

Alcohol Misuse Prevention Plan (DOT)	S.O.P. 5A.2		Page 1 of 23
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STANDARD OPERATING PROCEDURE			

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I. INTRODUCTION

- a. Alcohol Misuse Prevention Plan (AMPP) - *Basic Industries of South Texas, Ltd.* (hereinafter known as *the Company*) has a long standing commitment to maintain the highest standards for employee safety and health and to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions.
 - i. In addition, *the Company* must comply with all DOT regulations and other regulations which require affirmative actions to eliminate the impact of the misuse of alcohol in the workplace. The purpose of the alcohol misuse prevention plan is to reduce accidents that result from the misuse

- of alcohol, thereby reducing fatalities, injuries, and property damage.
- ii. The use or possession of alcoholic beverages while on company property, or in any company vehicle, or on company time, including breaks, paid or unpaid, on any shift, is strictly prohibited.
- b. Implementation of Alcohol Misuse Prevention Plan
- i. *The Company* has implemented the Research and Special Programs Administration, Drug Testing Regulations as set forth in 49 CFR Part 199, Subpart B and the Department of Transportation, Procedures for Transportation Workplace Drug Testing Programs as set forth in 49 CFR Part 40, Subpart C.
 - ii. Alcohol information and materials supplied to covered employees may also include the mandated policies against alcohol abuse covered in *the Company's Drug Alcohol, and Contraband, S.O.P. 5A*, including any consequences for an employee found to have a specified alcohol level, that are based on the Company's authority independent of the federal regulations under 49 CFR Part 199 and 40.
 - iii. Implementation of the alcohol misuse prevention plan was effective on October 1, 2001.
- c. Background
- i. The catalyst for the alcohol misuse plan is Title 49 Code of Federal Regulations (CFR) Part 199 which requires pipeline operators subject to 49 CFR Part 199 to test their employees for misuse of alcohol under the following work-related conditions:
 - 1. Post-accident
 - 2. Reasonable Suspicion
 - 3. Return-to-duty
 - 4. Follow-Up
 - ii. Title 49 CFR Part 40 specifies procedures which must be followed by the Company when conducting alcohol misuse testing pursuant to regulations issued by agencies of the Department of Transportation.

II. PREEMPTION PROVISIONS

- a. Part 199 Subpart B preempts any state or local law, rule, regulation, or order to the extent that:
 - i. Compliance with both the state or local requirement and this regulation is not possible;
 - ii. Compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement as set forth in 49 CFR Part 199, Subpart B.
 - iii. The state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.
- b. This 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.

III. DEFINITIONS

- a. **Accident** - An incident reportable under Part 191 involving gas pipeline facilities or LNG facilities or an accident reportable under Part 195 involving hazardous liquid pipeline facilities.
 - i. 191.3 - An accident on a gas pipeline or LNG facility is defined as an “incident,” as follows:
 1. An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and; a death, or personal injury necessitating inpatient hospitalization; or estimated property damage, including cost of gas lost, to the operator or others, or both, of \$50,000 or more.
 2. An event that results in an emergency shutdown of an LNG facility.
 3. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (1) or (2).
 - ii. 195.50 - An accident report is required for each failure in a pipeline system in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following;
 1. Explosion or fire not intentionally set by the operator.
 2. Loss of 50 or more barrels of hazardous liquid or carbon dioxide.
 3. Escape to the atmosphere of more than five barrels a day of highly volatile liquids. Death of any person.
 4. Bodily harm to any person resulting in loss of consciousness; or necessity to carry the person from the scene; or necessity for medical treatment; or disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.
 5. Estimated damage to the property of the operator or others, or both, exceeding \$50,000.
- b. **Air Blank** - A reading by an evidential breath testing device (EBT) of ambient air containing no alcohol.
- c. **Alcohol** - agent in beverage alcohol, ethyl alcohol or other low - The intoxicating molecular weight alcohols including methyl or isopropyl alcohol.
- d. **Alcohol concentration** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test conducted under the federal regulations.
- e. **Alcohol use** - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- f. **Breath Alcohol Technician (BAT)** - An individual who instructs and assists

individuals in the alcohol testing process and operates an EBT.

- g. **Canceled or Invalid Test** - A test that is deemed to be invalid as listed in the collection procedures of this AMPP.
- h. **Confirmation Test** - A second test following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.
- i. **Covered employee** - Any person who performs on a pipeline or LNG facility, an operating, maintenance, or emergency response function regulated by Parts 192, 193, or 195. As applied in the regulations, “employee” and “applicant for employment” have the same meaning for the purpose of these requirements. Covered employee and “individual” or individual to be tested” have the same meaning for the purposes of the alcohol regulations. Clerical, truck driving, accounting, or other job functions not covered by Parts 192, 193, and 195 are not subject to the regulations. Such person may be employed directly by the company, or by a contractor engaged by the company.
- j. **Covered Function** (safety-sensitive function) - An operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by Parts 192, 193 or 195.
- k. **EBT** (Evidential Breath Testing Device) - An EBT approved by the National Highway Safety Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA’s “Conforming Products List” (CPL) of evidential breath measurement devices.
- l. **Operator** - An owner or operator of pipeline facilities.
- m. **Performing a Covered Function** - An employee is considered to be performing a covered function (safety sensitive) during any period in which he / she is actually performing, ready to perform, or immediately available to perform such covered functions.
- n. **Pipeline** - All parts of the physical facilities through which product moves in transportation. This includes pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, delivery stations, holders, and fabricated assemblies.
- o. **Pipeline Facilities** - New and existing pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of product.
- p. **Refusal to Submit** - A covered employee fails to provide an adequate breath for testing without a valid medical explanation after reviewing notice of the requirement to be tested in accordance with the provisions of 49 CFR Part 199 and the company’s alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.
- q. **Screening Test (initial)** - An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
- r. **State Agency** - An agency of any of the several states, the District of Columbia, or Puerto Rico that participates under section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1674) or section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2009).
- s. **Substance Abuse Professional** - A licensed physician (Medical Doctor or Doctor

of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

IV. COMPANY RESPONSIBILITIES

- a. **Alcohol Program Manager** - A company designated individual shall be responsible for the preparation of an alcohol misuse plan, including liaison with any contractor or vendor which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 Subpart B and 49 CFR Part 40 Subpart C. The Program Manager 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 for types of testing; maintaining a locked file system on all alcohol test results; and overseeing the referral of employees for evaluation and treatment as it is defined in 49 CFR Part 199.243. The company shall ensure that all covered employees are aware of the provisions and coverage of the Company's Alcohol Misuse Prevention Plan.
- b. **Supervisor(s)** - Company individuals responsible for observing the performance and behavior of employees; observation / documentation of events suggestive of reasonable suspicion; and post-accident testing if determined that it is applicable.
- c. **Employee(s)** - The company shall ensure that each employee is notified and aware of the provisions of the company AMPP and is knowledgeable of the requirements of the Company's AI\IPP and fully complies with the provisions of the plan.

V. INDIVIDUALS SUBJECT TO TESTING

- a. Any applicant / employee who would perform on a pipeline, an operating, maintenance, or emergency response function regulated by Part 192, 193, or 195 would be subject to alcohol testing under this program. This does not include clerical truck driving, accounting, or other functions not subject to Part 192, 193, or 195.
- b. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

VI. NOTIFYING EMPLOYEES

- a. Upon receipt of the Company's Alcohol Misuse Prevention 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 AMPP or a condensed / summarized version of this plan.

- b. *The Company* shall provide written educational materials explaining the alcohol misuse requirements and the Company's policies and procedures outlining how it will comply with those requirements. Each covered employee shall be provided with detailed information and discussion of the following elements:
- i. Information about covered functions which provides sufficient guidance on which portions of the work day the covered employee is required to be in compliance with the plan.
 - ii. Information concerning covered employee conduct which specifies what is prohibited by the plan.
 - iii. Circumstances under which a covered employee will be tested for alcohol under the plan.
 - iv. Procedures that cover testing for the presence of alcohol, protection of employee rights, integrity of breath testing process, safeguarding validity of test results, and assignment of test results to the Program Manager.
 - v. Information concerning requirement for covered employees to submit to various types of alcohol tests. Information detailing what constitutes a refusal and consequences of such refusal.
 - vi. Information detailing consequences of covered employees who violate the prohibitions as set forth in the plan. It will address removal from performing covered functions and guidance on referral for evaluation and / or treatment.
 - vii. Information detailing consequences of covered employees who test at an alcohol concentration of 0.02 or greater but less than 0.04.
 - viii. Information detailing alcohol misuse and how it impacts on the individual's health, work and personal life; detecting signs and symptoms of alcohol problems; and intervening evaluation and resolving problems associated with alcohol misuse.
- c. *The Company* will require each employee (not a DOT requirement) to sign an "Acknowledgment of Receipt Form" confirming they have received a copy of this plan.

VII. ALCOHOL TESTS REQUIRED

- a. **Post-Accident** - *The company* shall promptly determine and test each suspected covered employee for alcohol if that employee's performance contributed to the accident (as defined) or cannot be completely discounted as a contributing factor to the accident. The decision not to administer an alcohol test under this plan shall be based on the Company's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident.
- i. If tested, the employee must submit to the alcohol test within 2 hours of the accident.
 - ii. If a test is not administered within 8 hours following the accident the company shall cease all attempts to conduct an alcohol test and shall

prepare and maintain on file written documentation indicating why the alcohol test was not administered.

- iii. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the company or company representative of his / her location if he / she leaves the scene of the accident prior to submission to such test, may be deemed by the company to have refused to submit to testing.
 - iv. The employee must remain available for alcohol testing and may not consume any alcohol for 8 hours following the accident or until the alcohol test has been conducted. Notwithstanding the previous statement, employees should seek and obtain emergency medical care, if needed, as soon as possible.
 - v. After returning from the collection site, following administration of the test, the employee will not be allowed to return to performing any covered functions pending the results of the alcohol test and any discussion of disciplinary action that may occur. If the result of the test is negative, the employee may return to performing his / her covered functions at the company's discretion.
- b. **Reasonable Suspicion** - In conjunction with supervisory training on the signs and symptoms of alcohol misuse, reasonable suspicion testing is designed to provide management with a tool to identify alcohol 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 suspicion to believe an employee is using or has used alcohol.
- i. *Determining "Reasonable Suspicion"* - The company's determination that reasonable suspicion exists to require a covered employee to undergo an alcohol test shall be based on specific, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations must be made by a supervisor who has received at least 60 minutes of training in detecting the symptoms of alcohol misuse. This supervisor may not administer (i.e., breath alcohol technician) the breath alcohol test on that employee.
 - ii. *Factors To Be Considered* (but not limited to) - Physical signs and symptoms consistent with alcohol abuse; evidence of illegal alcohol use, possession, sale, or delivery while on duty; 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 or work performance, especially where there is some evidence of alcohol related behavior on or off the work site; or an occurrence of a serious or potentially serious accident that may have been caused by human error, or violations of established safety, security, or other operational procedures.
 - iii. *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 in route to the collection site for the employee to ingest anything that could affect the alcohol test result.

- iv. *Collection Site* - After returning from the collection site, following the administration of the test, the employee will not be allowed to return to performing any covered functions pending the results of the alcohol test and any discussion of disciplinary action that may occur. The employee should make arrangements to be transported home. The employee will be instructed not to drive any motor vehicle due to the reasonable suspicion belief that he / she may be under the influence of alcohol. Based on the Company's Policy, if the employee insists on driving, the proper local enforcement authority may be notified that an employee who the company believes may be under the influence of alcohol is leaving the company premises driving a motor vehicle.
 - v. *If Test Is Not Administered* - If a reasonable suspicion test is not administered within 2 hours following the determination, the company shall prepare and maintain on file a record stating the reasons why the test was not promptly administered. If the required test is not administered within 8 hours of the determination, the company shall cease all attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Upon request such records shall be made available to any DOT agencies.
 - vi. *Disciplinary Action* - The company shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall the employee be permitted to perform or continue to perform covered functions until the following criteria has been met:
 - 1. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
 - 2. The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in the AMPP.
 - 3. Except as provided above, the company shall not take any action under 49 CFR Part 199 against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. However, this does not prohibit the company from taking any disciplinary action otherwise consistent with local and/or state laws.
- c. **Return-to-Duty** -The company shall ensure that before an employee may return-to-duty to perform covered functions after engaging in prohibited conduct that the

employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. The company shall not permit an employee who refuses to submit to an alcohol test to perform or continue to perform a covered function. If the substance abuse professional makes a determination that some form of evaluation and / or treatment is required then the employee must comply with the recommended provisions in order to be considered eligible for consideration in being allowed to return-to-duty.

- d. **Follow-Up** - Following the determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, the employee will be subject to unannounced follow-up alcohol testing as directed by a substance abuse professional. An employee who returns to duty shall be subject to a reasonable program of follow-up alcohol testing, without prior notice, for up to 60 months after his or her return-to-duty.
- i. The employee shall be subject to at least six, unannounced alcohol follow-up tests during the first 12 months following his / her return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the initial six tests have been completed, if the substance abuse professional make the determination that such testing is no longer warranted.
 - ii. The company may require a covered employee to submit to drug follow-up testing when the substance abuse professional has reason to suspect drug involvement. The drug testing must comply with the requirements contained in 49 CFR Part 40, Subpart A. The same procedures would apply should it be determined that an employee had tested positive for drugs and the substance abuse professional had reason to suspect alcohol misuse.

VIII. RE-TESTING PROVISIONS

- a. A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform covered functions until:
 - i. The employee's alcohol concentration measures less than 0.02 in another alcohol test administered in compliance with this plan; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the alcohol test.
- b. Except as provided above, the company shall not take any action under 49 CFR Part 199 against a covered employee based solely on test results showing an alcohol concentration less than 0.04. However, the Company prohibits any detectable alcohol concentration under *the Company's Drug Alcohol, and Contraband, S.O.P. 5A*.

IX. PROHIBITED CONDUCT AND USE

- a. **Alcohol Concentration** - A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions

while having an alcohol concentration of 0.04 or greater. If a company representative has actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, the employee shall not be permitted to perform or continue to perform a covered function.

- b. **Pre-Duty Use** - *The Company* shall prohibit a covered employee from using alcohol within four (4) hours prior to performing covered functions, or if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. If the company has actual knowledge that a covered employee has used alcohol within four (4) hours prior to performing a covered function or within the time period after the employee has been notified to report for duty, the employee shall not be permitted to perform or continue to perform a covered function.
- c. **On Duty Use** - *The Company* shall prohibit a covered employee from using alcohol while performing covered functions. If a company representative has actual knowledge that a covered employee is using alcohol while performing covered functions, the employee shall not be permitted to perform or continue to perform a covered function.

X. EMPLOYEE WHO REFUSES

- a. Compliance with the Alcohol Misuse Prevention Plan is a condition of employment. Refusal to submit to a post-accident, reasonable suspicion or follow-up alcohol test shall result in the covered employee not being allowed to perform his/her covered function. The Company may impose additional disciplinary actions as it deems appropriate. This may include, but is not limited to, suspension or termination.
- b. **Disciplinary Actions:**
 - i. A covered employee who has an alcohol test administered and the alcohol concentration is greater than 0.02 shall *not* be permitted to perform covered functions or not allowed to continue to perform covered functions.
 - ii. No covered employee who has violated the rules on alcohol misuse or refuses to submit to testing can perform any covered function unless and until that employee has:
 1. Been evaluated by a SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol use.
 2. Completed any treatment that may have been recommended.
 3. Been evaluated by a SAP to ensure that the employee has properly followed the treatment program.
 4. The employee has undergone a return-to-duty alcohol test with resulting alcohol concentration of less than 0.02.
 5. At the Company's discretion, and not as a DOT mandate, the employee may be required to have entered into a company approved evaluation / rehabilitation program and successfully

completed this program.

XI. ALCOHOL TESTING REQUIREMENTS

- a. These procedures address the requirements contained in 49 CFR Part 40 Subpart C. The alcohol testing procedures contained herein shall be complied with by the designated alcohol testing sites and personnel.
 - i. The alcohol testing site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the testing and processing of alcohol test results. An independent medical facility may also be utilized as an alcohol testing site provided all DOT requirements are met.
 - ii. An alcohol testing site shall be any suitable location where a breath alcohol test can be collected under conditions set forth in 49 CFR Part 199 Subpart C, including a properly equipped mobile facility. A designated alcohol testing site shall provide for privacy during the testing period and completion of all necessary record procedures.

XII. ALCOHOL TESTING EQUIPMENT

- a. *The Company* shall use only approved evidential breath testing (EBTs) devices for conducting the alcohol testing provisions required in the AMPP. A Log Book shall be utilized to record information relative to screening alcohol test, if the EBT being used does not have:
 - i. capabilities to be attached independently or by direct link to a separate printer, print a result in triplicate (three separate copies) of each breath test;
 - ii. capabilities to assign a unique and sequential number to each completed test so that the number can be read by the breath alcohol technician (BAT) and the employee before each test and be printed out on each copy of the result;
 - iii. capabilities of printing out the manufacturer's name of the device, serial number and time of the test.
- b. A Log Book shall be used for each device that does not meet the above criteria and the Log Book shall include the following information:
 - i. test number,
 - ii. date of test,
 - iii. name of BAT,
 - iv. location of test,
 - v. test result and initials of the employee taking the test.
- c. *The Company* shall utilize an EBT for confirmation testing that has the capabilities listed above in this section. The EBT shall also be able to distinguish

alcohol from acetone; be capable of testing an air blank prior to each collection of breath, and performing an external calibration.

- d. *The Company* shall utilize alcohol testing devices that are on the National Highway Transportation Safety Administration (NHTSA) approved list. NHTSA has model specifications for evidential breath testing devices. NHTSA periodically publishes an updated Conforming Products List, which states which devices have met NHTSA standards.

XIII. BREATH ALCOHOL TECHNICIAN (BAT) REQUIREMENTS

- a. Each BAT used by *the Company* shall receive sufficient training and be certified to proficiency in the specific operation of the evidential breath testing (EBT) device he *I* she uses in the required alcohol testing procedures as outlined in this plan. These procedures include the following:
 - i. Each BAT used by the company shall be able to demonstrate by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.
 - ii. The company shall ensure that only courses of instruction that are equivalent to the National Highway Traffic Safety Administration, as amended, model course may be used to train BAT's to proficiency. Upon request to NHTSA, they will review a BAT instruction to determine equivalency.
 - iii. The company shall ensure that the course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) to be used by the company.
 - iv. The company shall ensure that any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of the EBT to be used by the company. The BAT training shall also include practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in the maintenance and calibration of the particular EBT.
 - v. The company shall ensure the BAT(s) receive sufficient additional training to ensure proficiency concerning any new or additional devices or changes in technology for equipment used by the company.
 - vi. The company, or its designated representative, who is involved in conducting alcohol testing, shall establish documentation regarding the training and proficiency testing of any BAT it uses to test employees. The documentation shall be maintained in accordance with the requirements of this plan.
- b. The company may authorize a BAT qualified supervisor of an employee to conduct an alcohol test for that employee if another BAT is unavailable to

perform the required test in a timely manner. Although, the supervisor who makes a determination that reasonable suspicion exists shall not be authorized to conduct the alcohol test on that employee.

- c. The company may permit law enforcement officers who have been certified by state or local governments to conduct alcohol test if they are deemed to be qualified to perform as a BAT. In order for a test to be accepted under the DOT requirements, the officer must have been certified by a state or local government to use the EBT that was used for the appropriate test.

XIV. EVIDENTIAL BREATH TESTING (EBT) PROCEDURES

- a. The evidential breath testing procedures set forth in this Plan address all the requirements as set forth in 49 CFR Part 40 and specifies the required form and disposition of such testing.
 - i. **Alcohol Testing Form and Log Book**
 1. The BAT shall utilize the standardized Breath Alcohol Testing The alcohol testing 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. The form must address the specific requirements contained in 40.59. *The Company* may not modify or revise the form.
 2. *The Company* may utilize a form that is directly generated by an EBT and may omit the space for affixing a separate printed result to the testing form. The form shall provide triplicate or three consecutive identical copies with copy 1 (white) being retained by *The Company*, copy 2 (green) shall be provided to the employee, and copy 3 (blue) shall be retained by the BAT.
 3. *The Company* shall use a logbook in conjunction with any EBT used for screening tests that does not meet the requirements listed under “Alcohol Testing Equipment” in the plan.
 4. The breath alcohol testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, provided that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.
 - ii. **Breath Testing Locations**
 1. *The Company* shall ensure that there are sufficient breath testing sites or the availability of BAT’s located within reasonable proximity to each of *The Company’s* work locations.
 2. *The Company* shall conduct the testing in a location that affords visual and aural privacy to the employee being tested. The location shall be secured as to prevent unauthorized personnel from seeing or hearing test results. All necessary equipment, personnel, and

materials for conducting the alcohol testing shall be provided at the testing site.

3. A mobile collection facility, such as a van that is equipped for alcohol testing, that meets the requirements set forth in this Plan may be utilized.
4. No unauthorized persons shall be permitted access to the testing site when the EBT remains unsecured, or in order to prevent such individuals from seeing or hearing a test result.
5. In some circumstances the company may have to conduct such alcohol testing outdoors at the scene of an accident that does not meet the requirements above. In such cases, the BAT shall provide the necessary visual and aural privacy to the employee to the greatest extent practicable.
6. The BAT shall supervise only one employee's use of the EBT at a time. The BAT shall not leave the alcohol testing site while the testing process is in progress.

iii. Preparations for Testing

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

iv. Procedures for Screening

1. The BAT shall begin the alcohol testing process by completing Step I on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The BAT shall select an individually-sealed mouthpiece and it shall be opened in full view of the employee and the BAT and attached to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT instrument indicates that an adequate amount of breath has been obtained.
4. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The

result shall be secured in such a manner that will provide clear evidence or removal, such as the use of tamper-evident tape.

5. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
6. If the result of the screening alcohol test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then sign the certification and fill in the date in Step 4 of the form. If the employee does not sign the certification in Step 4 or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.
7. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the company representative and the employee shall be notified.
8. At this point, no further testing is necessary. The BAT shall transmit the result of less than 0.02 to the Program Manager / Company Representative in a confidential manner. The company shall receive and store the information so as to ensure that confidentiality is maintained as required in this Plan.
9. If the result of the screening test is an alcohol concentration of 0.02 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will upon completion of the alcohol test provide the employee with Copy 2 of the breath alcohol testing form.

v. Procedures for Confirmations

1. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT will require the employee to provide positive identification such as photo ID card or identification by a company representative. The BAT will upon request of the employee being tested provide such identification. T
2. he BAT shall instruct the employee not to eat, drink, put any object or substance in is / her mouth and, to the extent possible, not belch during the waiting period just prior to the confirmation test being performed. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 20 minutes of the completion of the screening test. The BAT shall explain to the employee that the reason for this is to

prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions. The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided; the BAT shall not the observations in the "Remarks" section of the form.

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

result, the BAT shall not the disparity in the “Remarks” section. Both the BAT and the employee shall initial or sign the notation on the testing form. The test shall be considered “invalid” and the company representative and employee shall be notified.

9. The BAT shall transmit all alcohol testing results to the Program Manager / Company Representative in a confidential manner. All communications by BAT’s shall be to the Program Manager or designee only and may be provided in writing, in person, by telephone or by electronic means. The BAT shall ensure that immediate transmission of the test results is conducted in order for the company to prevent the employee from performing any covered functions.
10. Should the initial transmission not be accomplished in writing, but via telephone notification, the Program Manager shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing the company’s copy of the breath alcohol testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

vi. Refusal to Test / Uncompleted Tests

1. Refusal by an employee to complete and sign Step 2 of the breath alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the “Remarks” section of the form. The testing process shall be terminated and the BAT shall immediately notify the company’s Program Manager or designee.
2. If a screening or confirmation test cannot be completed or if an event occurs to invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test using a new breath alcohol testing form with a new sequential test number.

vii. Inadequate Amount of Breath

1. If the employee is unable, or alleges that he / she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT shall immediately inform the company’s Program Manager.
2. If the employee attempts and fails to provide an adequate amount of breath, the BAT shall so note in the “Remarks” section of the testing form and shall immediately inform the Program Manager. The Program Manager shall direct the employee to obtain, as soon as practical after the attempt, an evaluation from a licensed

physician who is acceptable to the company concerning the employee's medical ability to provide an adequate amount of breath.

3. If the physician determines, in his / her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the company a written statement of the basis of his/her conclusion.
4. If the physician, in his / her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take the test. The physician shall provide a written statement of the basis for his / her conclusion to the company.

viii. Circumstances for an Invalid Test

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

XV. DISCLOSURE OF ALCOHOL INFORMATION/RECORDS

- a. The company shall maintain all alcohol related testing information including all test results and other appropriate records in a secure manner to prevent the disclosure of such information to unauthorized personnel.
- b. The Program Manager shall maintain a locked file system which will contain the alcohol testing information and records. This file shall be maintained as

confidential. Employee files shall be handled on a strict “need to know” basis. Alcohol test results shall not be included in personnel files. The following provisions of disclosure will apply:

- i. The company shall not release covered employee information that is contained in records as required to be maintained by the provisions of this plan and in accordance with federal requirements except as required by law or when expressly authorized or required by 49 CFR Parts 199 and 40.
- ii. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee’s use of alcohol, including any records pertaining to his / her alcohol tests. The company shall promptly provide the requested records. Access to an employee’s records shall not be contingent upon payment for records other than those specifically requested.
- iii. The company shall permit access to all facilities utilized in complying with the requirements of 49 CFR Parts 199 and 40 to the Secretary of Transportation or any DOT agency with regulatory authority over the company.
- iv. The company shall make available copies of all results for alcohol testing conducted under this Plan as required by 49 CFR Parts 199 and 40 when requested by the Secretary of Transportation of any DOT or state agency with regulatory authority over the company. When specified by the agency the information shall include name-specific alcohol test results, records, and reports.
- v. When requested by the National Transportation Safety Board as part of an accident investigation, the company shall disclose information related to its administration of any post-accident alcohol tests administered following the accident under investigation.
- vi. The company shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee’s written request.
- vii. The company may disclose required information pertaining to a covered employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol test administered as required by this Plan and the regulations set forth in 49 CFR Parts 199 and 40 or from the company’s determination that the covered employee engaged in prohibited alcohol conduct including, but not limited to, a worker’s compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.
- viii. The company shall release information regarding a covered employee’s records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only

in accordance with the terms of the employee's consent.

XVI. EMPLOYEE ASSISTANCE PROGRAM (EAP):

- a. The EAP will provide education and training on alcohol misuse to all employees. The education shall include:
 - i. Informational material displayed on bulletin boards, employee break areas, locker rooms, etc., and distributed to employees.
 - ii. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees (displayed in *the Company's Drug Alcohol, and Contraband, S.O.P. 5A,*) and
 - iii. Distribution of company's policy regarding the alcohol misuse to all new employees. This Plan shall be displayed in prominent places throughout the company's property.

XVII. SUPERVISORY TRAINING

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

XVIII. RECORD KEEPING PROCEDURES

- a. *The Company* shall maintain the alcohol testing records in accordance with the provisions set in this Plan. Records shall be maintained for the specified periods of time required set forth in 49 CFR Parts 199 and 40. The following types of records shall be maintained for a minimum period of five years:
 - i. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
 - ii. Documentation of refusals to take required alcohol tests.
 - iii. Calibration documentation of each EBT used in alcohol testing, including records of the results of external calibration checks.
 - iv. Employee referrals and evaluations.
 - v. MIS annual alcohol misuse report data.
- b. The following records shall be maintained for a minimum period of two years.
 - i. Records related to the collection process (except calibration of EBT devices).
 - ii. Records related to training.
 - iii. Records of the inspection and maintenance of each EBT used in employee testing.
 - iv. Documentation of the company's compliance with the QAP for each EBT

- it uses for alcohol testing under this Plan.
- v. Records of the training and proficiency testing of each BAT used in employee testing.
 - vi. Log books used in conjunction with EBT's.
- c. The following types of records shall be maintained for a minimum period of one year.
- i. Records of all test results below 0.02.
- d. The following types of records related to the collection process shall be maintained:
- i. Collection log books, if used.
 - ii. Calibration documentation for EBT devices. Documentation of BAT training.
 - iii. Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
 - iv. Documents generated in connection with decisions to administer post-accident alcohol tests.
 - v. Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for alcohol testing.
- e. The following types of records pertaining to test results shall be maintained:
- i. Company's copy of the alcohol test form, including the results of the test.
 - ii. Documents related to the refusal of any covered employee to submit to a required alcohol test.
 - iii. Documents presented by a covered employee to dispute the result of an alcohol test administered under this Plan.
 - iv. All other records pertaining to other violations outlined in this Plan.
- f. The following types of records related to referrals and evaluations shall be maintained:
- i. Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
 - ii. Records concerning a covered employee's compliance with the recommendations of the SAP.
- g. Records related to the company's MIS annual alcohol misuse testing data. The company shall submit the required alcohol misuse MIS testing data to RSPA as prescribed by the regulations.
- h. The following types of records related to education and training of employees and supervisors shall be maintained:
- i. Materials on alcohol misuse awareness, including a copy of the company's policy on alcohol misuse.
 - ii. Documentation of compliance with the requirements of 49 CFR Part 199.231.
 - iii. Documentation of training provided to supervisors for the purposes of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.
 - iv. Certification that any training conducted under this Plan complies with the

requirements set forth in 49 CFR Part 199 and 40.

XIX. CONTRACTOR MONITORING PROCEDURES

- a. In order to assure a contractor's compliance with DOT's regulations, the following procedures will be followed in determining compliance with the alcohol misuse testing regulations as set forth in 49 CFR Part 199 Subpart B and 49 CFR Part 40 Subpart C.
 - i. **Qualifying Potential Contractor(s)** - Qualifications of the potential contractor as it pertains to alcohol testing regulations is assured by requesting the potential contractor to submit a copy of its Plan for review and compliance with RSPA / DOT regulations. After review of the 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 RSPA Alcohol Misuse Inspection Form. Addendum's make to the contractor's Plan shall be attached to the previously submitted Plan. Upon approval of the addendum, 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 Parts 199 and 40.
 - ii. **Monitoring Contractor's Compliance** - The contractor may be required to provide information on their employees who will perform covered functions for the operator. This information may include the name and job title of its employees who will perform any work or functions covered by Part 199 under that contract. A list of each contractor's covered employees may be distributed to appropriate company field management and job sites.
 - iii. **Statistical Submission** - All contractors will be required to submit AMIPP testing statistical information on a periodical basis which may be based on the duration of the contract. Typically this requirement will be conducted on a monthly or quarterly basis. The company may require a more frequent schedule for submission of data should it determine a need.
 - iv. **Statistical Record Retention** - *The Company* shall maintain a complete file on each contractor's statistical drug testing data reports. The company shall make available these reports when requested by the RSPA Administrator, designated representative, or representatives of those state agencies under which jurisdiction the company operates.