sensitive employees for the use of alcohol or drugs in violation of law or federal regulation. As a condition of FTA funding, the Act requires recipients to establish testing programs to detect alcohol misuse or use of prohibited drugs.

This policy also incorporates guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991.

In keeping with this mission, LCTA declares that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

1.0 INTRODUCTION

- 1.1 The U.S. Department of Transportation (DOT) and the Federal Transit Administration (FTA) has issued regulations that govern the use of drugs and alcohol by covered safety-sensitive employees, and that also require the Company to conduct mandatory drug and alcohol testing of employees at the times and under the conditions described in this Policy.
- 1.2 It is the Company's intention to comply fully with the DOT regulations governing drug and alcohol use and testing, and the requirements of the DOT regulations have been incorporated into this Policy. In the event DOT regulations are amended, this Policy and the applicable term(s), condition(s) and/or requirement(s) of this Policy shall be deemed to have been amended automatically at that time, without the need for redrafting, in order to reflect and be consistent with DOT regulations. In such case, the Company reserves the right to apply the amended requirements immediately, and without giving prior notice to covered employees and/or applicants, unless such notice is required by DOT or another applicable law. It is also the Company's intention to comply with any applicable state requirements governing drug and/or alcohol testing which are not preempted by DOT regulations. The Company also intends to comply with the applicable requirements of the Drug-Free Workplace Act of 1988, the Americans With Disabilities Act and the Family and Medical Leave Act.
- 1.3 Under the Company's Policy, drug and alcohol testing will be conducted on any current and/or prospective employees, volunteers and contractors who function in a safety sensitive position, and who work for a property which is a direct recipient of FTA funding. Safety sensitive functions are defined as 1) Operating, maintaining (including repairs, overhaul and rebuilding) and controlling the movement of revenue service vehicles, including when not in revenue service; 2) First line supervisors whose re-sponsibilities include the performance of a safety sensitive function; 3) Carrying a firearm for security purposes; 4) Volunteers are covered by the FTA rule; and 5) Operating a non-revenue service vehicle by a CDL holder. Safety-sensitive positions are the following: All bus drivers; all maintenance personnel, excluding janitors and bus cleaners; all vehicle dispatchers; first line supervisors excluding all secretaries. It has been determined that the duties of the above-mentioned positions require or may require the performance of safety-sensitive duties.
- 1.4 All applicants for safety sensitive covered positions with the Company will be notified of the Company's drug and alcohol use and testing policy at the time they apply for a covered position with the Company.
- 1.5 The terms, conditions and requirements of this Policy, whose terms, conditions, requirements and implementation comply with DOT regulations.

2.0 DEFINITIONS

- 2.1 For purposes of this Policy and the Company's drug and alcohol testing program, this policy applies to all safety-sensitive transit system employees, either part-time or full-time employees, contract employees, and contractors when they are on transit Company property or when performing any transit-related safety-sensitive business. This policy applies to when an employee reports for their shift, during their shift, and at the end of their shift. This policy also applies to off-site lunch periods, breaks, and when an employee is scheduled to return to work.
- 2.11 Any contractor "standing in the shoes" of a safety sensitive employee of the Company, will be covered by and is expected to adhere to this policy to continue this contractor relationship. The contractor must permit access to property and records by the Company, the DOT and any jurisdictional state agency for the purpose of monitoring compliance with the requirements of 49 CFR Part 655.
- 2.12 Temporary employees who are regularly employed by another agency and who participate in the drug and alcohol testing program of that other agency, need not be subject to drug and alcohol testing by the Company. However, the other agency must certify that the employee is fully qualified to perform the safety sensitive function and will provide a written statement in compliance with DOT regulations.
- 2.2 The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected, and must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work related duties.
- 2.3 For purposes of this Policy and the Company's drug and alcohol testing program, "refusing to be test" means any of the following: (i) failing to provide an adequate urine specimen for a drug test without a valid medical explanation; (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation; (iii) failing to submit to a test as directed; (iv) engaging in any conduct with clearly obstructs the testing process. (v) failure to appear for the test within the time frame defined by the employer will be considered as a refusal to take the test.
- 2.31 Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
- 2.32 Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.

- 2.33 Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 - 2.34 Fail to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
 - 2.35 Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
 - 2.36 In a case of a directly observed or monitored collection in a DOT drug test, failure to permit the observation or monitoring of your provision of a specimen.
 - 2.37 Failure to comply with direct observation protocol to raise and lower clothing (shirt, pants, blouse or underpants) and turn 360 degrees for a directly observed drug test.
 - 2.38 As a covered employee participating in a DOT drug test, possessing or wearing a prosthetic device.
 - 2.39 As a covered employee, admitting to the collector, MRO and/or DAPM/DER, that the covered employee has substituted or adulterated the specimen.
 - 2.40 A covered employee fails or declines to take a second DOT test the employer or collector has directed the employee to take.
 - 2.41 As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
 - 2.42 As a covered employee you are considered to have refused to take an alcohol test if you failed to sign the certification at Step 2 of the ATF.
- 2.4 For purposes of this Policy and the Company's alcohol testing program, an alcohol test will be considered a verified "positive" when the alcohol concentration level registers 0.04 or greater. The Company will prohibit a covered employee, while having an alcohol concentration of 0.04 or greater, from performing or continuing to perform a safety-sensitive function. A covered employee, who is found to be violating the Company's Zero Tolerance Substance Abuse Policy with a verified positive breath alcohol test result of .04 or greater, as a consequence, will be subject to disciplinary action, up to and including termination of employment.
- 2.5 The Company exercises its Zero Tolerance Substance Abuse Policy, as a consequence for a covered employee who is found to have an verified alcohol concentration test result between 0.02 to 0.039 or greater while on the job during duty hours (just before the employee is to perform safety-sensitive functions; while performing safety-sensitive function; or just after the employee has ceased performing safety-sensitive functions), and/or regardless or not if they are performing safety-sensitive job-related functions and/or activities hours (just before the employee is to perform non-safety-sensitive functions; while performing non-safety-sensitive functions; or just after the employee has ceased performing non-safety-sensitive functions). A covered employee, who is found to be violating the Company's Zero Tolerance Substance Abuse policy with a verified positive breath alcohol test result (0.02 to 0.04 or greater), as a consequence, will be subject to progressive disciplinary action, up to and including termination of employment.
- 2.6 The Company will prohibit a covered employee, while having an alcohol concentration between 0.02 to 0.039 from performing or continuing to perform a safety-sensitive function. A covered employee with a verified breath alcohol test result between 0.02 to 0.039, will be considered by the Company as unqualified for any work duties (safety-sensitive and non-safety-sensitive), and placed on immediate suspension, as a recorded unexcused absence, for a period of time to be determined by the Company DAPM/DER and Human Resources Director. A covered employee whose verified breath alcohol test results are between 0.02 and 0.039 will not be reimbursed pay for the time of the suspension.

- 2.7 For purposes of this Policy and the Company's drug and alcohol testing program, "required hours of compliance" means any of the following: (i) employees covered by this policy must not consume alcohol while performing a safety-sensitive function; (ii) four hours prior to performing safety-sensitive functions; (iii) while on-call, and (iv) up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first. Use and ingestion of prohibited drugs are prohibited at all times.

3.0 PROHIBITED ACTIVITIES

- 3.1 The goals of the Company's Policy and the testing of safety-sensitive employees are to insure a drug and alcohol-free transportation and work environment, and to reduce and help eliminate drug and alcohol related accidents, injuries, fatalities, and damage to property.
- 3.2 In furtherance of the Company's goals, the conduct specified in Section 3.3 of this policy is prohibited whenever an employee is on duty; whenever an employee is performing, or just about to perform, a safety-sensitive function (as defined in Section 2.1 of this Policy); whenever a non-DOT worker is performing, or just about to perform, a safety-related activity; whenever an employee is otherwise engaged in Company business; while on-call for duty, during the required hours of compliance of this policy; or at the times otherwise specified in this Policy. An employee performing a safety-sensitive function may be randomly tested for prohibited drug use anytime while on duty.
- 3.3 The Company will prohibit a covered employee from consuming alcohol four (4) hours prior to performing safety-sensitive functions. The Company, having actual knowledge of that a covered employee has used alcohol prior to four (4) hours of performing a safety-sensitive function will not permit an employee to perform or continue to perform safety sensitive functions. The Company prohibits the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure shall include: (1) The opportunity for the covered employee to acknowledge the use of alcohol at the time he or she is called to duty and the inability to perform his or her safety-sensitive function; and (2) The requirement that the covered employee take an alcohol test, if the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function.
- 3.4 The following conduct is strictly prohibited: (i) employees are prohibited from using, being under the influence of, or possessing illegal drugs; (ii) employees are prohibited from using or being under the influence of legal drugs that are being used illegally; (iii) employees are prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the employee to perform his or her job safely; (iv) employees are prohibited from selling, buying, soliciting to buy or sell, transporting or possessing illegal drugs while on Company time or property; (v) employees are prohibited from using alcohol prior to four (4) hours of driving or performing any other safety-sensitive function; (vi) employees are prohibited from using or being under the influence of alcohol at any time while performing any safety-sensitive function; (vii) employees are prohibited from possessing any amount of alcohol (including possessing medications that contain alcohol) while on duty or driving; (viii) testing positive for drugs and/or alcohol, (ix) refusing to be tested for drugs and/or alcohol (as defined in Section 2.3 of this Policy); (x) failing to submit to a drug and/or alcohol test as directed by the Company; (xi) failing to stay in contact with the Company and available to its medical review officer while awaiting the results of a drug test; and (xii) violating any applicable federal and/or state requirement governing the use of drugs or alcohol; anything to obstruct the anything to obstruct the Company's goals with respect to drugs and alcohol.

- 3.5 An employee who violates these prohibitions will be subject to consequences of prohibited behavior (described in sections 6.13, 6.23 and 6.24 of this Policy). Employees who violate these prohibitions will also be subject to disciplinary action by the Company, up to and including discharge (described in sections 6.13, 6.23 and 6.24 of this Policy). As part of the Drug-Free Workplace Act, all employees are required to notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace within five days of such conviction.

4.0 REQUIRED TESTING

- 4.1 In general: The Company is required by DOT to conduct tests under the following conditions or times: (i) before a safety-sensitive employee- applicant is hired or an existing non-DOT worker performs DOT covered duties ("pre-employment/pre-duty" testing); (ii) for reasonable suspicion; (iii) following certain accidents (post-accident testing); (iv) on a random basis; (v) return-to-duty and (vi) follow-up. The Company's procedures and requirements for each test are discussed below.

4.2 Pre-employment Testing

- 4.21 This test is required before any safety-sensitive employee/ applicant will be hired. This test is also required before any existing worker in a non-DOT safety-sensitive position will be assigned, transferred or otherwise permitted to perform a DOT safety-sensitive function on behalf of the Company for the first time. For purposes of the Company's policy concerning pre-employment / pre-duty testing procedures, requirements and discipline, applicants and existing workers who are applying for a covered position are collectively referred to in Section 4.2 as "applicants". Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. The Company will not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result.

If a pre-employment drug test is cancelled, the Company will require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result.

The Company will not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result.

- 4.22 Prior to taking a pre-employment, random selection, post-accident or reasonable suspicion drug and alcohol test, the covered applicant or covered employee will be given forms notifying the applicant to report for a drug and an alcohol test, that include instructions and an explanation of the collection procedures for each test. During occurrences of testing required in the instances of reasonable suspicion and/or post-accident events, the Company Operations Manager or Safety and Training Manager, who are also the primary or secondary Drug and Alcohol Program Manager and Designated Employer Representative, will accompany the covered employee to the testing collection site, during the time it takes to provide a collection specimen, and back to Company offices.

- 4.23 All offers by the Company to hire an applicant for, or to assign or transfer an applicant to, a covered position are conditioned upon the applicant: (i) executing the Company's general consent and release to be tested for drugs and alcohol forms; (ii) taking a drug and alcohol test as directed by the company and passing both tests; (iii) executing the Company's authorization to obtain past drug and alcohol test results, including any refusals to test, from each company for whom the employee either worked, or took or refused to take a pre-employment/pre-duty testing during the previous two years and the result of those tests including any refusals; (iv) passing the DOT required physical exam required for covered positions; (v) complying with any other conditions or requirements of which the Company advises the applicant at the time of the offer.
- 4.24 Any applicant who refuses or fails to execute the Company's general consent and release to be drug and alcohol tested forms, who refuses or fails to execute the Company's authorization to obtain past drug and alcohol test results form, who refuses or fails to submit to a pre-employment/pre-duty drug and alcohol test as directed, or whose result is positive for either test, will not be considered eligible to work for the Company. Existing workers who test positive will not be considered qualified for the position for which they are applying and will also be subject to the Company discipline, up to, and including termination of employment.
- 4.25 When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62.
- 4.26 When a covered employee or applicant has not performed a safety sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result.
- 4.27 The Company will conduct pre-employment alcohol testing. The Company will comply with the following requirements of 49 CFR Part 655.42 when conducting pre-employment alcohol testing: (a) The Company will conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions). (b) The Company will treat all covered employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing. (c) The Company will conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test. (d) The Company will conduct all pre-employment alcohol using the alcohol testing procedures set forth in 49 CFR Part 40, as amended. (e) The Company will not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02.

4.3 Post-accident Drug Testing

- 4.31 An employee who is performing a safety-sensitive function must submit to a post-accident drug and a post-accident alcohol test as soon as possible after the occurrence of any accident that meets the description of section 4.32 or section 4.33 of this policy. For purposes of this Policy and the Company's drug and alcohol testing program, an accident that meets the description of section 4.32 or section 4.33 or this Policy is referred to as a "DOT accident."
- 4.32 An employee must always submit to a post-accident test as soon as possible after an accident that involves the death of a human being.
- 4.33 Accident means an occurrence associated with the operation of a vehicle, if as a result: (1)An individual dies; or (2)An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van or automobile, one or more vehicles (including non-FTA funded vehicles) incurs "disabling damage" as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.
- 4.34 Look-alike historical trolley buses that operate on surface roads without a fixed guideway are considered buses for purposes of this definition. "Disabling Damage," means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated, per the requirements of 49 CFR 655.4, as amended.

- 4.35 Covered employees who could have reasonably contributed to the accident will be required to submit to a post-accident test. In the occurrence that an employee will be directed to submit to a field drug and/or alcohol test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the employee is required to contact the covered employee's immediate supervisor or another Company official immediately to report an accident and to provide the Company with the name, badge number and telephone number of the law enforcement officer who conducted the test. After a covered employee is released from the accident scene by a law enforcement officer, and there is no immediate need for emergency medical attention, the primary or secondary DAPM/DER will escort the covered employee for a post-accident DOT drug and alcohol test. This DOT post-accident test will be administered in addition to a law enforcement field drug and alcohol test at either the primary or secondary collection site.
- 4.36 Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. For covered employees involved in an accident, and subject to post-accident testing, consumption of alcohol shall be prohibited for 8 hours or until a post-accident alcohol test has been conducted.
- 4.37 A covered safety-sensitive employee who is required to take a post-accident drug and alcohol test will, either be assigned to a non-safety-sensitive function, or placed on non-disciplinary suspension with pay, while awaiting the post-accident test results.
- 4.38 In addition to the consequences of prohibited behavior (discussed in section 6.13, 6.23 and 6.24 of this Policy), an employee who tests positive for drugs and/or alcohol test as required, who unnecessarily delays reporting to the test site following an accident, or who otherwise fails to comply with the Company's post-accident testing procedures, will be subject to disciplinary action, up to and including discharge.

4.39 A covered employee who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances or alcohol in his/her system via hospital-administered toxicology tests.

4.4 Random Testing

- 4.41 The Company is required to test safety-sensitive employees on an unannounced and continual, random basis. Random tests will be spread throughout the calendar year. Testing is to be conducted continuously throughout the calendar year, whereby, testing will start on January 1 of the calendar year, where there is no period during which testing is halted, until December 31 of the calendar year. Testing is conducted on all days and all hours of the day, during which safety-sensitive functions are performed. Covered employees need to have a reasonable expectation that they can be called for test on, any day and at any time, they are at work.
- 4.42 Per amended DOT guidelines in 49 CFR part 655 for random drug testing, the Company will test 25% of the number of covered employees, continuously, for all twelve months throughout the calendar year. The selections for random drug testing will be made at unannounced intervals and reasonably spread out throughout all the hours of operation and all days of service in the calendar year.
- 4.43 Per amended DOT guidelines in 49 CFR part 655 for random alcohol testing, the Company will test 10% of the number of covered employees, continuously, for all twelve months throughout the calendar year. The selections for random alcohol testing will be made at unannounced intervals and reasonably spread out throughout all the hours of operation and all days of service in the calendar year.
- 4.44 Under the Company's random selection process, every covered employee will have an equal chance of being selected each and every time the selection is conducted. Appropriate safeguards are also present to ensure that the identity of individual employees cannot be determined prior to or at the time of their selection. The testing method used in the random selection process must be statistically and/or scientifically valid, such as the use of a random number generator.
- 4.45 Whenever a covered employee is randomly selected to be tested, he/she will be notified of this in writing and instructed to report to the collection site immediately.
- 4.46 A covered employee who tests positive or who refuses to submit to a test is medically unqualified to drive and/or perform any other safety-sensitive function.
- 4.47 In addition to the penalties imposed by DOT (discussed in section 6.13, 6.23 and 6.24 of this Policy), a covered employee who refuses to submit to a random test, who fails to report for the test as directed, or who tests positive, will be subject to disciplinary action, up to and including discharge.

- 4.48 A covered employee shall only be randomly tested for alcohol misuse 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.

4.5 Reasonable Suspicion Testing

- 4.51 Each covered employee is required to submit to a drug and/or alcohol test whenever the company has reasonable suspicion to believe that the employee has used drugs and/or alcohol in violation of DOT regulations and/or this Policy.
- 4.52 Reasonable suspicion will exist when an employee's appearance, behavior, speech or body odors indicate drug or alcohol use, or the chronic and withdrawal effects of drugs. Such observations must be personally observed and documented by at least one company official who has received training (minimum of sixty (60) minutes of training for detecting signs and symptoms of drug use and sixty (60) minutes of training for detecting signs and symptoms of alcohol use) covering the physical, behavioral, speech and performance indicators of probable drug and alcohol use.
- 4.53 Whenever a covered employee is notified that there is reasonable suspicion to be tested, the employee will be escorted to the test site immediately to be tested.
- 4.54 Employees who are required to submit to a reasonable suspicion test will be escorted by an agent of the Company to the appropriate specimen collection site for a drug and alcohol test.
- 4.55 The Company will also attempt to contract the employee's spouse, another member of the family, or another person designated by the driver, in order to make arrangements for transporting the employee to his/her home after the test is completed. In the event that the Company is unable to contact the employee's spouse, family member or another designated person, the Company will make arrangements for transporting the employee home by cab or other suitable means.
- 4.56 If the covered employee rejects the Company's efforts to conduct a reasonable suspicion drug and alcohol test, and instead insists on driving his/her personal vehicle, the Company reserves the right to take whatever means are appropriate to prevent this, including contacting appropriate law enforcement personnel and imposing disciplinary action, up to and including termination of employment. The primary or secondary LCTA DAPM/DER, or supervisor will at all times, accompany the covered employee to the collection site, during specimen collection, and when transporting the covered employee back to the workplace.
- 4.57 A covered employee who is required to take a reasonable suspicion drug and alcohol test will be considered by the Company as unqualified for any safety-sensitive and non-safety-sensitive work duties, and placed on immediate suspension, pending the results of his/her test. The immediate suspension will be recorded as an unexcused absence, and last for a period of time to be determined by the Company DAPM/DER and Human Resources Director. A covered employee whose test results are a verified negative (0.00 for drugs and/or 0.02 and below for alcohol) will be reimbursed for the time of his/her suspension. A covered employee whose test results are positive (any evidence displaying prohibited drug use and/or 0.02 to 0.04 and greater for alcohol) will not be reimbursed for the time of the suspension.

4.58 In addition to the penalties imposed by DOT (discussed in section 6.13, 6.23 and 6.24 of this Policy), an employee whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by the Company, will be subject to disciplinary action, up to and including termination of employment.

4.59 A covered employee shall only be randomly tested for alcohol misuse 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.

4.6 Return-to-duty Testing & Follow-up Testing, Zero Tolerance Substance Abuse Policy Provision(s)

4.61 Return-to-duty Testing and Follow-up Testing does not take place, because the Company does not have a “Second Chance” policy for covered employees who violate the provisions of this policy, specifically, the DOT/FTA regulations cited in 49 CFR Part 655 and Part 40, as amended; and Company policy via the “No Tolerance Substance Abuse Policy provision.

4.62 Because the Company does not have a “Second Chance” policy, but instead has established a Zero Tolerance Substance Abuse policy provision; the Company will not make a provisional or conditional offer of employment, and/or hire an employee who is subject to performing both safety-sensitive and non-safety sensitive job-related duties, while they are undergoing treatment or have previously completed a substance abuse treatment and rehabilitation program (as prescribed by a Substance Abuse professional), for a prior employment situation where the prospective employee violated the substance abuse policy of a previous employer while performing safety-sensitive functions defined in 49 CFR Part 655 and Part 40, as amended. The existence of prior violations to or existence of verified positive drug and alcohol test results while performing safety-sensitive and non-safety-sensitive job functions, for a previous employer will be conducted via a written request and investigation.

4.63 When a covered employee who previously performed safety-sensitive functions, is no longer performing safety-sensitive functions for a period of 90 days or greater; when a non-covered employee is promoted or transferred into a role as a now covered employee that performs safety-sensitive functions; or when a provisional or conditional offer of employment is made to an employee that will be a covered employee performing safety-sensitive function, a pre-employment drug and alcohol test must be conducted and returned with a verified negative result for both the drug and alcohol test, before the decision to make a formal offer of employment and/or before performing any safety-sensitive job functions.

5.0 METHODS OF TESTING

5.1 To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and safeguards set forth in Part 40 of title 49 of the Federal Code of Regulations, as amended. This includes, among other things: (i) procedures to ensure the correct identity of each employee at the time of testing; (ii) a strict chain-of-custody procedure to ensure that the employee's specimen is not tampered with by the Company; (iii) the use of a trained breath alcohol technical (BAT) and DOT approved testing devices for conducting alcohol tests; (iv) the use of a laboratory that has been certified by the Department of Health and Human Services (DHHS); (v) the confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS); (vi) the confirmation of an initial positive alcohol screen by a second analysis; (vii) the Company's appointment of a qualified Medical Review Officer (MRO) to review the drug test results before they are reported to the Company's designated representative.

5.2 To further facilitate the integrity and accuracy of each test, the Company will provide covered employee with written and/or oral instructions regarding the conduct of the specific test before each testing event. The Company considers all such instructions to be a part of this Policy. Employees who refuse or otherwise fail to comply with all such instructions will be subject to disciplinary action, up to and including termination of employment.

5.3 For All Drug Tests

- 5.31 All drug tests conducted under this Policy require that the covered employee must provide a specimen of his/her urine.
- 5.32 Urine specimens will be analyzed for the presence of the following drugs:
(1) Marijuana; (2) Cocaine; (3) Opiates; (4) Amphetamines; and (5) Phencyclidine.

Specimens will also be analyzed for such other substances as DOT may from time-to-time direct, or as may otherwise be permitted by federal or state law. In the event that DOT expands the list of drugs for which testing is or may be required, the Company reserves the right to begin testing immediately for those drugs without prior notice to covered employees or applicants, unless notice is required by DOT or another applicable law.

- 5.33 In general, employees will be permitted to give a urine specimen in privacy and without being observed by collection site personnel. However, an employee forfeits this right whenever there is a reason to believe that he/she may alter or substitute a specimen.
- 5.34 For an observed collection, failure to follow the observers special instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process. Failure to comply with the provisions of an observed collection is a violation of Section 40.191(a)(9). Wearing a prosthetic or other device used to, or could be used to, tamper or interfere with the testing and collection process will constitute a test refusal, and violates Section 40.191(a)(10).
- 5.35 If a covered employee admits to the collector or MRO that they have adulterated or substituted the specimen during the testing and collection process, this will constitute a test refusal and violates Section 40.191(a)(11).
- 5.36 All drug tests will be administered using the split sample methodology required by DOT under 49 CFR Part 40, as amended.
- 5.37 Except for the use of methadone and medications containing alcohol, nothing in this policy prohibits an employee's use of a medication legally prescribed by a licensed physician: (i) who is familiar with the employee's medical history and specific safety-sensitive duties, and (ii) who has advised the employee that the prescribed medication will not adversely affect the employee's ability to perform a safety sensitive function safely. Medications prescribed for someone other than the employee, however, will not be considered lawfully used when taken by the employee under any circumstances.
- 5.38 A "positive" drug test may be declared "negative" by the Company's MRO, if the employee can provide the MRO with clear and convincing evidence that the drug that was used was prescribed by a licensed physician who is familiar with the employee's medical history and specific duties. The determination of this will be made by the Company's MRO. For a complete list of MRO functions covered by this Policy, see 49 CFR Part 40 and Part 655, as amended.

5.4 For All Alcohol Tests

- 5.41 All alcohol tests conducted under this Policy require that the employee must provide a breath specimen for any test conducted by, or on behalf of, the Company.
- 5.42 Alcohol tests will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved evidential breath testing device (EBT) in accordance with DOT requirements in 49 CFR Part 40, as amended.
- 5.43 In the event that a covered employee is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the employee will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the Company as "negative." If the physician determines that a valid medical condition does not exist, the test result will be reported to the Company as a "confirmed positive."

6.0 TEST RESULTS

6.1 For Drug Tests

- 6.11 Before an employee's test result will be confirmed positive for drugs, the employee will be given the opportunity to speak with the Company's MRO and demonstrate that there was a legitimate medical explanation for the positive test result. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the Company as "negative." If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the Company as a "confirmed positive."
- 6.12 Except as provided in Section 4.24 of this Policy (concerning pre-employment and pre-duty tests), an employee whose test result is confirmed positive for drugs will be:
 - 6.121 Immediate removal from safety sensitive position.
 - 6.122 Referral to and assignment by a Substance Abuse Professional (SAP). Cost of such services will be the full responsibility of the employee.

- 6.123 Complete a treatment and rehabilitation program as developed by the SAP.
- 6.124 Due to *The Company* establishing a Zero Tolerance Substance Abuse policy provision concerning verified positive drug and alcohol test results, at the time of termination, the now former employee will be advised of their need to complete a substance abuse treatment and rehabilitation plan, as developed by a SAP, before seeking future DOT/FTA-regulated safety-sensitive employment.
- 6.13 If LCTA is informed by the MRO that a negative drug test was dilute, the employee will not be required to take another test.

6.2 For Alcohol Tests

- 6.21 In the event that the employee provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported as a "negative" and no additional test will be required at that time.
- 6.22 In the event that the employee provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the employee provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the Company as "negative."
- 6.23 The Company will require a covered employee to submit to a post-accident drug and alcohol test required under Section 655.44; a random drug and alcohol test required under Section 655.45; a reasonable suspicion drug and alcohol test required under Section 655.43; or a follow-up drug and alcohol test required under Section 655.47. The Company will not permit an employee who refuses to submit to such a drug and alcohol test to perform or continue to perform safety-sensitive functions.
- 6.24 DOT / FTA regulations prohibits any covered employee whose confirmatory test registers 0.04 or more from performing or from continuing to perform any safety-sensitive function for eight hours unless a retest results in a concentration measure of less than 0.04. The inability to perform safety-sensitive duties, due to an alcohol test result of greater than 0.02 but less than 0.04, will be considered an unexcused absence subject to the transit system disciplinary procedures. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655.49(a), as amended.

- 6.25 A covered employee who, after providing an adequate breath specimen, has a confirmatory test that registers 0.04 or greater will:
 - 6.241 Immediate removal from safety sensitive position.
 - 6.242 Referral to a Substance Abuse Professional (SAP). The cost of such services will be the full responsibility of the employee.
 - 6.243 Result in immediate termination of employment from LCTA.
 - 6.244 Due to *The Company* establishing a Zero Tolerance Substance Abuse policy provision concerning verified positive drug and alcohol test results, at the time of termination, the now former employee will be advised of their need to complete a substance abuse treatment and rehabilitation plan, as developed by a SAP, before seeking future DOT/FTA-regulated safety-sensitive employment.

7.0 COMPANY AND MRO COMMUNICATIONS

- 7.1 Employees who are tested for drugs are required to remain in contact with the Company and available to Company's MRO while awaiting the results of their tests. Employees are also required to advise the Company of their whereabouts and the telephone number where they can be reached at this time.
- 7.2 For a list of MRO contact information, refer to the Drug and Alcohol Program Contacts page on Addendum A of this document.
- 7.3 An employee who refuses or fails to remain in contact with the Company and available to the Company's MRO will be considered insubordinate and subject to disciplinary action, up to and including discharge. In addition, an employee who fails to remain in contact may waive his/her right, under Section 6.12 of this Policy, to speak with the Company's MRO before a test is confirmed positive.

8.0 INFORMATION ON DRUGS AND ALCOHOL

- 8.1 The Company Safety and Training Manager / Backup Drug and Alcohol Program Manager / Designated Employer Representative will provide a minimum of sixty (60) minutes of training to all covered employees on the effects and consequences of prohibited drug use on personal health and safety and the work environment, in accordance with DOT requirements in 49 CFR Part 655.14(b), as amended.
- 8.2 The Company Compliance Analyst will provide all supervisors or other company designated officials with a minimum of sixty (60) minutes of training on the probable signs and symptoms of prohibited drug use and a minimum of sixty (60) minutes of training on the probable signs and symptoms of alcohol misuse prior to making reasonable suspicion referrals, in accordance with 49 CFR part 655.14(b), as amended.
- 8.3 Each employee is required to certify that he/she has been given a copy of this Policy and other drug and alcohol information by the Company in accordance with paragraph 8.1 of this Policy. In accordance with paragraph 4.23 of this Policy, applicants are required to execute the certification as a condition of being hired. An applicant who refuses to do so will not be hired. Existing safety sensitive employees who refuse to execute this required certification will be subject to Company disciplines, up to and including discharge.
- 8.4 Any existing covered employee who engages in any conduct prohibited under this Policy will be provided with a referral to a qualified substance abuse professional (SAP) for assistance. A SAP is identified on the "Program Contacts" list that accompanies this Policy. The referral is free of charge to the covered employee, however, any cost incurred for treatment, is the full responsibility of the covered employee. The Company will display and distribute informational material and a community service hot-line telephone number for employee assistance, in accordance with DOT requirements in accordance with 49 CFR Part 655.14(a). In the event of an after-hours crisis situation, the covered employee may contact the Help Line at (570)829-1341.
- 8.5 All questions concerning the educational materials provided by the Company, or about this Policy, should be directed to the appropriate person identified on the "Program Contacts" list that accompanies this Policy.

9.0 PROGRAM CONFIDENTIALITY

- 9.1 The results of all individual drug and alcohol tests will be kept in a secure location with controlled access.
- 9.2 All individual test results will be considered confidential. The release of an individual employee's results will only be given in accordance with an individual employee's written authorization, password protected, as otherwise required by DOT regulations as amended, or by other applicable federal or state law.

Addendum A: Drug and Alcohol Program Contacts

For Questions Regarding:

Contact Person and Phone #

Employee questions about DOT Drug and Alcohol Testing
Requirements & Anti-drug Use and Alcohol
Misuse Programs:

Frank Knorek
Compliance Analyst
P: (570) 287-2148 x204

Human Resources/Personnel Policies:

Norm Gavlick
Human Resources Director
P: (570) 287-2148 x218

Primary LCTA Drug and Alcohol Program Manager &
Designated Employer Representative:

Lee Horton
Director of Operations
P: (570) 287-2148 x217

Backup LCTA Drug and Alcohol Program Manager &
Designated Employer Representative:

Justin Davis
Safety and Training manager
P: (570) 287-2148 x211

Qualified Medical Review Officer Services:

Dr. David Perrone, M.D.
c/o M.D. Medical Center
648 North Main St.
Taylor, PA 18517
P: (570) 288-4205

Dr. Stephen Kracht, D.O.
c/o MedExpress Urgent Care-Edwardsville
11025 W. 100th St.
Overland Park, KS 66214
P: (913) 234-4585

Collection Facilities:

The M.D. Medical Center
675 Wyoming Avenue
Kingston, PA 18704
P: (570) 288-4205

MedExpress Urgent Care
276 Narrows Shopping Center
Edwardsville, PA 18704
P: (570) 283-0791

Insurance:

Geisinger Choice Health Plan
P: 1-888-839-7972

DHHS Certified Laboratories:

MedTox Laboratories
c/o M.D. Medical Center
492 West County Road
St. Paul, Minnesota 55112
P: (651) 636-7466

Alere Toxicology Services
c/o MedExpress Urgent Care-Edwardsville
450 Southlake Blvd.
Richmond, VA 23236
P: 800-433-3823

Drug and Alcohol Counseling and Rehabilitation Services:

Wyoming Valley Alcohol and
Drug Services, Inc.
437 North Main Street
Wilkes-Barre, PA 18705
P: (570) 820-8888

Substance Abuse Professionals (SAPs):

Harold Galey
Substance Abuse Counselor
Wyoming Valley Alcohol and
Drug Services, Inc.
437 North Main Street
Wilkes-Barre, PA 18704
P: (570) 820-8888

John Zezza
Substance Abuse Counselor
Wyoming Valley Alcohol and
Drug Services, Inc.
655 South Main Street
Pittston, PA 18640
P: (570) 655-3900

Nick Telincho (Private Practice)
Substance Abuse Counselor
317 Chase St.
West Pittston, PA 18643
P: (570) 603-0666

Addendum B: Substance Abuse Information and Counseling Assistance

Toll Free National Helpline

1-800-662-HELP (4357)

TTY: 1-800-487-4889

Website: www.samhsa.gov/find-help/national-helpline

Also known as, the Treatment Referral Routing Service, this Helpline provides 24-hour free and confidential treatment referral and information about mental and/or substance use disorders, prevention, and recovery in English and Spanish.

Northeastern Pennsylvania Helpline

1-(888) 829-1359 (Toll Free)

(570) 829-1341 (Local)

Website: <http://www.helpline-nepa.info/>

Wyoming Valley Alcohol & Drug Services, Inc.

437 North Main St.

Wilkes-Barre, PA 18704

(570) 820-8888

or

49-50 S Main St, Pittston, PA 18640

(570) 655-3900

Website: <http://wvadsinc.com/>

Policy Acknowledgement

Please return this form to your immediate supervisor

Employee Name (print): _____

I have received, read and understand the Luzerne County Transportation Authority (*the Company*) Drug and Alcohol Abuse Testing Policy.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

Employee Signature: _____

Date Signed: _____