Navajo Engineering and

Construction Authority

DOT

Federal Motor Carriers Safety Administration

Drug & Alcohol

Policy

**Original date of implementation: 2002, revised: June 2009**

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**PART I. INTRODUCTION**

**A. Prohibited Drug Policy.**

1. Navajo Engineering and Construction (NECA) has a long-standing commitment of maintaining the highest standards for employee safety and health. The use of controlled substances is contrary to these high standards.

2. The purpose of this plan is to establish programs designed to help prevent accidents and injuries resulting from the use of controlled substance by drivers of commercial motor vehicle. This policy is also to bring NECA into compliance with federal law. The Department of Transportation (DOT), through the Federal Motor Carriers Safety Administration (FMCSA) has developed regulations to assure a safe working environment thereby reducing fatalities, injuries, and property damage.

3. The position of NECA is to maintain a safe working environment in accordance with the DOT and FMCSA regulations. NECA adopts those regulations (49 CFR Part 40 and Part 382) in their entirety. NECA is an employer at will and does not wish to give up any of those rights by adopting this policy. Therefore this policy is in no way a binding contractual agreement on the conditions of employment and should not be interpreted as such.

**B. Implementation of Anti‑Drug Plan.**

1. NECA has implemented the Federal Motor Carrier Safety Administration (FMSCA), Drug & Alcohol Testing Regulations as set forth in 49 CFR Part 382 and the Department of Transportation, Procedures for Transportation Workplace Drug & Alcohol Testing Programs, 49 CFR Part 40. NECA shall maintain confidential records of the testing results and chain of custody procedures as required by Part 382 and 40 of the DOT regulations. NECA has designated the drug program manager as the record-keeping agent for all drug test records. The company shall provide all records, whenever deemed necessary, for inspection by any authorized agency and/or operator.

**C. Scope.**

1. Employees who will be subject to drug and alcohol testing are employees operating in safety sensitive positions and regulated by the Department of Transportation or its agencies.

NECA safety-sensitive employees are operators of commercial motor vehicles with commercial driver’s licenses and are regulated by the FMCSA.

**D. Preemption Procedures. (§382.109).**

1. Except as provided in paragraph 2 of this section, Part 382 preempts any state or local law, rule, regulation, or order to the extent that:

a. Compliance with both state or local requirement and this regulation is not possible;

b. Compliance with state or local requirement is an obstacle to the accomplishment and execution of any requirement as set forth in 49 CFR Part 382.

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. Independent Contractors.**

Any independent contractor or owner-operator working as an agent for NECA shall comply with all terms of these regulations and shall provide proof of compliance with Department of Transportation regulations.

**F. Alcohol Prohibitions**

NECA hereby formally adopts the following on the consumption and possession of alcohol:

1. Although the possession and consumption of alcohol is legal, NECA will not allow alcohol consumption or possession where it is prohibited by law.
2. NECA prohibits consumption or possession while:

1. Performing safety sensitive work,

2. Four (4) hours prior to performing safety sensitive work

3. Eight (8) hours following an accident or until time the employee undergoes a required post accident test.

1. NECA prohibits DOT regulated employees from reporting for duty, or remaining on duty to perform safety sensitive functions with a breath alcohol concentration of 0.02. A driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 will be removed from NECA premises, sent home and not be allowed to perform safety sensitive functions for at least twenty-four (24) hours. The other consequences of the regulations, however, will not apply.

**G. Drug Testing Program**

NECA considers drugs or controlled substances to be a detriment to safety and are prohibited on all company property and adopts the following five drugs:

1. Marijuana (THC)
2. Cocaine
3. Opiates (Morphine, Codeine)
4. Phencyclidine (PCP)
5. Amphetamines (including Methamphetamines)

Are controlled and will be tested according to Department of Transportation and Department of Health and Human Services guidelines.

The use of any drug, except by a doctor’s prescription, and then only if the doctor has advised the employee the drug will not adversely affect the employee’s ability to perform the job requirements safely, constitutes a safety concern. Prescription drugs prescribed by a physician must be verified not to interfere with safety sensitive duties.

Employees must notify NECA of any medication or drug, prescribed or not, that an employee is using.

**H. Definitions (CFR $(§382.107 & 40.3).** For purposes of this anti‑drug plan the following definitions apply:

1. Actual Knowledge for the Purpose of this Plan - means actual knowledge by the company that a driver has used alcohol or controlled substances based on the company’s direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in Section 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Section 382.307.

2. Adulterated specimen. A urine specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

3. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols.

4. Breath Alcohol Concentration (BAC):The amount of alcohol in a breath sample expressed in terms of grams of alcohol in 210 L. of breath.

5. Commercial Motor Vehicle - means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle-

a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

b. Has a gross vehicle weight rating of 26,001 or more pounds; or

c. Is designed to transport 16 or more passengers, including the driver; or

d. Is of any size and is used in the transportation of material found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placard under the Hazardous Materials Regulations (CFR 49 part 172, subpart F).

6. Confirmatory drug test. A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine). For alcohol testing this test shall be performed on an EBT device and conducted between 15 and 30 minutes after the initial screening test.

7. Confirmatory validity test. A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

8. Controlled Substances - mean those substances identified in 49 CFR Part 40, Section 40.85.

9. Designated Employer Representative (DER) – An employee authorized by the company to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the company, consistent with the requirements of 49 CFR Part 40. Service agents cannot act as DERs.

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

11. Disabling Damage - means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

a. Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

1. Exclusions.
2. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(2) Tire disablement without other damage even if no spare tire is available.

(3) Headlight or taillight damage.

(4) Damage to turn signals, horn, or windshield wipers which make them inoperative.

12. DOT, The Department, DOT agency – These terms encompass all DOT agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.

13. Driver - means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term *driver* includes a person applying to an employer to drive a commercial motor vehicle.

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

15. Employer - means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

16. Initial drug test (also known as a Screening drug test). An immunoassay test to eliminate ``negative'' urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing.

17. Initial validity test. The first test used to determine if a urine specimen is adulterated, diluted, or substituted.

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

19. Limit of Detection (LOD). The lowest concentration at which an analyte can be reliably shown to be present under defined conditions.

20. Medical Review Officer (MRO) - A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

21. Non-negative specimen. A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

22. Motor Carrier - means a for-hire motor carrier or a private motor carrier of property. The term “motor carrier” includes a motor carrier’s agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories.

23. On-Duty Time - means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. On duty time shall include:

a. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

b. All time inspecting equipment as required by 392.7 and 392.8 of this chapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

c. All driving time as defined in the term driving time in this section;

d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth as defined by the term sleeper berth of this section

e. All time loading or unloading a vehicle, supervision, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts from shipments loaded or unloaded;

f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

g. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by Part 382 when directed by a motor carrier.

h. Performing any other work in the capacity, employ, or service of a motor carrier; and

i. Performing any compensated work for a person who is not a motor carrier.

24. Oxidizing adulterant. A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

25. Performing (A Safety-Sensitive Function) - means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions

26. Primary Specimen - In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purposes of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

27. Prohibited Drug – means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

28. Refusal to Submit, Refuse, or Refuse to take – Refuse to submit (to an alcohol or controlled substances test) means that a driver:

a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (See Section 40.61(a) of this title);

b. 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 (See Section 40.63(c) of this title) a pre-employment test is not deemed to have refused to test;

c. 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 (see Sec. 40.63(c) of this title) for a pre-employment test is not deemed to have refused to test;

d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (See Sections 40.67(l) and 40.69(g) of this title);

e. 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 (See Section 40.193(d)(2) of this title);

f. Fail or declines to take a second test the employer or collector has directed the driver to take;

g. 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 under Section 40.193(d) of this title. 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;

h. 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); or

i. Is reported by the MRO as having a verified adulterated or substituted test result.

29. Safety-Sensitive Function - means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

a. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

b. All time inspecting equipment as required by Sections 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

c. All time spent at the driving controls of a commercial motor vehicle in operation;

d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of Section 393.76 of this subchapter);

e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

30. SAMHSA – Substance Abuse and Mental Health Services Administration, was formerly National Institute on Drug Abuse, ADAMHA, HHS was established by the DHHS in 1986 to regulate laboratories performing analytical tests (drug tests) on human body fluids for employment purposes in the public sector.

31. Screening drug test. See Initial drug test definition above.

32. Split Specimen - In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

33. Stand-Down - The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

34. Substance Abuse Professional (SAP) - A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

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

**PART II. QUALIFICATIONS FOR EMPLOYMENT AND PROHIBITED CONDUCT**

1. **Testing Verification for Prospective Employees**

NECA requires that all prospective drivers provide the names and addresses of all companies for which the applicant performed safety-sensitive, regulated duties during the three years prior to the application date. In addition, Company will require the applicant sign a consent to release information directing these employers to provide NECA with information on the applicant’s past drug and alcohol testing results as required by 49 CFR part 40.25. Specifically, company will ask about:

1. Alcohol tests with results of 0.04 or greater;
2. Verified positive test results;
3. Refusals to test, including adulterated or substituted specimens;
4. Other violations of FMCSA drug and alcohol testing rules;
5. Documentation of a completed return-to-duty process.

If a violation of the rules is reported but the previous employer has no information about a completed return-to-duty process, NECA will require the applicant to provide the information, including information from the Substance Abuse Professional and information to verify compliance with the follow-up program.

If the applicant is hired, NECA has 30 days in which to obtain the requested information from the previous employers or make a good-faith effort to do so. If NECA obtains information that the employee violated a DOT drug and alcohol regulation, the employee will be immediately removed from performing safety-sensitive duties and will be terminated, unless the employee can provide information that the return to duty requirements were successfully completed. NECA will insure that the release of any information obtained will be confidential and will be maintained in the appropriate employee file. This information will be retained for three years from the date of the employee’s first performance of safety-sensitive duties.

In addition, NECA will ask each applicant whether he or she has tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the applicant applied, but did not obtain, work. If the employee admits to a positive test or a refusal, NECA will not hire the applicant unless the applicant can document successful completion of the return-to-duty process.

**B. Use of Controlled Substance**

NECA does not condone the use of controlled substances. The use or possession of any controlled substance will not be tolerated except when the use is at the instruction of a licensed medical practitioner, and the driver has been advised by a licensed medical practitioner that the substance will not adversely affect the driver’s ability to safely operate a CMV. NECA requires each employee to advise company of any medication, prescribed or not, or drug that an employee is using. Drugs prescribed by a physician must be verified not to interfere with safety sensitive operations. Any employee convicted of possession or use of a controlled substance on or in company property shall be terminated.

**C. Use of Alcohol**

Alcohol use and consumption is legal off the Navajo Nation, however, NECA complies with the Department of Transportation in the use of alcohol by those employees regulated by DOT. If NECA has actual knowledge that a driver has an alcohol concentration of 0.02 or greater, the employee will be removed from performing safety sensitive duties for 24 hours. Employees tested and found to have a confirming test alcohol concentration of 0.04 or greater shall be removed from safety sensitive work and referred to a Substance Abuse Professional.

**PART III. DRUG and ALCOHOL TESTING**

**A. Testing Circumstances**

The following are the instances that drug and alcohol testing shall be performed:

Pre-employment: Prior to performing safety-sensitive duties, NECA must have a confirmed negative drug test result for the driver. Exception: if a prospective employee has been in a drug and alcohol testing program that meets the DOT requirements in the previous 30 days and while in that program was tested within the past six months (from the date of application) or participated in the program for the previous 12 months (from the date of application) and NECA is able to obtain confirming information from the previous employer prior to the employee performing safety-sensitive duties, company will not require a pre-employment drug test. In order to use this exception, NECA will contact the controlled substance testing program manager with proper authorization of release of information from the applicant to obtain the following information:

1. Name and address of each program in which the employee participated.
2. Verification that the driver participated in the program.
3. Verification that the program meets the requirements of 49 CFR Part 40.
4. Verification that the driver has not refused to be tested.
5. The date of the last test.
6. The results of any test in the last six months.
7. Any violations of 49 CFR Part 40.

Post accident: Drug and alcohol testing will be done in the event that an employee, during the performance of DOT-regulated duties, is involved in an accident where there is a human fatality, regardless of fault, or where the employee is involved in an accident where he or she is issued a citation and there is disabling damage to either vehicle and/or medical attention away from the scene is required.

Testing will be done as soon as practical after the accident. Alcohol testing must be conducted within two (2) hours after the accident. Drug testing must be conducted within eight (8) hours after the accident. If this is not possible, the reason will be documented, and NECA will continue to attempt to accomplish the testing. In the event that tests cannot be performed within the following times: breath alcohol test within eight (8) hours, controlled substance test within thirty-two (32) hours, NECA will prepare a record detailing the reasons for failing to conduct the tests in the time set out. The documentation will be kept on file.

It is the employee’s responsibility to report any accident to his/her immediate supervisor or Safety Personnel who will initiate the testing process. In the event that an employee fails to contact the appropriate parties within the required time, it will be considered a refusal to take the tests unless injuries prevent the employee from reporting or from being tested according to DOT regulations.

Random: Tests are to be done at a minimum of quarterly in accordance with the Department of Transportation annual percentage guidelines. Random selections are made using a scientifically valid method that ensures each employee has an equal chance of being selected each time selections are made. Each driver selected for testing shall be tested during the selection period. NECA will insure that the tests are unannounced and conducted in a timely manner. Each driver notified of selection for random drug and/or alcohol testing will proceed to the test location. NECA expects that the driver will report to the test location within 30 minutes plus travel time. Failure to report for testing in a reasonable time may be considered a refusal to test. Alcohol testing can only be done just before, just after or during the time a driver is performing safety-sensitive duties.

Reasonable suspicion: When a trained supervisor, along with a witness, believes that an employee may have violated Subpart B of Part 382, a reasonable suspicion alcohol or drug test may be required. The determination will be based on specific, contemporaneous, articulable observations on appearance, speech, behavior, or body odor of the driver. The determination will be documented and a copy of this will be placed in the employee’s file regardless of the outcome of the test(s). A reasonable suspicion alcohol test shall be conducted within two (2) hours from determination of reasonable suspicion. Any time that the testing cannot be conducted within the two (2) hours, documentation to the file as to why the tests could not be conducted shall be completed. In the event that the test is not be performed within eight (8) hours for alcohol or within twenty four (24) hours for drug screening, all attempts shall cease and documentation explaining the failure to test will be made and kept on file.

Return to duty: after an employee has tested positive, a negative return to duty test must be obtained before the employee is allowed to return to work to perform safety sensitive duties.

Follow up: tests ordered by the Substance Abuse Professional. The number and frequency of these tests shall be determined by the SAP but must consist of at least six tests in the first 12 months following the driver’s return to duty and can extend up to a total of sixty (60) months.

**B. COMPENSATION FOR TESTING**

The time necessary to conduct drug and alcohol tests shall be considered part of work time, and the employee shall be compensated for the time involved in taking the required tests.

**C. ALCOHOL TESTING**

**1. Alcohol Testing Methodology**

An Evidentiary Breath Testing device (EBT) will be used for DOT-required alcohol testing and must be operated by a certified Breath Alcohol Technician (BAT). The BAT must be trained to meet the operating requirements as put forth by the Department of Transportation and the manufacturer of the device. The BAT is responsible for maintaining accuracy checks and proper maintenance of the device. The BAT must maintain records showing training and certifications compliant with 49 CFR Part 40 and showing competence in the operation of the device. The BAT must maintain continuing education in the event of changes or updates to the device or regulations. The EBT must appear on the National Highway Transportation Safety Administration (NHTSA) Conforming Product List (CPL) in order to be used as a confirming device. The alcohol testing device must be capable of assigning a unique number that cannot be changed by the BAT. The device must also be capable of distinguishing alcohol and acetone at the 0.02 level. If the device is to be used for confirming tests, it must be capable of printing out three (3) copies of the results.

**2. Quality Assurance**

Compliance with the manufacturer’s Quality Assurance Program (QAP) shall be documented by every collection site. The device must be calibrated as designated by the manufacturer. The Draeger 6810 device used by Drug &Alcohol Testing Associates, Inc. and the Draeger 7410Plus used by NECA requires annual calibration and monthly accuracy checks. A device shall be removed from service if any of the conditions as outlined in the device’s Quality Assurance Program (QAP) are not met.

**3. Breath Alcohol Testing Site**

The alcohol test shall be conducted in a place that offers both visual and aural privacy to prevent any unauthorized individual from seeing or hearing the results. No unauthorized person shall be permitted access to the testing site when the EBT remains unsecured. In unusual circumstances a test may be conducted at a location that does not provide visual and aural privacy. In this case the BAT and the employer shall provide the best aural and visual privacy that the situation will allow.

**4. Alcohol Testing Procedures**

Prior to the start of testing, the employee will provide positive identification to the BAT. If no identification is available, an employer representative may verify the identity of the person. On request, the BAT will provide identification to the employee. The BAT will then explain the procedures and pertinent information about the EBT to the employee.

Documentation of the breath alcohol test shall be on an approved three-part DOT form.

The DOT form is completed as follows:

1. The first section is completed by the BAT and identifies the employee, the employer, DER and gives the reason for the test.
2. The second section, an agreement to testing, is signed and dated by the employee. Failure to sign and agree to test at this point is a refusal to test, and NECA will immediately remove any driver from performing safety sensitive duties.
3. The third section contains information about the certification of the individual conducting the test, the type of test and the results.
4. The fourth section is completed only in the event of a positive result and is the employee’s acknowledgment that the test results have been recorded correctly and the employee will not perform safety-sensitive duties.
5. The distribution of copies is as follows:
   1. The original goes to the employer's designated representative.
   2. The second copy goes to the employee.
   3. And the third copy goes to the BAT.

If the test is accomplished using an EBT, an individually sealed mouthpiece is selected by the employee and attached to the device in accordance with the manufacturer’s instructions. The BAT and the employee then verify the test number on the device. The BAT will then instruct the employee to blow into the mouthpiece forcefully until the device or BAT signals an adequate amount of breath has been obtained. The employee will then be shown the results. The device shall produce three printed results that are identical. Each printed copy shall include the results, the device’s serial number, and the date and time. The BAT shall complete the form, and the results are recorded or attached to the DOT form in a manner that will prevent tampering, and the BAT distributes the copies.

In the case of an alcohol concentration of 0.02 or greater, a confirmation test will be performed. This test will be conducted no sooner than fifteen (15) minutes, nor longer than thirty (30) minutes, after the screening test. If the time is greater than thirty (30) minutes, the confirmation test will continue, but the BAT must explain the reason for the delay in the comment section. The BAT will provide a new mouthpiece and perform an air blank on the EBT prior to the confirmation test. The purpose for the waiting period is to allow any mouth alcohol to dissipate. During this time the employee should not eat or drink, place anything into her/his mouth, and avoid belching. This is for the employee's benefit, to record an accurate confirmation test. The test will be performed as above with a new sequential number assigned. After the test, the device will produce three printed results that are identical. Each printed result shall include the results, the device's serial number, and the date and time. The BAT will then affix a printed copy of the report to all three copies of the DOT form in a manner that will be tamperproof. If the confirmation test is result is 0.02 or greater, the BAT will immediately contact the DER.

**5. Refusal**

In the event that the employee refuses to or cannot provide an adequate amount of breath, the appropriate management will be notified. If the employee can produce a written statement from a medical practitioner that a medical reason accounts for the inability to produce an adequate amount of breath, the test will not be held as a refusal; otherwise the test will be regarded as a refusal.

Failure to appear for any test within a reasonable time as determined by NECA; failure to cooperate with any part of the testing process; failure to sign required documentation; failure to remain at the testing site until the testing process is complete; failure to undergo a medical evaluation or examination as directed by the MRO--all constitute refusals to test.

**6. Invalid/Cancelled Tests**

NECA, as the employer, a BAT or an STT must cancel a breath alcohol test if any of the following occur:

1) The next external calibration check reveals a result that differs more than the amount of tolerance as directed in the Quality Assurance Program. In this case, all tests with results of 0.02 or greater since the last check are invalid.

2) The BAT does not observe the required fifteen (15) minutes between tests.

3) The BAT fails to perform an air blank prior to administering a confirming test.

4) The air blank is not 0.00 result.

5) The EBT fails to print the confirming test results.

**7.**  **Alcohol Test Results**

All records pertaining to the alcohol testing shall be forwarded to the employer except the copies the BAT is required to maintain. Records of negative alcohol test results and cancelled alcohol tests will be held for one year; records of positive alcohol test results and refusals to test will be held for five years. The BAT must maintain all records of accuracy checks and calibration of the devices along with compliance with the quality assurance program per 49 CFR Part 40, and these records will be made available to NECA on request.

**D. DRUG TESTING**

1. **Drug Testing Methodology**

The laboratory that will be used is identified in the Appendices of this policy. This laboratory has been certified by the Department of Health and Human Services and meets the requirements of 49 CFR Part 40. The initial tests of all specimens will use an immunoassay analysis to detect controlled substances as defined in 49 CFR Part 40. The confirmation test shall use a gas chromatography/mass spectrometry technique. The levels of the confirmation tests of a positive will be as stated in 49 CFR Part 40. All specimens collected will be transported via carrier to the appropriate laboratory. Upon receipt of the specimens, the laboratory shall secure them in accordance with 49 CFR Part 40.

1. **Quality Assurance**

Drug and Alcohol Testing Associates, Inc. acting as a third party administrator for the employer, is responsible for compliance with 49 CFR Part 40.103. When Drug and Alcohol Testing Associates, Inc. provides services for an aggregate number of 2,000 DOT-covered employees, Drug and Alcohol Testing, Inc. will submit blind specimens equivalent to one percent of the specimens sent for testing. Approximately 75 percent of the blind specimens will be blank; approximately 15 percent will be positive for one or more of the five drugs tested under the DOT program and 10 percent will be adulterated or substituted. The contents of the adulterated/substituted specimens must be validated by the supplier. Each blind specimen will use a Federal custody and control form, will be a split specimen, and in all ways will be indistinguishable to the laboratory from a normal specimen.

1. **Collection Personnel**

Each individual who serves as a collector under the DOT drug testing program must meet the qualification requirements set out in 49 CFR Part 40.33

1. **Collection Site**

The location will be one of convenience for the employer that affords the privacy and security the regulations require. The site must be secured in that only the person being tested has access. The collector shall have control over all entrances of the location at all times. The location shall have the water in the toilet blued to prevent tampering. Any other available water must be secured, and potential adulterants (soaps, cleaning solutions, disinfectants) must be removed. An inspection of the entire facility must be conducted to assure control of the testing procedure. The location must be able to afford individual privacy unless the collector has reason to feel the sample may be switched and/or tampered with and an observed collection is required. During the testing, only those authorized shall have access to the facility.

1. **Specimen Collection Procedures**

If the employee does not appear at the designated time for testing, the collector will contact the DER to determine the appropriate interval the collector is authorized to wait and the donor is authorized to arrive and test. If the donor does not arrive in the appropriate time, the collector will inform the DER.

If the donor requires medical attention or is having a breath alcohol test, those would be addressed before collecting a urine specimen.

The collector will require positive identification from the donor. A photo ID from a state, Federal or local government is required. If no photo ID is available, positive identification by an employer representative is acceptable. If positive identification is not made, the collector must contact the DER to verify the employee’s identity. A copy of instructions must be made available for each donor to read if they wish.

The donor will be required to remove outer clothing (hat, jacket, coveralls, etc.) and leave these items along with any other personal items such as a purse, briefcase, backpack outside the collection location. The collector must provide a safe, secure location for the personal items. The collector will also direct the donor to empty his or her pockets and display the items to ensure there are no items that could be used to adulterate a specimen. The donor may replace the items in his or her pockets if the collector finds nothing of concern. The collector will request the donor to wash and dry his or her hands. The collection kit will be opened in front of the donor, and the collector will direct the donor to provide at least 45 mL of urine. Urination must take place in privacy unless an observed collection is required. The collector will read the temperature strip as soon as the specimen is returned to the specimen processing area. Both the collector and donor must keep the specimen in view at all times until the specimen is packaged securely.

A split sample collection procedure will be used. Both samples will be forwarded to the responsible laboratory. A Federal Custody and Control form will be used, providing a unique number that matches the number on the security seals for the containers. The specimens shall be sealed in front of the donor using the security seals provided. The both specimen bottles and the plastic bag holding them shall be sealed by a method that allows recognition of tampering. The testing control form shall have five (5) copies to be distributed as follows: 1 shall be sent to the lab with the sample, 2 will be sent directly to the Medical Review Officer, 3 will be held by the collector, 4 will be forwarded to the employer and 5 will be given to the employee. MRO and employer copies must be sent within 24 hours or the next business day.

These custody and control forms contain a detailed chain of custody in which all who handle the specimen document the handling in the chain of custody area. At any time the possession of the specimen is transferred to another party, it shall be documented and a signature of the recipient so noted.

1. **Direct Observation Collections**

A direct observation by a collector of the same gender will be required for the following circumstances:

1. the original sample presented does not fall within the acceptable temperature range (90°-100° F) or appears to be tampered with;
2. the collector observes materials brought to the collection site that indicates a donor’s attempt to tamper with the specimen;
3. the laboratory reported to the MRO that a specimen is invalid and the MRO reported to company that there was not an adequate medical explanation for that result;
4. the MRO reported to company that the original positive, adulterated or substituted test result had to be cancelled because the test of the split specimen couldn’t be performed;
5. The collector is directed by the DER to do so.

The company must explain to the employee the reason for the directly observed collection.

In the event that the collector feels that a sample might have been altered or substituted, the sample shall be sent to the laboratory for testing, and a second sample shall be taken as soon as possible under direct observation. This shall be noted in the comment section of both tests. Should the laboratory confirm that evidence exists of an alteration, the tests will be treated as a positive result. All results from the laboratory shall be forwarded to the Medical Review Officer for final review and assessment.

The collector must ensure that the observer is the same gender as the employee. The observer can be a different person from the collector and need not be a qualified collector.

As the observer, you must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and undergarments to show the observer, by turning around, that they do not have a prosthetic device. After you have determined that the donor doesn’t have such a device, the observer may permit the donor to return clothing to its proper position for observed urination.

1. **Drug Tests Results**

All results will be reviewed by the Medical Review Officer (MRO). The resume of the Physician, a licensed Medical Doctor, is in the Appendices of this policy. Prior to the MRO determining that the results are positive, the MRO will attempt to contact the employee directly in a confidential manner as per 49 CFR Part 40 using the phone number listed on the collection documentation. The MRO will conduct a personal interview with the donor to elicit and consider all facts that might explain the positive result including any medical records that the employee would release to the MRO.

In the case of a positive result, the MRO shall inform the employee that the split portion may be retested at the employee’s request. The employee has 72 hours after notification of the positive result to request that the split test take place. All cost of testing the split portion shall be at the employee’s expense. If the analysis fails to produce the same positive results, or there is an inadequate amount of specimen for testing, or the specimen is untestable, or the split sample cannot be produced, the MRO shall cancel the test and report the reasons for the cancellation to the Department of Transportation, the employee, and the employer.

The MRO shall not disclose any information that has been provided by the employee for consideration as part of the test verification process to a third party except in the following conditions: an applicable DOT regulation permits or requires such disclosure; in the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule; in the MRO's reasonable medical judgment and in the situation in which there is no DOT agency rule, the information indicates that continued performance by the employee in a safety sensitive position could pose a significant risk.

1. **MRO Report of Negative Dilute Drug Test Result**

If the Medical Review Officer reports a drug test result as negative but dilute, indicating that a donor may have attempted to circumvent the testing process, NECA will accept the negative dilute as a negative result and will not require the employee to immediately submit to another drug test.

1. **Refusal**

It’s considered a refusal to test when the employee refuses to or cannot provide an adequate amount of urine and it has been determined through a medical evaluation that there is not a medical explanation.

It’s considered a refusal to test if the MRO reports a verified adulterated or substituted test result.

Also, failure to appear for any test within a reasonable time as determined by the company; failure to cooperate with any part of the testing process; failure to sign required documentation; failure to remain at the testing site until the testing process is complete; failure to take a second test as directed by the employer or collector; failure to permit or participate in a required observed collection; failure to undergo a medical evaluation or examination as directed by the MRO--all constitute refusals to test.

1. **Confidentiality and Recordkeeping**

All records are confidential and all precautions will be taken to ensure that only authorized personnel have access. The Medical Review Officer shall be responsible for maintaining the individual records of verified positive tests for period of time as directed in 49 CFR Part 40. No one shall have access to these records without first obtaining written authorization from the employee. This, however, will not prevent the employer or its agent from obtaining the results as required by 49 CFR Part 40. The employer or its agent shall not divulge any information obtained under 49 CFR Part 40 to any person unless authorized in writing by the tested employee.

**E. DISCIPLINE**

**1. Discipline**

In the event of a positive test result for prohibited drugs or a confirmed alcohol test with a concentration of 0.04 or greater, the consequences shall be:

Pre-employment - since a job offer is contingent on the candidate’s having a confirmed negative drug test, a positive test result will disqualify the candidate for any position of employment. In the event of a transfer into a safety sensitive job from another area and a pre-employment screening reveals a positive result, the employee will be placed on administrative leave and referred to a Substance Abuse Professional.

Reasonable suspicion, Post accident, or Random testing that results in a positive test – The employee will be immediately removed from performing safety-sensitive duties, placed on administrative leave, and referred to the Substance Abuse Professional (SAP) listed in Appendix B of this policy for evaluation. The employee is responsible for completing the return-to-work process including the costs of the evaluation(s), treatment, counseling or education and testing prior to being able to work in a safety sensitive position. NECA will evaluate the employee’s return-to-work process, and if a position is available, may choose to return the employee to work. However, NECA deserves the right to initiate additional disciplinary action up to and including termination.

Refusal to take a test (failure to appear for any test within a reasonable time, except pre-employment; failure to remain at the testing site until the testing is complete; failure to provide sufficient amount of urine specimen; failure to provide an adequate breath or saliva sample; failure to permit an observed collection when required by the regulations; failure to take a test if directed by the employer, MRO or collector; failure to undergo a medical examination if required by the MRO; failure to cooperate with any part of the process) including having a test that is verified by the MRO as adulterated or substituted – the employee will be immediately removed from performing safety-sensitive duties, referred to a Substance Abuse Professional and terminated. The employee is responsible for completing the return-to-work process including the costs of evaluation (first and second), treatment, counseling or education and testing prior to being able to work in a safety sensitive position for another employer.

Failure to properly notify NECA after an accident when the employee was issued a citation or a fatality occurred regardless of fault or insubordination are also considered refusals to test.

In the event that a positive test is found to be an invalid test, the employee may return to work with no further restrictions.

**2. Employee Assistance Program**

There shall be designated representatives of NECA responsible for the administration of this drug and alcohol-testing program. These individuals are identified in Appendix B. If an employee feels that s/he has a problem with alcohol and/or drugs s/he may contact the employer. The Americans with Disabilities Act protects employees who voluntarily come forward to seek help. The telephone directory white pages contain listings for Alcoholics Anonymous and Narcotics Anonymous, and the yellow pages under Counseling have listings for professionals who can offer help and/or evaluations.

NECA has established a self-identification program for employees who admit to alcohol misuse or controlled substance use. NECA ‘s self-identification program meets the requirements of 49 CFR Part 382.121. The driver may not self-identify in order to avoid testing and must make the admission prior to performing a safety sensitive function (reporting for duty). Under the self identification program, NECA will not permit the employee to perform safety-sensitive duties and all evaluation, treatment and testing will be done outside of the DOT return to work process set out in 49 CFR Part 40.

NECA will not take adverse action against an employee who makes a voluntary admission and allows the employee sufficient opportunity to get help. The employee is responsible for paying for evaluation, counseling, treatment or education and testing. The employee may not return to work in a safety-sensitive position unless there’s a written release from a substance abuse professional. NECA assures that there’s a negative return to duty test, employee monitoring and non-DOT follow-up testing.

**F. RECORD KEEPING**

Drug and Alcohol Testing Associates, Inc. shall be responsible for completing the annual Management Information Systems (MIS) reports for NECA. The company shall receive copies of this report for its files.

On a semi-annual basis, the laboratory identified in the Appendices of this policy will forward a statistical report of results of all company tests to Drug and Alcohol Testing Associates, Inc., they will verify this report for correctness and forward the report to NECA

**NECA Employee**

**Notification for Department of Transportation**

**Required Alcohol and Drug Testing**

IN THE EVENT THAT YOU ARE INVOLVED IN AN ACCIDENT WHERE YOU ARE ISSUED A CITATION OR INVOLVES A FATALITY REGARDLESS OF FAULT, YOU MUST BE TESTED WITHIN TWO (2) HOURS. CONTACT YOUR SUPERVISOR IMMEDIATELY!

***THIS IS YOUR RESPONSIBILITY!***

1) The persons designated by NECA to answer your questions in regard to the materials in the drug and alcohol policy are: Frankie L. Johnson, Lee B. Roy, and Lemuel D. Benallie.

1. The employees affected by this policy are those who are regulated by: the commercial drivers license requirements of the Department of Transportation (DOT) as defined by part 383; anyone possessing a "CDL" license, anyone subject to the Licencia Federal de Conductor (Mexico) requirements, or subject to the Canadian National Safety Code commercial driver’s license requirements.

3) The safety functions that pertain to an operator of a commercial motor vehicle, as defined by the Department of Transportation, are as follows: i) all time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved of duty by the motor carrier. ii) all time inspecting equipment as required by Sec. 392.7 and Sec 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time. iii) all driving time as defined in Sec. 395.7, iv) all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth as defined by the term sleeper berth in Sec. 395.2.

4) Employees who are involved in safety sensitive areas of work are prohibited from the consumption of controlled substances at all times. The consumption of alcohol is also forbidden during the following times: i) while performing safety sensitive functions ii) during the four (4) hours prior to performing safety sensitive functions iii) reporting for duty to perform safety sensitive functions with a breath alcohol concentration greater than 0.02 iv) possession of alcohol, unless the alcohol is manifested and transported as part of a shipment v) use of alcohol during eight (8) hours following an accident, or until such time that a post accident test has been taken. Refusal to take a drug or alcohol test includes intimidation or harassment of collectors or refusal to provide an adequate sample as described in your employer’s policy.

5) The circumstances under which an employee may be tested for alcohol or drug use are as follows:

i) Pre-employment drug testing unless the applicant is excepted because of verified previous participation in a DOT drug and alcohol testing program

ii) On a random basis throughout the year, as required by the Department of Transportation

iii) After an accident that involved a fatality regardless if the employee was at fault or when an employee has been issued a citation for his/her involvement in the accident

iv) When reasonable suspicion exists and is documented by a trained supervisor

v) A negative drug and/or alcohol test result is required on a return to duty test

vi) Follow up testing is required if the employee has violated DOT rules by testing positive. After the individual has been evaluated by a substance abuse professional and obtained a negative result on a return to duty test, a follow up program consisting of a minimum of 6 tests in 12 months is required.

6) The initial tests of all specimens will use an immunoassay analysis that will detect the following controlled substances along with the minimum concentrations(ng/mL): Marijuana metabolites 50, Cocaine 300, Opiate metabolites 2,000, Phencyclidine 25, Amphetamines 1,000. In the event of an initial positive test result, a confirmation test shall be conducted. The confirmation test shall use a gas chromatography/ mass spectrometry technique. The levels for the confirmation tests to result in a positive reading are (ng/mL): Marijuana metabolite 15, Cocaine metabolite 150, Opiates (Morphine) 2,000 (with 6 AM), Codeine 300, Phencyclidine 25, Amphetamines 500, Methamphetamine 500.

The purpose of a split sample is in the event of a positive result, a set aside amount will then be made available to the employee for retesting at another certified facility at the employee’s expense. In the event of a positive result the Medical Review Officer (MRO) will contact the employee directly, or a message will be left for the employee to contact the MRO to discuss the results and to advise the employee on the steps to retest the split portion. In order to have the split specimen tested, the employee must contact the MRO within seventy-two (72) hours after being notified of the positive result or provide a reason why this could not be done or further tests will not be performed. The results will be forwarded to the employee, the collector, and the designated employer representative as stated above.

Alcohol testing will be performed using a breath analyzer that meets all of the DOT regulations and is listed on the **National Highway Transportation Safety Administration Conforming Products List. This device will assign a unique** number to every test, and this is a function that the operator cannot change. The test will be done according to DOT requirements by a certified Breath Alcohol Technician (BAT). The documentation for this test will be in accordance with the requirements of DOT. After the test is conducted the employee will be shown the results, and a DOT report shall be completed with three (3) copies of the report. The test results shall match and be verified by the employee. The three (3) copies of the results will be distributed as follows: original copy goes to the employer's representative as stated above, second copy goes to the employee, the third copy is retained by the BAT. In the event of a positive test of 0.02 or greater, a second confirming test shall be given no sooner than fifteen (15) minutes nor longer than thirty (30) minutes after the first test, unless unusual circumstances exist. The second test shall be the test of record for positive results. The confirming test results shall be printed from the evidentiary device with three copies that are to be attached to each copy of the report in such manner that the results are secured and any alteration would be apparent.

7) Any employee who is regulated as stated above is required by the DOT in 49 CFR Parts 382 and 40 to submit to drug and alcohol testing.

8) A refusal to take an alcohol or drug screening test will be viewed as a test that is confirmed positive, and the donor will be removed from performing safety-sensitive duties, referred to a substance abuse professional and terminated. A refusal will include: a refusal to sign the required documentation, failure to provide identification or employer recognition, failure to provide an adequate sample, or failure to notify the appropriate persons for a post accident test unless injuries prevent you, in which case a release to have the appropriate medical facility release this information or conduct the appropriate tests shall be required. Failure to provide a sample is as follows: failure to produce 45 mL of urine within three hours that has a temperature range of 90°-100° F, failure to provide an adequate breath sample as instructed by the BAT, unless the employee can provide from a qualified medical practitioner a reason the sample cannot be provided.

9)

An employee shall be confirmed as being positive for the use of a controlled substance by the Medical Review Officer, based on results from a DHHS-certified laboratory. An employee shall be considered to be positive for alcohol in the event that the breath alcohol concentration is equal to or greater than 0.04 as found in the confirmation test. Any employee who has tested positive for either will immediately be removed from performing safety-sensitive duties, placed on unpaid administrative leave and referred to a substance abuse professional for evaluation. The employee is responsible for following the return-to-duty process including the costs of the evaluation, treatment, counseling or education, and testing prior to returning to safety-sensitive work. NECA will evaluate the employee’s return-to-work process, and if a position is available, may choose to return the employee to work. However, NECA reserves the right to initiate additional disciplinary action up to and including termination.

10) In the event that an employee tests positive for an alcohol concentration greater than 0.02 but less than 0.04, the employee will be removed from performing any safety sensitive tasks for twenty-four (24) hours.

11) The use of illegal drugs can affect everyone around you. In the working environment this can mean compromising your safety or the safety of a co-worker. The use of drugs can lead to poor performance and, even worse, an accident. Damage to one’s health is also a major concern. Drugs can impair one’s ability to concentrate and can destroy memory, liver function, and heart function. Drugs can and do lead to premature death for most chronic users. The effect that drugs have on those around you can also be profound, especially to those closest to the drug user. Families are often the most hurt by a family member’s drug use. While alcohol is legal off the

Navajo Nation, the effects of its abuse can be just as devastating. The effects run through one’s work as well as personal life

The signs and symptoms that there may be a problem with drug or alcohol use are many; here are a few:

1. excessive absences and or tardiness;
2. frequent time off during the work day;
3. numerous accidents that are unexplainable;
4. a pattern of accidents during a specific shift time;
5. an increase in insurance claims;
6. poor work performance;
7. lack of concentration or decreased production after lunch or breaks;
8. non-work related visits from other employees or strangers;
9. frequent trips to the water fountain or restroom;
10. frequent visits to the automobile or parking lot;
11. agitation, rapid , slurred speech, dizziness, dilated pupils, bloodshot eyes, or runny nose;
12. drastic weight changes;
13. marked changes in mood, attitude, and behavior; wearing long sleeves or dark glasses at inappropriate times;
14. frequent need to borrow money;
15. avoidance of supervisors.

If you or someone you know has a problem with drugs or alcohol, there is help available. In the white pages is a listing for Alcoholics Anonymous and Narcotics Anonymous, and in the yellow pages there are listings under alcohol and drug headings for treatment centers near you. Please feel free to talk to your supervisor about any concerns you may have and if your company has an employee assistance program, they will be able to assist you in obtaining help either for yourself or someone else. If you suspect that a fellow employee may have a problem, talk to him or her, express your concern about what you see. Sometimes a direct confrontation from a friend is all that is needed to convince someone to get help. If this is not something that you feel comfortable with, let your supervisor know and ask for assistance.

**Navajo Engineering & Construction Authority**

**and**

**Federal Motor Carriers Safety Administration**

I have read and understand the information in Employee Notification on Department of Transportation required Drug and Alcohol Testing Program as provided by NECA.

Employee:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

#### Substance Abuse Professional Referral

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has been referred to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

for the evaluation of controlled substance and/or alcohol use.

**To the Substance Abuse Professional:**

This employee must be evaluated by a Department of Transportation certified Substance Abuse Professional and a program developed and initiated prior to his/her returning to work performing a covered function. The employee referred to you is responsible for payment of your evaluation services.

As part of your services, you must provide the employee with a written recommendation that specifies what the employee must do to be released to return to work, including the required education, treatment or counseling. A follow-up evaluation stating that the individual has met requirements and releasing the individual to return to work is also required. Refer to 49 CFR Part 40 for specifics.

Referred by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Date

**NECA**

**Add name of SAP here**

NECA

Attn: Frankie Johnson, Safety Manager

Welcome to the Drug & Alcohol Testing Associates’ consortium for Federal Motor Carriers Safety Administration regulated employees. This letter is to notify you that you are now covered under the Department of Transportation regulations for random alcohol and drug testing. This consortium is made up of several types of businesses and other operators who are subject to the Department of Transportation Federal Motor Carriers Safety Administration regulations.

Here are the pertinent facts about the actual testing. The laboratory that will be analyzing the drug screens is set out in Appendix B of your policy. The screening device for random breath alcohol testing will be a Draeger 7410 and 7410 Plus. The Medical Review Officer is also set out in the Appendix B of the policy. The method of random name generation will be a computer-based program operated by Drug & Alcohol Testing Associates, Inc. We recommend that you have your attorney review this to ensure compliance with all laws and regulations.

All listed DOT-regulated employees will be placed into the consortium pool. All pool members shall have an equal chance of being drawn at every selection. The total number of those being tested within the consortium shall be equal to or exceed 50% per annum for drug screening and 10% per annum for breath alcohol testing. The method for determining the number who will be tested for random drug or alcohol screening will be as follows: the computer program takes the average number of positions, multiplies that by the appropriate per annum percentage and divides by the frequency specified within a date range provided. The Drug Pak database number generator then produces the total quarterly tests to be performed on the pool.

In order to assure total confidentiality of our tests, we will only contact Frankie L. Johnson with test results. You will receive a phone contact for any drug test that is confirmed positive.

Department of Transportation FMCSA expects you to maintain proof of consortium membership. You will also receive the semi-annual laboratory and annual Management Information Systems (MIS) reports for your records. Please keep all of these on file. If you are audited by the Department of Transportation or any state or local authority, these reports will be required. If any additional documentation is asked of you in regard to this program, contact us immediately. All normal documentation, with the exception of the documents for alcohol device accuracy testing and calibration, are included in your packet.