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POLICY AND PROCEDURES GUIDE

ANTI-DRUG PLAN

DEPARTMENT OF TRANSPORTATION ADMINISTRATION REGULATIONS

The Anti-Drug Plan contained herein sets the requirements of 49 CFR Part 40. Perform Air International, Inc. will be referred to as company throughout this plan. Those areas in the plan that appear in <u>bold and underlined</u> print reflect Perform Air International Inc. independent authority to require additional provisions with regard to the drug testing procedures.

Perform Air International Inc.

ANTI-DRUG PLAN
TABLE OF CONTENTS

ANTI-DRUG PLAN

SECTION I. INTRODUCTION

A. Prohibited Drug Policy.

1. The company has a long-standing commitment to maintain the highest standards for employee safety and health and the use of controlled substances is contrary to these high standards.

2. This policy is also to bring the company into compliance with federal law. The purpose of the anti-drug plan is to reduce accidents that result from the use of controlled substances, thereby reducing fatalities, injuries, and property damage.

3. The presence in the body of prohibited substances is not condoned.

B. Implementation of Anti-Drug Plan.

1. The company has implemented Drug Testing Regulations as set forth in 49 CFR Part 40 of the Federal Register, and Procedures for Transportation Workplace Drug Testing Program Review of the Federal Aviation Administration.

2. Implementation of this anti-drug plan may be amended at any time by the company or as required by DOT/FAA.

C. Background.

1. The catalyst for the anti-drug plan is Title 49 Code of Federal Regulations (CFR) Part 40 and Title 14 CFR Part 120, which require that aviation entities and their contractors to test their employees for prohibited drugs under the following work-related conditions:

   a. Pre-Employment (Alcohol Testing Optional)

   b. Post-Accident

   c. Random

   d. Reasonable Cause/Suspicion

   e. Return-to-Duty

   f. Follow-Up

2. Title 49 CFR Part 40 specifies procedures, which must be followed by the company when conducting drug testing pursuant to regulations issued by agencies of the Department of Transportation (DOT).

D. Definitions.
For purposes of this anti-drug plan the following definitions apply:

1. Safety Sensitive Employee – identified by function performed and required to be tested by 14 CFR Part120:

Fight Crewmembers
Flight Attendants
Flight Instructors
Aircraft Dispatchers
Aircraft Maintenance/Preventive Maintenance Personnel
Ground Security Personnel
Aviation Screeners
Air Traffic Controllers (non-government)

2. Blind Sample – a urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

3. Chain-of-Custody – procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.

4. Collection Site – a designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

5. Collection Site Person – a person who has received training under 49 CFR Part 40, and instructs and assists applicants and employees through the specimen collection process.

6. Company – an organization or commercial enterprise that uses this anti-drug plan.

7. Confirmation 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 (PCP).

8. Fail a Drug Test or Test Positive – the confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the employee or applicant's system.
9. Initial Test – an immunoassay screen to eliminate "negative" urine specimens from further consideration.

10. Pass a Drug Test or Test Negative – that initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in the employee's or applicant's system.

11. Prohibited Drug – marijuana, cocaine, opiates, phencyclidine, and amphetamines.

12. Refusal to Submit – refusal by an individual to provide a urine sample after receiving notice of the requirement to be tested in accordance with the company's anti-drug program.

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

E. Company Responsibilities.

1. Drug Program Manager (DPM): Appendix A contains the name, address, and phone number of the responsible individual(s). The DPM shall be responsible for the preparation of a drug testing anti-drug plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Part 40 and 14 CFR Part 120.

2. The DPM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling random drug testing and return-to-duty testing; maintaining a locked file system on drug testing results; and overseeing the employee assistance program (EAP). The company shall ensure that all covered employees are aware of the provisions and coverage of the company's anti-drug plan.

3. Supervisors: Company individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable cause; responsible for requests of second supervisor for substantiation and concurrence for reasonable cause testing, if applicable.

4. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the company's anti-drug plan and to fully comply with the provisions of the plan.

SECTION II. DRUG TESTING REQUIREMENTS

A. Applicability.

1. Individuals Subject to Drug Testing: Any covered applicant/employee, as described above (Section I, Item D). The person may be employed by the company, be a contractor engaged by the company, or be employed by such a contractor.

2. Procedure for Notifying Employees: This anti-drug testing plan shall be included in the appropriate company manual. Upon receipt of the company's anti-drug plan, each manager shall post the plan in a prominent location that is readily accessible to all covered employees. All covered employees will be provided a complete copy of the anti-drug plan or a condensed/summarized version of the plan. This document must indicate where an employee may obtain the entire plan for review.

3. Substances for Which Testing Must Be Conducted: The company shall test each employee who performs a function listed in Appendix B for evidence of the following substances:

Marijuana, Cocaine, Opiates, Phencyclidine, and Amphetamines

B. Drug Tests Required.

1. Pre-Employment Testing. A pre-employment drug test must be conducted before an individual is hired or contracted and when an individual is transferred or promoted from a non-covered to a covered position. This also applies to employees returning from a leave of absence who have not been participating in the anti-drug plan and subject to the random selection process. A negative test result is required prior to performing covered functions. **Applicants who fail a drug test shall not be considered for employment.**

2. Post-Accident Testing.

a. The company shall promptly determine if the employee's performance contributed to the "accident" or cannot be completely discounted as a contributing factor to the accident. Each of these employees shall be drug tested as soon as possible, but no later than 32 hours after the accident. The company must take all reasonable steps to obtain a urine specimen from an employee after an accident, as defined above, but any injury should be treated first. The company may decide not to conduct a post accident test but this decision must be based on the best information available immediately after the accident that the employees performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

b. The appropriate company official shall take all reasonable steps to obtain a urine sample from an employee after an accident, as defined in this plan, but any injury should be treated first.

(1) In the case of a conscious but hospitalized employee, management shall request that the hospital or medical facility obtain the sample from the employee under DOT drug testing requirements as set forth in 49 CFR Part 40.

(2) If an employee is injured, unconscious (employee is unable to communicate), or otherwise unable to evidence consent (employee able to sign Custody and Control form) to the drug test, all reasonable steps must be taken to obtain a urine sample from the employee.

(3) If an employee is conscious (employee can communicate) and he/she is able to evidence consent (employee able to sign Custody and Control form) to the drug test and is able to void normally (without aid of catheters) the specimen shall be collected.

(4) If an employee who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional), and refuses to be tested, that employee will be removed from duty and will be subject to disciplinary action up to and including termination.

c. The following steps will be used to guide the supervisor to a satisfactory outcome in a post-accident situation.

(1) Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation. Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with post-accident testing.

(2) Isolate and inform the employee. Remove the employee from the covered position or work place. Explain that you have reason to believe their performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident.

(3) Transport the employee. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.

(4) Document the events. Record the activity performed that supports the determination to conduct a post-accident test. This documentation of the employee's activity should be prepared and

signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible.

(5) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request for urine specimen is not an accusation; it is merely a request for additional objective data. To the employee it may feel like an accusation; so it is important to stress that this is merely a request for additional data.

(6) Following collection. After returning from the collection site, the employee should not be allowed to perform covered functions pending the results of the drug test.

3. Random Testing.

a. The primary purposes of random testing are to deter prohibited drug use and to ensure a drug free workforce. DOT regulations require that covered employees shall be subject to drug testing on an unannounced and random basis. The company shall conduct a number of tests equal to at **least** 25**% for Drug and 10% for Alcohol** of all covered employees each calendar year, spread reasonably over a 12-month period.

b. The following is a discussion of the key aspects of the random testing selection process.

(1) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.

(2) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.

(3) The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.

(4) Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.

(5) Specimen collection will be conducted on different days of the week throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection.

c. Steps for random testing:

(1) The DPM, on a pre-determined date, shall be notified by the consortium of covered employees selected for random testing during that testing cycle.

(2) The DPM shall ensure that the list of social security numbers or employee identification numbers will identify the correct employees who are to be randomly tested during the testing cycle.

(3) It is the intent of this plan to notify employees of their selection for random testing after they have reported for duty.

(a) The list of employees to be tested will be provided to the appropriate division manager, department head, or supervisor.

(b) The list of employees selected will be retained by the DPM in a secure location.

d. Notification of employees:

(1) The appropriate manager/supervisor will notify the employee to be tested to report to the manager/supervisor's office at a specified time.

(2) The employee will not be notified of the test until after reporting for duty.

(3) Employees shall report immediately to the collection site or to the collection site once notified by the appropriate company official.

(4) Once notified of selection for a random test, the employee cannot then come forward with admission of drug usage and be treated as a volunteer for rehabilitation.

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

a. The decision to test must be based on a reasonable and articulate belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence by both supervisors can be accomplished by phone, by discussions a few hours later, or by having another supervisor travel to the job site, if only one supervisor is available at that particular job site.

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

(1) Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of drug related behavior on or off the work site.

(2) Physical signs and symptoms consistent with substance abuse.

(3) Evidence of illegal substance use, possession, sale, or delivery while on duty.

(4) Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.

c. The following steps will be used to guide the supervisor to a satisfactory outcome in a reasonable cause situation.

(1) Verify the reasonable cause decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable cause referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was substance abuse related? On what basis did they reach their conclusion? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with reasonable cause testing.

(2) Isolate and inform the employee. Remove the employee from the work location. Explain that there is reasonable cause to believe the employee's performance is being affected by some substance. Ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. Ask if there is any medication or physical condition that would explain the behavior.

A persuasive explanation may or may not deter you from asking for a urine sample. If there is still a reasonable belief that drugs are a factor in the situation/incident, a request for testing should be made; if no reasonable belief is determined then no request for testing should not be made. If the decision to test is made, inform the employee that they are being requested to accompany the appropriate official to the specimen collection site to provide a urine specimen. Inform the employee of the consequences of refusal to submit to testing.

(3) Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable cause decision must be made by two of the employee's supervisors. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable cause determination.

(4) Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.

(5) Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable cause test. This documentation of the employee's conduct should be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.

(6) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to provide a urine specimen is not an accusation; it is merely a request for additional objective data. To the employee it may feel like an accusation; so it is important to stress that this is merely a request for additional data.

(7) Following collection. After returning from the collection site, the employee shall not perform duties pending the receipt of the drug

test results. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable cause belief that they may be under the influence of a drug. If the employee insists on driving, the proper local enforcement authority should be notified that an employee who we believe may be under the influence of a drug is leaving the company premises driving a motor vehicle.

5. Return-to-Duty Testing. An employee who refuses to take or fails a drug test may not return to duty until the employee passes a drug test and the Substance Abuse Professional (SAP) has determined that the employee may return to duty. An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing, without prior notice, for up to 60 months after his or her return to duty.

SECTION III. USE OF EMPLOYEE WHO FAILS OR REFUSES A DRUG TEST

A. General. Compliance with this drug-testing plan is a condition of continued employment with the company. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions. Refusal to test by individuals holding a certificate issued under Part 61, 63, or 65 will have the refusal reported to the FAA no later than 5 business days following the incident.

B. Prohibitions On Use. The company shall not use, in a function covered by Part 121, anyone who:

1. Fails a drug test as verified by the MRO, or

2. Refuses to take a drug test required by this plan.

C. Options For Return-to-Duty. An employee will be given an opportunity to retain his or her employment, provided they first:

1. Pass a DOT drug test,

2. Have been recommended by the SAP for return to duty and

3. Not failed a drug test required by Part 120 after returning to duty.

SECTION IV. DISIPLANARY ACTIONS AND REHABILITATION PROVISIONS

A. General. A covered employee who has a drug test administered and tests positive for controlled substances shall not be permitted to perform covered functions and may be required to undergo a program as set forth by the SAP (Substance Abuse Professional).

B. Required Referrals and Evaluations.

1. No covered employee who has violated the provisions on controlled substance use or refuses to submit to drug testing may perform any covered function and may be subject to termination.

2. The employee who self identifies must have entered into a company approved evaluation/rehabilitation program and successfully completed the program and be approved for return to duty by the SAP.

C. Disciplinary Action.

1. Any covered employee found in violation of the company's Anti-Drug Abuse Policy will be removed from the covered function and will be suspended without pay and may be discharged.

D. Rehabilitation Introduction

1. Rehabilitation for substance abuse is generally offered to all employees who come forward volunteering (self-referral) for treatment before an "event" occurs which would cause for a drug test as required by company policy and DOT, unless there were extenuating circumstances in management's opinion that would warrant other appropriate action.

2. Drug and alcohol abuse are complex diseases, which in many cases are treatable illnesses through proper counseling, support of family and friends and commitment from the employee. To that end, the company offers programs, which are designed to do the following:

a. Provide employees with substance diagnostic services.

b. Refer employees to substance abuse rehabilitation facilities.

E. General requirements

1. At the company's discretion, rehabilitation opportunities may NOT be offered to those working in covered positions or other non-DOT safety sensitive jobs with the company, following their notification of a required substance abuse test that produces a confirmed positive test result.
2. Upon entering an EAP-approved rehabilitation program the employee must abstain from using the controlled substance for which treatment is being offered and also abstain from using any other controlled substance.

3. Employees in a rehabilitation program will be subject to unannounced substance testing while undergoing treatment.

4. A confirmed positive test for any controlled substance while in any phase of treatment, aftercare or follow-up testing, will result in immediate discharge.

5. After successfully completing a treatment program, the employee will continue to be subjected to unannounced testing for a period not to exceed 60 months following treatment.

6. Failure to follow any and all of the prescribed treatment by the SAP may result in disciplinary action up to and including discharge.

7. Once completing a rehabilitation program, a second opportunity at rehabilitation may not be available to that employee.

F. Volunteers

1. Only volunteers as defined in company policy are afforded the opportunity of an evaluation by SAP for rehabilitation of a substance abuse problem under this plan. All other employees must have the concurrence of management (at least management level), Human Resources and EAP before such treatment is offered.

2. Employees who come forward volunteering for treatment of substance abuse, prior to an event occurring which would be cause for a drug test as required by DOT, may not be afforded access to EAP and rehabilitation and may not be subject to disciplinary action based solely on the basis of previous use of these substances.

3. Employees who come forward voluntarily acknowledging the use of controlled or illegal substances and are working a covered job must nonetheless be removed from that covered job until such time as that employee has passed a DOT drug screen and been approved for return to duty by the SAP.

4. Any use of controlled or illegal substances by such employees while in treatment, or in an aftercare program, or following a complete release from such treatment: or should such an employee prematurely drop out of treatment, or fail to follow prescribed treatment in any way, shall be subject to immediate discharge.

G. Discipline

1. Employees who fail to come forward voluntarily for treatment prior to an event occurring that would require a DOT drug test, shall be removed from their jobs.

2. Examples of an "event" would include but not necessarily be limited to: any accident or injury requiring a post-accident drug test, informed of a random selection requiring a random drug test, or a drug test required for reasonable cause. When such events occur, it is too late to volunteer.

SECTION V. SPECIMEN COLLECTION REQUIREMENTS

A. Scope.

1. The procedures contained herein and in Appendix C shall be complied with by the designated collection sites and all covered employees who report for drug testing. The company will ensure that collection sites utilized by its employees are aware of their responsibilities with regard to the specimen collection process. The collection site shall post or have readily available instructions, which explain the specimen collection process. If information on collector, donor, and company representative's responsibilities are provided under separate cover by the company or the collection site, then the above requirement is not required.

2. The procedures address the Specimen Collection requirements contained in 49 CFR Part 40.

B. General.

1. The collection site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory designated by the company. An independent medical facility may also be utilized as a collection site provided the other applicable requirements of Appendix C are met.

2. A designated collection site shall be any suitable location where a specimen can be collected under conditions set forth in Appendix C, including a properly equipped mobile facility. A designated collection site shall have an enclosure within which private urination can occur, a toilet for completion of urination, and a suitable clean surface for writing. The site must also have a source of water for washing hands, which if practicable, should be external to the enclosure where urination occurs.

3. The company shall ensure that all collection site personnel have completed training on specimen collection procedures as required by 49 CFR Part 40.

4. The direct supervisor of a covered employee shall not serve as a collector in conducting any required drug test unless it is impracticable.

5. Detailed Specimen Collection Procedures are outlined in 49 CFR Part 40 Subpart C. Collection Site personnel must be trained in accordance with these regulations effective January 31, 2003.

6. A copy of the standard written instructions setting forth the donor's or employee representative's responsibilities during the specimen collection must be provided upon request.

C. Laboratory Analysis Procedures

1. Primary Specimen Test

The primary specimen test shall use immunoassay methodology. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs.

Class of Drugs	Initial test cutoff levels (ng/ml)
Marijuana metabolites	**50**
Cocaine metabolites	**300**
Opiate metabolites	**2000***
Phencyclidine	**25**
Amphetamines	**1000**

b. These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances as other concentrations.

2. Split Specimen Test

a. All specimens identified as positive on the primary test shall be confirmed using gas chromatography / mass spectrometer (GS / MS) techniques at the cutoff values listed in this paragraph for each drug. All confirmations shall be quantitative analysis. Concentrations, which exceed the linear region of the standard curve, shall be documented in the laboratory as "greater than the highest standard curve value."

Class of Drugs	Initial test cutoff levels (ng/ml)
Marijuana metabolites [1]	**15**
Cocaine metabolites [2]	**150**
Opiates: **Morphine** **Codeine** **6-acetylmorphine (6-AM)**	 **2000** **2000** **10 (test conducted when morphine level is greater than or equal to 2000 ng/ml**
Phencyclidine	**25**
Amphetamines:	

Amphetamine	**500**
Methamphetamine	**500**

[1] Delta-9-tetrahydrocannabinol
[2] Benzoylecgonine

b. These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances as other concentrations.

c. The laboratory shall log in the split specimen, with split specimen bottle seal remaining intact. The laboratory shall store this sample securely. If the result of the test of the primary specimen is negative, the laboratory may discard the split specimen. If the result of the test of the primary specimen is positive, the laboratory shall retain the split specimen in frozen storage for 1 year from the date in which the laboratory acquires it. Within the 1 year period, if not informed by the MRO, Employee, Employer, or a DOT Agency that the specimen be retained for additional time, the laboratory may discard the split specimen.

d. When directed by the MRO to forward the split specimen to another DHHS-certified laboratory for analysis, the second laboratory shall analyze the split specimen by GC / MS to reconfirm the presence of the drug(s) or metabolite(s) found in the primary specimen. The split specimen shall be retained in long-term storage for one year by the laboratory conducting the analysis of the split specimen (or longer if litigation concerning the test is pending.)

SECTION VI. DRUG TESTING LABORATORY

A. SAMSHA Laboratory.

1. The company shall use a drug testing laboratory certified under DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988 and subsequent amendments.

2. The laboratory shall provide services in accordance with Part 40 and Part 199. The name and address of each DHHS Approved laboratory used by the company is contained in Appendix A.

3. The laboratory shall permit inspections by the company, the DOT Administrator, or if the company is subject to the jurisdiction of a state agency, a representative of the state agency.

B. Laboratory Procedures. These procedures are addressed in Appendix D.

SECTION VII. BLIND PERFORMANCE TEST PROCEDURES

A. General.

1. The company shall use blind testing quality control procedures as provided in this section.

2. The company or C/TPA shall submit blind performance test specimens if the employee pool contains 2000, or more DOT-covered individuals. For each DHHS Laboratory testing at least 100 specimens per year, the company or C/TPA shall submit 1% of the amount of specimens submitted to the laboratory. A maximum of 50 blind performance test specimens submitted per quarter.

B. Covered Employees.

1. Since the company has fewer than 2,000 covered employees submission of blind performance test specimens is not required.

2. If required, the company or C/TPA shall conduct submission of all required blind samples.

C. Investigations and False Positive.

1. DOT shall investigate, or shall refer to DHHS for investigation, any unsatisfactory performance testing result and, based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. A record shall be made of the investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individual responsible for the day-to-day management and operation of the drug-testing laboratory. DOT shall send the document to the company as a report of the unsatisfactory performance-testing incident. DOT shall ensure notification of the finding to DHHS.

2. Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mix-up, etc.), the company shall promptly notify DOT. DOT and the company shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future, and, if there is reason to believe the error could have been systemic, DOT may also require review and reanalysis of previously run specimens.

3. Should a false positive error occur on a blind performance test specimen and the error is determined to be a technical or methodological error, the company shall instruct the laboratory to submit all quality control data from the batch of specimens which included the false positive specimen to DOT. In addition, the laboratory shall retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting shall be documented by a

statement signed by the individual responsible for day-to-day management of the laboratory's urine drug testing. DOT may require an on-site review of the laboratory, which may be conducted unannounced during any hours of operation of the laboratory. DHHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.

SECTION VIII. REVIEW OF DRUG TESTING RESULTS

A. General.

1. The company shall have contract for the services of an MRO. The MRO shall be a licensed physician with knowledge of drug abuse disorders. The MRO shall review all negative and positive drug test results and interview individuals tested positive to verify the laboratory report before the company is notified. The review of a negative test may be an administrative process to ensure the chain-of-custody procedures were intact.

2. The MRO has contracted with the company to provide the services of MRO for this drug testing policy in accordance with the requirements of 49 CFR Part 40 Subpart G and 14 CFR Part120. A listing of the company MRO(s) which includes their name(s) and address(es) is contained in Appendix A.

B. Reporting and Review of Results.

1. The MRO shall review confirmed positive results. An essential part of the drug-testing program is the final review of confirmed positive results from the laboratory. A positive test result does not automatically identify an employee/applicant as having used drugs in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the MRO prior to the transmission of results to company administrative officials. The MRO review shall include review of the chain-of-custody to ensure that it is complete and sufficient on its face.

2. The duties of the MRO with respect to negative results are purely administrative.

C. Qualifications and Responsibilities.

1. The MRO shall be a licensed physician that has received qualification training required in Subpart G and may be an employee of the company or a private physician retained for this purpose. The MRO shall not be an employee of the laboratory conducting the drug test unless the laboratory establishes a clear

separation of functions to prevent any appearance of a conflict of interest including assuring that the MRO has no responsibility for, and is not supervised by or the supervisor of, any persons who have responsibility for the drug testing or quality control operations of the laboratory.

2. The role of the MRO is to review and interpret confirmed positive test results obtained through the company-testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

3. The MRO may require the original specimen be reanalyzed to determine the accuracy of the test result. The MRO may verify that the laboratory report and assessment are correct.

D. Positive Test Results.

1. Prior to making a final decision to verify a positive test result, the MRO shall give the individual an opportunity to discuss the test result with him/her.

2. The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee. Except as provided in paragraph 5 of this section, the MRO shall talk directly with the employee before verifying a test as positive.

3. If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact a designated management official who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated management official, such official shall employ procedures that ensure, to the maximum extent practicable, that the requirement of the employee to contact the MRO is held in confidence.

4. If, after making all reasonable efforts, the designated management official is unable to contact the employee, the company may place the employee on temporary medically unqualified status or medical leave.

5. The MRO may verify a test as positive without having communicated directly with the employee about the test in three circumstances:

a. The employee expressly declines the opportunity to discuss the test;

b. Neither the MRO nor the designated employer representative, after making all reasonable efforts, has been able to contact the employee within 72 hours of the date of which the MRO contacted the DER.

c. The designated employer representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO, and more than 10 days have passed since the date the employee was successfully contacted by the designated employer representative.

6. If a test is verified positive under the circumstances specified in paragraph 5.b. and 5.c. of this section, the employee may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from being contacted by the MRO or designated employer representative or from contacting the MRO within 60 Days. The MRO, on the basis of such information, may reopen the verification processing. This would allow the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO declares the test to be negative.

7. Following verification of a positive test result, the MRO shall, as provided in the company's policy, refer the case to the DPM (or designee) for action.

E. Specimen Adulteration.
In the event that the MRO should receive a laboratory report indicating the possibility of specimen adulteration, the MRO shall follow the procedures outlined below to review and interpret the laboratory report:

1. Specific gravity <1.003 and creatinine <0.2 g/L - The MRO shall contact the employee to discuss the result. The company may require the next urine specimen given by the donor be collected under direct observation procedures.

2. Specimen Adulterated / Specimen Substituted / Invalid Result - The MRO shall contact the individual and discuss the results. If no acceptable explanation for the unsuitability is provided, the MRO shall inform the DER of the stated laboratory results.

F. Verification for Opiates; Review for Prescription Medication.

1. Before the MRO verifies a confirmed positive result for opiates, the MRO shall determine that the opiate contains the presence of 6-acetylmorphine or presence of codeine or morphine at 15,000 ng/ml or greater.

2. The MRO will contact the individual and discuss the results.

G. Reconfirmation Analysis Authorization.

1. Should any question arise as to the accuracy or validity of a positive test result, only the MRO is authorized to order a reconfirmation of the original sample and such retests are authorized only at laboratories certified by DHHS.

2. The MRO shall authorize a reconfirmation of the original sample if requested by the employee within 72 hours of the employee having received actual notice of the positive test.

3. If the retest is negative, the MRO shall cancel the test.

4. If the analysis of the split specimen is reconfirmed by the second laboratory for the presence of the drug(s) or drug metabolite(s), the MRO shall notify the DER and the employee of the results of the test.

H. Prescribed Medication.

1. The company cannot require an employee to reveal any medication that he/she may be taking or may have recently taken, however, the employee may voluntarily:

   a. List any prescribed medication solely on the employee Donor Copy of the urine Custody and Control form provided to the employee at the collection site; and

   b. Provide that information to the MRO as part of the medical interview following a positive report from the laboratory.

2. As part of the medical interview, the MRO may request that the employee identify the physician prescribing the medication and authorize the company's MRO to communicate with that physician about the medication, its possible side effects, the condition requiring the taking of the medication and the medication's relationship to the employee's ability to safely perform covered functions as part of his/her job. Prior to making a final decision to verify a positive test result, the employee will have the opportunity to discuss the medication with the company's MRO.

3. In the event it is determined by the MRO that an employee is taking or is under the influence of a prescribed medication that will reasonably impair the

employee's ability to safely and adequately perform his/her job, the employee may be placed on a medical leave of absence until the condition requiring the taking of the medication is resolved or the employee is no longer taking the medication.

I. Results Consistent with Legal Drug Use.
If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the company as negative.

J. Results Scientifically Insufficient.

1. The MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation the MRO may request reanalysis of the original sample before making this decision. The MRO may request that reanalysis be performed by the same laboratory or, as provided in paragraph F above, that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the DHHS guidelines.

2. The laboratory shall assist in this review process as requested by the MRO by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic toxicologist or who has equivalent forensic experience in urine drug testing, to provide specific consultation as required by the company. The company shall include in any required annual report to DOT a summary of any negative findings based on scientific insufficiency but shall not include any personal identifying information in such reports.

K. Disclosure of Information.

1. Except as provided in this paragraph, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process.

2. The MRO may disclose such information to the company, DOT or other Federal safety agency, or a physician responsible for determining the medical qualification of the employee under the appropriate DOT regulation, as applicable, only if–

a. An applicable DOT regulation permits or requires such disclosure;

b. In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT rule; or

c. In the MRO's reasonable medical judgment, in a situation in which there is no DOT rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her covered function could pose a significant safety risk.

3. Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided in this paragraph and the identity of any parties to whom information may be disclosed.

SECTION IX. RETENTION OF SAMPLES

A. General.
Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days.

B. Retention Period.

1. Within this 365-day period, the employee or designated representative, DOT or other state agencies with jurisdiction, or the company may request in writing that the sample be retained for an additional period.
2. If the laboratory does not receive the request to retain the sample within the 365-day period, the sample may be discarded.

SECTION X. RETESTING OF SAMPLES

A. General.
An employee/applicant may request in writing to the MRO a retest of the sample within 72 hours of notification of the positive result.

B. Retest Provisions.
The employee may specify that the specimen be retested by the original laboratory or sent to another certified laboratory. The employee may be required to pay in advance for the cost of the shipment and reanalysis of the sample until the testing is complete. The employee will be reimbursed for the costs incurred in the reanalysis if the retest of the specimen is negative. The employee may request a retest at a second SAMSHA laboratory. In this case the original laboratory must follow the approved custody and control procedures in transferring a portion of the specimen.

SECTION XI. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program.

The EAP will provide education and training on drug use to all employees. The education shall include:

1. Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees.

2. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees, and

3. Distribution of the company's policy regarding the use of prohibited drugs to all new employees. The policy shall be displayed in prominent places throughout the company (i.e., employee bulletin board, break room, locker rooms).

B. Supervisor/Employee Training.

1. Supervisory personnel responsible for those employees covered under Part120 will receive training under the anti-drug plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. This training shall be for supervisors who may determine whether an employee must be drug tested for reasonable cause.

2. Education and training will be completed upon each employee's initial assignment.

SECTION XII. RECORDKEEPING PROCEDURES

A. General.

1. The DPM shall maintain a locked file system, which will contain drug test results. This file shall be maintained as Confidential. Employee files shall be handled on strict "need to know" basis.

2. Drug tests results shall not be included in personnel files. Information regarding an individual's drug testing result or rehabilitation may be released only upon written consent of the individual, except:

a. Such information must be released regardless of consent to DOT or other government agency as a part of an accident investigation;

b. Such information may be disclosed regardless of consent in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.

B. Statistical Data.
Statistical data related to drug testing and rehabilitation that is non name-specified and training records may be released to DOT or other governmental agency upon request.

C. Record Retention.
The records that must be maintained are:

1. Records that demonstrate the collection process conforms to 49 CFR Part 40 shall be retained for a 2-year period.

2. Employee drug test results that show positive and test type (pre-employment test, random test, post-accident test, or post-rehabilitation test), and records that demonstrate rehabilitation (including the MRO's determination). These records shall be retained for a 5-year period and must include the following information:

   a. Job classification and functions of employee.

   b. Prohibited drug(s) used.

   c. Disposition of employee (i.e., rehab, suspension, termination, etc.)

3. Employee drug tests that demonstrate negative results shall be retained for a period of 2 years.

4. Training records confirming that supervisors and employees have been trained as required under Part120, and copies of training material used shall be retained for a 2-year period.

SECTION XIII. CONTRACTOR MONITORING

A. General.
The company shall include a clause in their contracts that drug testing, education and training shall be addressed by all contractors in accordance with Part 121 and Part 40 for covered functions.

B. Records and Access.
Contractors shall retain copies of appropriate records required by Part 121 and Part 40. The records and access to the contractor's property shall be readily accessible for inspection by the company, DOT, and representatives of those state agencies under which jurisdiction the company operates.

C. Monitoring Procedures.
Confirmation of contractor compliance - see Appendix E for Contractor Monitoring Procedures.

D. Contractor Coverage.
The company can, as an alternative to the above guidance, provide coverage for the contractor's employees by including them in the company's drug testing program and random pool for the duration of the contract.

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APPENDIX A

DRUG PERSONNEL AND SERVICES

1. DRUG PROGRAM MANAGER (DPM)
DIRECT EMPLOYER REPRESENTATIVE (DER)
Human Resource Manager
463 South Hamilton Court
Gilbert, Arizona 85233
Phone: (480)610-3500

2. MEDICAL REVIEW OFFICER (MRO)
DOT Testing
Staff Physicians
Central Drug Systems, Inc.
16560 Harbor Boulevard, Suite A
Fountain Valley, CA 92708
Phone: (714) 418-0130
Fax: (714) 418-0136

3. DHHS APPROVED LABORATORY
DOT Testing
Medtox Laboratories, Inc.
402 W. Country Road D
St. Paul, MN 55112
(800) 832-3244

4. COLLECTION SITE
DOT and Non-DOT Testing:
Sonic Labs
2330 S. McClintock Drive
Unit # 146-3
Tempe, AZ 85282
Phone: (602) 753-2901

5. EMPLOYEE ASSISTANCE PROGRAM (EAP)
TAG/AMS
10572 Chestnut Street
Los Alamitos, CA 90720
Phone: (562) 280-0177
Fax: (562) 280-0220

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APPENDIX B

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

Flight Crewmembers

Flight Attendants

Flight Instructors

Aircraft Dispatchers

Aircraft Maintenance / Preventive Maintenance

Ground Security

Aviation Screening

Air Traffic Control

APPENDIX C

Perform Air International Inc.

SPECIMEN COLLECTION PROCEDURES

A. Scope.

1. The drug testing custody and control form is to be used as a permanent record on which identifying data on the employee and on the specimen collection and transfer process are retained. The drug-testing plan requires testing for marijuana, cocaine, opiates, amphetamines, and phencyclidine.

2. Urine specimens collected under this plan may be used only to test for controlled substances designated or approved for testing as described in this appendix and shall not be used to conduct any other analysis or test.

3. This plan does not prohibit procedures reasonably incident to analysis of the specimen for controlled substances (e.g., determination of pH or tests for specific gravity, creatinine concentration, or presence of adulterants).

B. General Procedures.

1. The collection site person shall utilize the Federal Drug Testing Chain-of-Custody (COC) . The COC form must comply with the provisions as contained in 49 CFR Part 40 with regard to the information that must be contained on the form.

2. The drug testing custody and control form may include such additional information as may be required for billing or other legitimate purposes necessary to the collection, provided that personal identifying information on the donor (other than the social security number or employee identification number) may not be provided to the laboratory. Donor medical information may appear only on the copy provided to the donor.

3. The collection individual shall use a clean, single-use specimen bottle that is securely wrapped until filled with the specimen and use a tamperproof sealing system, designed in a manner such as to ensure against undetected opening.

4. The collection individual shall use a shipping container in which the specimen and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering.

5. Written procedures, instructions and training shall be provided as followed:

   a. Under normal circumstances, the company will contract for and utilize when possible, an independent collection site. The independent collection site shall abide by all procedures, techniques and methods outlined in 49 CFR Part 40, Part 120 and DOT agency regulation, as well as those outlined in this document.

b. When an independent collection site is not available, company collection procedures and training shall clearly emphasize that the collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the individual, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

c. The collection site personnel shall have successfully completed training to carry out this function, or shall be a licensed medical professional, or a technician who has been provided instructions for collections and certifies completion as required in this document.

d. Unless it is impracticable for any individual to perform this function, a direct supervisor of an employee shall not serve as the collection site individual for a drug test of the employee.

e. Collection site personnel, company representatives and/or donors have access to standard written instructions regarding DOT collection procedures which outline their individual responsibilities during the entire collection process.

f. Same gender collection personnel shall be used if a urine collection is monitored by non-medical personnel or if the specimen is being conducted under the direct observation procedures. A collection is monitored for this purpose if the enclosure provides less than complete privacy for the donor (e.g., if a restroom stall is used and the collection site person remains in the restroom, or if the collection site person is expected to listen for the use of unsecured water sources.

C. Collection Site Designation.

1. The company shall have sufficient designated drug collection facilities which shall provide all necessary personnel, materials, equipment, facilities, and supervision to conduct collections, security temporary storage, and shipping and transportation of specimens to a DOT certified lab. The company may utilize an independent medical facility as a collection site provided that all the requirements for collection are met.

2. A collection site may be any site designated by the company where a specimen can be collected under conditions as set forth in this appendix. This would include the use of a mobile facility. The collection site shall provide the following;
   a. an enclosure to provide private urination.

b. a toilet for completion of urination (except - use of a single-use collector is used with sufficient capacity to hold the entire void);

c. suitable writing surface to complete paperwork;

d. source of water for washing hands (should be external to enclosure where void occurs).

D. Security.

1. The purpose of this paragraph is to prevent unauthorized access, which could compromise the integrity of the collection process of the specimen.

2. The designated collection site is to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secure during drug testing.

3. A facility normally used for other purposes, such as a public rest room or hospital examining room, may be secured by visual inspection to ensure other persons are not present and undetected access (e.g., through a rear door not in the view of the collection site person) is not possible. Security during collection may be maintained by effective restriction of access to collection materials and specimens. In the case of a public rest room, the facility must be posted against access during the entire collection procedure to avoid embarrassment to the employee or distraction of the collection site person.

4. If it is impractical to maintain continuous physical security of a collection site from the time the specimen is presented until the sealed mailer is transferred for shipment, the following minimum procedures shall apply:

a. The specimen shall remain under the direct control of the collection site person from delivery to its being sealed in the mailer.

b. The mailer shall be immediately mailed, maintained in secure storage, or remain until mailed under the personal control of the collection site person.

E. Chain-of-Custody.

1. The chain-of-custody block of the drug testing custody and control form shall be properly executed by authorized collection site personnel upon receipt of specimens.
2. Handling the transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody

procedures. Every effort shall be made to minimize the number of persons handling specimens.

F. Access to Authorized Personnel Only.

1. No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored. Only the collection site person may handle specimens prior to their securement in the mailing container or monitor or observe a specimen collection (under the conditions specified in this section).

2. To promote security of specimens, avoid distraction of the collection site person, and ensure against any confusion in the identification of specimens, the collection site person shall have only one donor under supervision at anytime.

3. For this purpose, a collection procedure is complete when the urine bottle has been sealed and initialed, the drug testing custody and control form has been executed, and the employee has departed the site (or, in the case of an employee who was unable to provide a complete specimen, has entered a waiting area).

G. Privacy.

1. Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided, as further described in this paragraph.

2. For purposes of this procedure, the following circumstances are the exclusive grounds constituting a reason to believe that the individual may alter or substitute the specimen:

   a. The employee has presented a urine specimen that falls outside the normal temperature range (32° – 38°C/90° – 100°F).

   b. The last urine specimen provided by the employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.

   c. The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented); or

   d. The employee has previously been determined to have used a controlled substance without medical authorization and the particular test was being conducted under a DOT regulation providing for follow-up testing upon or after return to service.

3. A trained Specimen Collector, or a designated employer representative, shall review and concur in advance with any decision by a collection site person to

obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described in paragraph 2 above.

H. Integrity and Identity of Specimen. The collection site person shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

1. To deter the dilution of specimens at the collection site, toilet-bluing agents shall be placed in toilet tanks wherever possible, so that reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs. If there is another source of water in the enclosure, it shall be effectively secured or monitored to ensure it is not used as a source for diluting the specimen.

2. When an individual arrives at the collection site, the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection. If the employee requests, the collection site person shall show proper identification to the employee.

3. If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

4. The collection site person shall ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The individual may retain his or her wallet. The collection site person shall provide the employee secure storage for any personal belongings.

5. The individual shall be instructed to wash and dry his or her hands prior to urination.

6. After washing hands, the individual shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials, which could be used to adulterate the specimen.

7. The individual may provide their specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collection site person

shall provide the individual with a clean specimen bottle or collection container, if applicable, that is securely wrapped for this purpose.

8. The collection site person shall note any unusual behavior or appearance on the urine custody and control form.

9. In the exceptional event that an employer-designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., circumstances require a post-accident test), a public rest room may be used according to the following procedures: A collection site person of the same gender as the individual shall accompany the individual into the public rest room which shall be made secure during the collection procedure. If possible, a toilet-bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the individual not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the individual will be instructed to flush the toilet and to participate with the collection site person in completing the chain-of-custody procedures.

10. Collection Methodology.

    a. In either collection methodology, upon receiving the specimen from the individual, the collection site person shall determine if the specimen has at least 30 milliliters (ml) of urine for the primary or single specimen bottle and, where the split specimen collection method is used, an additional 15 ml of urine for the split specimen bottle. If the individual is unable to provide such a quantity of urine, the specimen shall be discarded. The collection site person shall allow the individual to drink fluids, distributed reasonably through a period of up to three hours, or until the individual has provided a new urine specimen, whichever occurs first. If the employee refuses to provide a new urine specimen, the collection site person shall terminate the collection and notify the employer that the employee has refused to submit to testing. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collection site person shall discontinue the collection and notify the employer.

       The employer shall direct the employee who does not provide a sufficient urine specimen to obtain, within 5 days, an evaluation from a licensed physician who is acceptable to the employer concerning the employee's ability to provide an adequate amount of urine.

    b. If the physician determines, in his/her medical judgment, that a medical condition has, or with a high degree of probability, could have, precluded the employee from providing an adequate urine specimen, the employee's

failure to provide the specimen shall not be deemed a refusal to test. For the purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a documented pre-existing physiological disorder, but does not include unsupported assertions of situational "anxiety" or dehydration. The physician shall provide to the MRO a brief written statement setting forth his or her conclusions and the basis for it, which shall not include detailed information on the medical condition of the employee. Upon receipt of their statement, the MRO shall report his or her conclusions to the employer in writing.

c. If the physician, in his/her medical judgment, is unable to determine why the employee is unable to provide an adequate urine specimen, it will be deemed as a refusal to test. The physician shall provide to the MRO a brief written statement stating his/her conclusions and the basis for it, which shall include detailed information on the medical condition of the employee. Upon receipt of this statement the MRO shall report his/her conclusions to the employer in writing.

11. The company will use the split sample method of collection and shall follow the procedures set forth below:

a. The donor shall urinate into a collection container capable of holding at least 60 ml.

b. The collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.

c. Both bottles shall be shipped in a single shipping container, together with copies 1, 2, and the split specimen copy of the chain-of-custody form, to the laboratory.

d. If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result.

f. When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain-of-custody form with appropriate chain-of-custody entries.

g. The result of the test of the split specimen is transmitted by the second laboratory to the MRO. If the analysis of the split specimen is reconfirmed by the second laboratory for the presence of the drug(s) or drug metabolite(s), the MRO shall notify the employer of the results of the test.

h. Action required by DOT agency regulations as the result of a positive drug test (e.g., removal from performing a safety-sensitive function) is not stayed pending the result of the test of the split specimen.

i. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the employer, and the employee.

12. After the specimen has been provided and submitted to the collection site person, the individual shall be allowed to wash his or her hands.

13. Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature-measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measure is critical and in no case shall exceed 4 minutes.

14. A specimen temperature outside the range of 32°C – 38°C/90°F – 100°F, constitutes a reason to believe that the individual has altered or substituted the specimen (See Section F.2.a.). In such cases, the individual supplying the specimen will be required to provide another specimen under direct observation.

16. Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the urine custody and control form.

16. All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.

17. Whenever there is reason to believe that a particular individual has altered or substituted the specimen as described in Section F.2.a. and c., a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.

18. Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. As provided below, the specimen shall be sealed by placement of a tamper-proof seal over the

bottle cap and down the sides of the bottle and labeled in the presence of the employee. If the specimen is transferred to a second bottle, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamper-proof seal over the bottle cap and down the sides of the bottle.

19. The collection site person and the employee shall be present at the same time during procedures outlined in items 21 through 24 of this section.

20. The collection site person shall place securely on the bottle an identification label, which contains the date, the individual's specimen number, and any other identifying information provided or required by the employer. If separate from the label, the tamper-proof seal shall also be applied.

21. The individual shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collection from the donor.

22. The collection site person shall enter on the drug testing custody and control form all information identifying the specimen. The collection site person shall sign the drug testing custody and control form certifying that the collection was accomplished according to the applicable Federal requirements.

23. The individual shall be asked to read and sign a statement on the drug testing custody and control form that the specimen collected from him/her is in fact that specimen he/she provided.

24. The collection site person shall complete the chain-of-custody portion of the drug testing custody and control form to indicate receipt of the specimen from the employee and shall certify proper completion of the collection.

25. The urine specimen and chain-of-custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, the collection site person shall ensure that it is appropriately safeguarded during temporary storage.

26. Control of Specimen

    a. While any part of the above chain-of-custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person.
    b. If the involved collection site person leaves the workstation momentarily, the collection site person shall take the specimen and drug testing custody and control form with him/her or shall secure them. After the collection site person returns to the workstation, the custody process will continue. If the collection site person is leaving for an extended period of time, he/she shall package the specimen for mailing before leaving the site.

c. The collection site person shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the sample with an identifying label bearing the employee's specimen identification number and seal initialed by the employee. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and at the election of the company a new collection may be begun.

I. Collection Control. To the maximum extent possible, collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled.

J. Transportation to Laboratory. Collection site personnel shall arrange to ship the collected specimens to the drug-testing laboratory. The specimens shall be placed in shipping containers designed to minimize the possibility of damage during shipment (e.g., specimen boxes and/or padded mailers); and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site person shall sign and enter the date specimens were sealed in the containers for shipment. The collection site person shall ensure that the chain-of-custody documentation is attached to each container sealed for shipment to the drug-testing laboratory.

K. Failure to Cooperate. If the employee refuses to cooperate with the collection process, the collection site person shall inform the designated company representative and shall document the non-cooperation on the drug testing custody and control form.

L. Employee Requiring Medical Attention. If the sample is being collected from an employee in need of medical attention as part of a post-accident test given in an emergency medical facility, necessary medical attention shall not be delayed in order to collect the specimen.

M. Use of Chain-of-Custody Forms. A chain-of-custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on the form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

APPENDIX D

LABORATORY PROCEDURES

A. Testing.

1. Initial Test - The initial test shall use an immunoassay which meets the requirement of the Food and Drug Administration for commercial distribution.

2. Confirmatory Test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed in this paragraph for each drug. All confirmations shall be by quantitative analysis. Concentrations, which exceed the linear region of the standard curve, shall be documented in the laboratory record as "greater than highest standard curve value."

B. Reporting Results.

1. The laboratory shall report test results to the company's MRO within an average of 5 working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the employer, and the drug testing laboratory specimen.

2. The laboratory shall report as negative all specimens, which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.

3. The MRO may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of test results to the company. The MRO may reveal the quantitation of a positive test result to the company, the employee, or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.

4. The laboratory may transmit results to the MRO by various electronic means (e.g., teleprinter, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory and employer must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

5. The laboratory shall send only to the MRO the original or a certified true copy of the drug testing custody and control form (copy 1), which, in the case of a report positive for drug use, shall be signed (after the required certification block) by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.

6. The laboratory shall provide to the company official responsible for coordination of the drug-testing program a semi-annual statistical summary of urinalysis testing

of the company's employees and shall not include in the summary any personal identifying information. Confirmation data shall be included from test results reported within the previous 6 months. This summary shall be forwarded not more than 14 calendar days after the end of the month covered by the summary. The summary shall contain the following information:

a. Number of specimens received for confirmation;

b. Number of specimens confirmed positive for:

Marijuana metabolite
Cocaine metabolite
Morphine, codeine
Phencyclidine
Amphetamine / Methamphetamine

c. Number of specimens for which a test was not performed.

7. Semi-Annual reports shall not include data from which it is reasonably likely that information about individuals' tests can be readily inferred. If necessary, in order to prevent the disclosure of such data, the laboratory shall not send a report until data are sufficiently aggregated to make such an inference unlikely. In any quarter in which a report is withheld for this reason, the laboratory will so inform the employer in writing.

8. The laboratory shall make available copies of all analytical results for company drug testing programs when requested by DOT with regulatory authority over the company.

9. Unless otherwise instructed by the company in writing, all records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of 2 years.

C. Long-Term Storage. Long-term frozen storage (-20°C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. Drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens confirmed positive, in their original labeled specimen bottles. Within this 1-year period, an employer (or other person designated in a DOT agency regulation) may request the laboratory to retain the specimen for an additional period of time, but if no such request is received the laboratory may discard the specimen after the end of 1 year, except that the laboratory shall be required to maintain any specimens known to be under legal challenge for an indefinite period.

D. Retesting Specimens. Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

E. Subcontracting. Drug testing laboratories shall not subcontract and shall perform all work with their own personnel and equipment. The laboratory must be capable of performing forming testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine, and amphetamines) using the initial immunoassay and confirmatory GC/MS methods specified in this appendix. This paragraph does not prohibit subcontracting of laboratory analysis if specimens are sent directly from the collection site to the subcontractor, the subcontractor is a laboratory certified by DHHS as required in this appendix, the subcontractor performs all analysis and provides storage required under this appendix, and the subcontractor is responsible to the company for compliance with this appendix and applicable DOT regulations as if it were the prime contractor.

F. Inspections. DOT, any company utilizing the laboratory, DHHS, or any organization performing laboratory certification on behalf of DHHS reserves the right to inspect the laboratory at any time. Company contracts with laboratories for drug testing, as well as contracts for collection site services, shall permit the company and the DOT of jurisdiction (directly or through an agency) to conduct unannounced inspections.

G. Documentation. The drug testing laboratories shall maintain and make available for at least 2 years documentation of all aspects of the testing process. This 2-year period may be extended upon written notification by DOT or by any company for which laboratory services are being provided. The required documentation shall include personnel files on all individuals authorized to have access to specimens; Chain-Of-Custody documents; quality assurance/quality control records; procedure manuals; all test data (including calibration curves and any calculations used in determining test results); reports; records on performance testing; performance on certification inspections; and hard copies of computer-generated data. The laboratory shall maintain documents for any specimen known to be under legal challenge for an indefinite period.

H. Protection of Employee Records.

1. Employer contracts with laboratories shall require that the laboratory maintain employee test records in confidence, as provided in DOT regulations.

2. The contracts shall provide that the laboratory shall disclose information related to a positive drug test of an individual to the individual, the employer, or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a certified positive drug test.

3. Upon written request from the employee, the laboratory shall provide access to any and all records relating to his/her drug test and any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings.

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APPENDIX E

CONTRACTOR MONITORING PROCEDURES

A. Objective.

In order to assure a contractor's compliance with DOT's regulations, the following procedures are to be followed in determining compliance with the drug testing regulations as set forth in 49 CFR Part 40 and 14 CFR Part 121.

B. Procedures for Determining Compliance.

1. Qualifying Potential Contractor: Qualifications of the potential contractor as it pertains to drug testing policies/procedures is assured by requesting the potential contractor to submit a copy of its anti-drug plan for review and compliance with DOT regulations. After review of the anti-drug plan is completed, written correspondence to the contractor will advise it whether or not the plan is acceptable or in need of further additions, deletions, revisions or clarifying language. The review of the contractor plan shall be completed utilizing the criteria established in the DOT Headquarters Drug Inspection form and the DOT Part 40 Drug Inspection forms. Addenda made to the contractor's plan shall be attached to the previously submitted plan. Upon approval of the addendums, a letter of acceptance is then sent to the contractor. The contractor is now eligible to bid on company contract work that would be covered under 14 CFR Part 121 and 49 CFR Part 40.

2. Monitoring Contractor's Compliance: The company shall remain responsible for ensuring that the requirements of 49 CFR Part 40 and 14 CFR Part 120 is complied with. The contractor may be required to provide information on his/her employees who will perform covered functions for the operator. This information may include the name and job title of the employees who will perform any work or functions covered by Part 121 under that contract. A list of each contractor's covered employees may be distributed to appropriate company field management.

3. All contractors will be required to submit drug testing statistical information on a periodical basis, which may be based on the duration of the contract. Typically, this requirement will be on a monthly or quarterly basis. The company may require a more frequent schedule for submission of drug testing data should they determine a need for such statistics.

4. The company shall maintain a complete file on each contractor’s statistical drug testing reports. The company shall make available these reports when requested by the DOT Administrator, agency designated representative, or representatives of those state agencies under which jurisdiction the company operates.