



**CITY OF SOUTH BEND, INDIANA**  
**CONTRACTOR'S BID FOR PUBLIC WORK**  
**CHECKLIST FOR BIDDERS**

Project Name 2024 Traffic Calming  
Project No. 123-075  
For Bids Due September 24, 2024

From time to time the South Bend Board of Public Works finds it necessary to reject a bid because it does not comply with statutory requirements. In preparing your bid, please use the following checklist in order to make sure that your bid is done in the proper manner.

- Proper bid security included. The bidder has the option of providing either a Certified Check or Bid Bond.
- Bid prepared on the City of South Bend Contractor's Bid for Public Work Form, completely executed.
- Contractor's Non-Collusion and Non-Debarment Affidavit, Certification Regarding Investments with Iran, Employment Eligibility Verification, Non-Discrimination Commitment, and Certification of use of United States Steel Products or Foundry Products.
- Proof of M/WBE Utilization Plans [MBE-1.0 and WBE-1.0]. Also provide Evidence of Good Faith Efforts Forms [MBE-2.0 and WBE-2.0] and M/WBE Contacted Forms [MBE-2.1 and WBE-2.1].
- Acknowledge Receipt of 1 Addendum(s) included with the bid.
- All required additional information is included with the bid.
- Proposal statements and other affidavits all signed by the proper party with name either printed or typed underneath signature.
- This checklist submitted with the Bid.

**This checklist is provided for bidder's use in assuring compliance with required documentation; however, it does not include all specifications requirements and does not relieve the bidder of the need to read and comply with the specifications.**

Bidder: PREMIUM CONCRETE SERVICES Date: 9/23/24

By Authorized Representative:

Signature: 

Print Name & Title: MAX YEAHEY - VP

**CITY OF SOUTH BEND, INDIANA  
CONTRACTOR'S BID FOR PUBLIC WORK**

Project Name 2024 Traffic Calming

Project No. 123-075

For Bids Due September 24, 2024

**PART I**

(Must be completed for all bids. Please type or print)

Date: 9/23/24 Bidder (Firm): PREMIUM CONCRETE SERVICES

Address: 712 RICHMOND ST

City/State/Zip: ELKHART, IN 46516 Telephone Number: ( 574 ) 264-0196

Email Address: MAX@PREMIUMSERVICES.GROUP

Agent of Bidder (if Applicable): \_\_\_\_\_

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of:

2024 TRAFFIC CALMING

the City of South Bend, Indiana, in accordance with plans and specifications prepared by:  
**CITY OF SOUTH BEND DIVISION OF ENGINEERING**

and dated AUGUST 2024 for the sum of (enter the Total Bid as shown on the Proposal)

THREE HUNDRED NINETY-NINE THOUSAND FOUR HUNDRED THIRTY DOLLARS

( \$ 399,430.00 )

(Enter sum of Total Base Bid plus Alternates shown on Proposal)

(Numerical)

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page. If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the City of South Bend. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

By \_\_\_\_\_

MAX YEAKEY

(Signature)

(Printed Name of Person Signing)

**ACCEPTANCE**

The above bid is accepted this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Subject to the following conditions: \_\_\_\_\_

**BOARD OF PUBLIC WORKS**

\_\_\_\_\_  
President

\_\_\_\_\_  
Members

## **PART II**

(For projects of \$100,000 or more – IC 36-1-12-4)

These statements to be submitted under oath by each bidder with and as part of his/her/its bid.

Attach additional pages for each section as needed.

### **SECTION I EXPERIENCE QUESTIONNAIRE**

1. Attach information regarding projects your organization has completed for the period of one (1) year prior to the date of the current bid.
2. Attach a listing of public works projects currently in process of construction by your organization.
3. Attach information regarding any failure to complete any work awarded to you and the location thereof.
4. Attach references from private firms for which you have performed work.

### **SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE**

1. Attach an explanation of your plan or layout for performing proposed work. (Examples could include a narrative of when you could begin work, complete the project, number of workers, etc. and any other information which you believe would enable the City of South Bend to consider your bid.)
2. Attach a listing of the names and addresses of all subcontractors (i.e. persons or firms outside your own firm who have performed part of the work) that you have used on public works projects during the past five (5) years along with a brief description of the work done by each subcontractor.
3. If you intend to sublet any portion of the work, attach the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you will require a bond. However, if you are unable to currently provide a listing, please understand a listing must be provided prior to contract approval. Until the completion of the proposed project, you are under a continuing obligation to immediately notify the City of South Bend in the event that you subsequently determine that you will use a subcontractor on the proposed project.
4. Attach a listing of equipment you have available to use for the proposed project.
5. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? If not, attach an explanation for the rationale used which would corroborate the prices listed.

### **SECTION III CONTRACTOR'S FINANCIAL STATEMENT**

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the City of South Bend awarding the contract must be specific enough in detail so that said City of South Bend can make a proper determination of the bidder's capability for completing the project if awarded.

When the prospective Contractor is unable to certify to any of the statements below, it shall attach an explanation to this Affidavit.

**CONTRACTOR'S NON-COLLUSION AND NON-DEBARMENT AFFIDAVIT, CERTIFICATION REGARDING INVESTMENT WITH IRAN, EMPLOYMENT ELIGIBILITY VERIFICATION, NON-DISCRIMINATION COMMITMENT AND CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS OR FOUNDRY PRODUCTS**

(Must be completed for all quotes and bids. Please type or print)

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STATE OF INDIANA )  
 ) SS:  
ELKHART COUNTY )

The undersigned Contractor, being duly sworn upon his/her/its oath, affirms under the penalties of perjury that:

1. Contractor has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding. Contractor further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale; and

2. Contractor certifies by submission of this proposal that neither contractor nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and

3. Contractor has not, nor has any successor to, nor an affiliate of, Contractor, engaged in investment activities in Iran.

a. For purposes of this Certification, "Iran" means the government of Iran and any agency or instrumentality of Iran, or as otherwise defined at Ind. Code § 5-22-16.5-5, as amended from time-to-time.

b. As provided by Ind. Code § 5-22-16.5-8, as amended from time-to-time, a Contractor is engaged in investment activities in Iran if either:

i. Contractor, its successor or its affiliate, provides goods or services of twenty million dollars (\$20,000,000) or more in value in the energy sector of Iran; or

ii. Contractor, its successor or its affiliate, is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person for forty-five (45) days or more, if that person will (i) use the credit to provides goods and services in the energy sector in Iran; and (ii) at the time the financial institution extends credit, is a person identified on list published by the Indiana Department of Administration.

4. Contractor does not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

Contractor agrees that he/she/it shall enroll in and verify the work eligibility status of all of Contractor's newly hired employees through the E-Verify Program as defined by I.C. 22-5-1.7-3. Contractor's documentation of enrollment and participation in the E-Verify Program is included and attached as part of this bid/quote; and

5. Contractor shall require his/her/its subcontractors performing work under this public contract to certify that the subcontractors do not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the subcontractor subsequently learns is an unauthorized alien, and that the subcontractor has enrolled in and is participating in the E-Verify Program. The Contractor agrees to maintain this certification throughout the term of the contract with the City of South Bend, and understands that the City may terminate the contract for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the City.

6. Persons, firms, partnerships, corporations, associations, or joint venturers awarded a contract by the City of South Bend through its agencies, boards, or commissions shall not discriminate against any employee or applicant for employment in the performance of a City contract with respect to hire, tenure, terms, conditions, or privileges of contract or employment, or any matter directly or indirectly related to contracting or employment because of race, sex, religion, color, national origin, ancestry, gender expression, gender identity, sexual orientation, or due to age or disability that does not affect that person's ability to perform the work.

In awarding contracts for the purchase of work, labor, services, supplies, equipment, materials, or any combination of the foregoing including, but not limited to, public works contracts awarded under public bidding laws or other contracts in which public bids are not required by law, the City, its agencies, boards, or commissions will consider the Contractor's good faith efforts to obtain participation by those subcontractors certified by the State of Indiana as a Minority Business ("MBE") or as a Women's Business Enterprise ("WBE") as a factor in determining the lowest, responsible, responsive bidder.

Contractors seeking the award of a City contract cannot be required to award a subcontract to an MWBE; however, they may not unlawfully discriminate against said MBE/WBE. On goal-eligible contracts, Contractors are required to either meet both MBE and WBE utilization goals or demonstrate that the Contractor has made good faith efforts to obtain participation from MBE and WBE subcontractors. A finding of noncompliance or a discriminatory practice shall prohibit that Contractor from being awarded a City contract for a period of one (1) year from the date of such determination, and such determination may also be grounds for terminating the contract to which the discriminatory practice or noncompliance pertains.

7. The undersigned Contractor agrees that the following nondiscrimination commitment shall be made a part of any contract which it may henceforth enter into with the City of South Bend, Indiana or any of its agencies, boards or commissions.

Contractor agrees not to discriminate against or intimidate any employee or applicant for employment in the performance of this contract with privileges of employment, or any matter directly or indirectly related to employment, because of race, religion, color, sex, gender expression, gender identity, sexual orientation, handicap, national origin or ancestry. Breach of this provision may be regarded as material breach of contract.

I, the undersigned bidder or agent as contractor on a public works project, understand my statutory obligations to the use of steel products or foundry products made in the United States (I.C. 5-16-8-1). I hereby certify that I and all subcontractors employed by me for this project will use steel products or foundry products made in the United States on this project if awarded. I understand I have an affirmative duty to notify the City in my bid that my proposal does not include the use of steel products or foundry products made in the United States. I understand it is my sole obligation and responsibility to provide a justification to the City, subject to review and approval, why the cost of United States made steel or foundry products is unreasonable. Prior to award and upon submission of bid which does not use steel products or foundry products made in the United States, the City, through its director of public works, shall make a determination if the price of United States made steel or foundry is unreasonable. I understand that violations hereunder

may result in forfeiture of contractual payments.

\*\*\*

I hereby affirm under the penalties of perjury that the facts and information contained in the foregoing bid for public works are true and correct.

Dated this 24<sup>th</sup> day of SEPT, 2024

PREMIUM CONCRETE SERVICES

Contractor/Bidder (Firm)

  
Signature of Contractor/Bidder or Its Agent

MAX YEAKEY VP

Printed Name and Title

Subscribed and sworn to before me this 24<sup>th</sup> day of SEPT, 2024

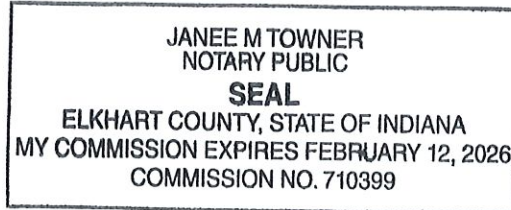
My Commission Expires 02/12/2026

Jane M. Towner

Notary Public

County of Residence

ELKHART





**BID/PROPOSAL  
CITY OF SOUTH BEND**

**Project Name:** 2024 Traffic Calming

**Project Number:** 123-075

**For Bids Due:** September 24, 2024

**Contractor Name:** PREMIUM CONCRETE SERVICES

**BASE BID**

Item No.	Description	Quantity	Unit	Unit Price	Total Amount
1	Concrete Speed Hump	12	EA	18,250.00	219,000.00
2	Installation Roadway Signs	24	EA	400.00	9,600.00
3	High Contrast Chevron Pavement Marking Set	24	EA	780.00	18,720.00
4	Advanced Warning Pavement Marking Set	24	EA	400.00	9,600.00
5	Concrete Curb and Gutter	250	LF	65.00	16,250.00
6	Compacted Aggregate No. 53	100	TON	85.00	8,500.00
<b>BASE BID TOTAL</b>					<b>\$ 281,670.00</b>

**Alternate No. 1**

Item No.	Description	Quantity	Unit	Unit Price	Total Amount
1	Concrete Apron, 8"	24	EA	3,950.00	94,800.00
<b>ALTERNATE NO. 1 TOTAL</b>					<b>\$ 94,800.00</b>

**Alternate No. 2**


Item No.	Description	Quantity	Unit	Unit Price	Total Amount
1	Concrete Speed Hump	1	EA	18,250.00	18,250.00
2	High Contrast Chevron Pavement Marking Set	2	EA	780.00	1,560.00
3	Advanced Warning Pavement Marking Set	2	EA	500.00	1,000.00
4	Concrete Curb and Gutter	20	LF	65.00	1,300.00
5	Compacted Aggregate No. 53	10	TON	85.00	850.00
<b>ALTERNATE NO. 2 TOTAL</b>					<b>\$ 22,960.00</b>



BID/PROPOSAL  
CITY OF SOUTH BEND

Project Name: 2024 Traffic Calming  
Project Number: 123-075  
For Bids Due: September 24, 2024  
Contractor Name: PREMIUM CONCRETE SERVICES

Bidder (Firm): PREMIUM CONCRETE SERVICES  
Address: 712 RICHMOND ST  
City/State/Zip: ELKHART, IN 46516 Telephone Number: ( 574 ) 264-0196

By   
(Signature)  
MAX YEAKEY  
(Printed Name of Person Signing)






**CITY OF SOUTH BEND  
 MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN  
 FORM MBE-1.0  
 MBE UTILIZATION PLAN**

This completed form should be supplied with Bids that pertain to City of South Bend Public Works Projects involving MBE participation. It is the bidder's sole responsibility to verify whether any listed minority-owned business meets the MBE qualifications.  
 \*\*\*Goals should be calculated based on the Base Bid only.\*\*\*

Project Number: 123-075 Project Name: 2024 Traffic Calming  
 Bidder: PREMIUM CONCRETE SERVICES Total Bid Amount: \$ 281,670.00 MBE Goal: 4.30%  
 Page 1 of 1

Name & Address of MBE	Primary Contact Person (Name/Telephone)	Scope of Work to be Performed (Attach scope/schedule if you need additional space)	Dollar Amount of MBE Component	Percentage of Total Bid/Proposal
IST CLASS LOGISTICS 2213 ST CHARLES AVE SOUTH BEND, IN 46614	BERNARD COUTEE (574) 993-0071	TRUCKING	\$12,200.00	4.33%

Submitted by: MAX YEAKEY  9/23/24  
 Print Name Signature Date

\*\*\*Goals should be calculated based on the Base Bid only.\*\*\*

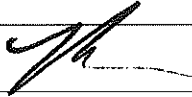
CITY OF SOUTH BEND  
 MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN  
 FORM WBE-1.0  
 WBE UTILIZATION PLAN



This completed form should be supplied with Bids that pertain to City of South Bend Public Works Projects involving WBE participation. It is the bidder's sole responsibility to verify whether any listed woman-owned business meets the WBE qualifications.  
 \*\*\*Goals should be calculated based on the Base Bid only.\*\*\*

Project Number: 123-075 Project Name: 2024 Traffic Calming  
 Bidder: PREMIUM CONCRETE SERVICES Total Bid Amount: \$ 281,670.00 WBE Goal: 6.10%  
 Page 1 of 1

Name & Address of WBE	Primary Contact Person (Name/Telephone)	Scope of Work to be Performed (Attach scope/schedule if you need additional space)	Dollar Amount of WBE Component	Percentage of Total Bid/Proposal
STATE BARRICADING 24963 US 20 W SOUTH BEND, IN 46628	JAMES MICHALSKI (574) 287-2078	TRAFFIC & SIGN INSTALLATION	\$ 17,320.00	6.15%

Submitted by: MAX YEAKEY  9/23/24  
 Print Name Signature Date

\*\*\*Goals should be calculated based on the Base Bid only.\*\*\*



# AIA Document A310™ – 2010

## Bid Bond

**CONTRACTOR:**

(Name, legal status and address)  
Premium Concrete Services, Inc.

712 Richmond St  
Elkhart, IN 46516

**OWNER:**

(Name, legal status and address)  
City of South Bend, Indiana, Department of Public Works  
County-City Building Room 1316, 227 West Jefferson Blvd  
South Bend, IN 46601

**BOND AMOUNT:**

Five Percent of the Total Bid

**SURETY:**

(Name, legal status and principal place  
of business)

Old Republic Insurance Company  
P. O. Box 0941  
Brookfield, WI 53008-0941

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**PROJECT:**

(Name, location or address, and Project number, if any)  
2024 Traffic Calming, Project No. 123-075

5% of Total Bid

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 18th day of September 2024

(Witness)

Premium Concrete Services, Inc.  
(Principal)

(Title)

Old Republic Insurance Company  
(Surety)

(Title) Jennifer L. Kasznia, Attorney-in-Fact

Max Yeakey - Vice President



**CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.**

Init.

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# OLD REPUBLIC INSURANCE COMPANY

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC INSURANCE COMPANY, a Pennsylvania stock insurance corporation, does make, constitute and appoint:  
NICOLE L BICKNELL, MEGAN E RIESENBERG, MARK EDWARD WOBBE, BARBARA E PEARSON, JENNIFER L KASZANIA, SANDRA L JUNK, WILLIAM J CERNEY, III,

WESLEY MANTOOTH, THERESA BURNS, JORDAN SCHEIBER, LISA M THOMAS, FAITH HUNT, PAMELA S. HIGGINBOTHAM of SOUTH BEND, IN its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the Company as surety, to execute and deliver and affix the seal of the Company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED TWENTY MILLION (\$20,000,000) FOR ANY SINGLE OBLIGATION

and to bind OLD REPUBLIC INSURANCE COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a meeting held on December 10, 2019. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC INSURANCE COMPANY on December 10, 2019.

RESOLVED FURTHER, that the chairman, president or any vice president of the Company's surety division, in conjunction with the secretary or any assistant secretary of the Company, be and hereby are authorized and directed to execute and deliver, to such persons as such officers of the Company may deem appropriate, Powers of Attorney in the form presented to and attached to the minutes of this meeting, authorizing such persons to execute and deliver and affix the seal of the Company to bonds, undertakings, recognizances, and suretyship obligations of all kinds, other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and not guaranty bonds. The said officers may revoke any Power of Attorney previously granted to any such person.

RESOLVED FURTHER that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company (i) when signed by chairmen, president or any vice president of the Company's surety division and attested and sealed (if a seal be required) by any secretary or assistant secretary; or (ii) when signed by a duly authorized Attorney-in-Fact and sealed with the seal of the Company (if a seal be required).

RESOLVED FURTHER, that the signature of any officer designated above, and the seal of the Company, may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC INSURANCE COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 30th day of November, 2022.

*Karen J. Haffner*  
Assistant Secretary



OLD REPUBLIC INSURANCE COMPANY

*Alan Pavlic*  
Vice President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 30th day of November, 2022, personally came before me, Alan Pavlic and Karen J. Haffner, to me known to be the individuals and officers of the OLD REPUBLIC INSURANCE COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said organization.



*Kathryn R. Pearson*  
Notary Public

My Commission Expires: September 28, 2026

(Expiration of notary's commission does not invalidate this instrument)

### CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC INSURANCE COMPANY, a Pennsylvania corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.



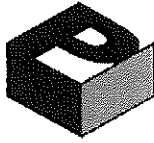
Signed and sealed at the City of Brookfield, WI this 18th day of September, 2024.

*Karen J. Haffner*  
Assistant Secretary

45-5314

ORSC 11008 (6-93)

GIBSON INSURANCE AGENCY, INC.



**Premium Concrete Services, Inc.**  
**712 Richmond Street**  
**Elkhart, IN 46516**  
**(574) 264-0196**

**SECTION I EXPERIENCE QUESTIONNAIRE**

**1) PUBLIC WORKS PROJECTS COMPLETED IN PAST YEAR:**

CONTRACT AMOUNT		COMPLETION DATE	OWNER
\$ 386,750.00	CURB & SIDEWALK	10/2023	CITY OF MISHAWAKA
\$ 486,975.50	SPLASHPADS	7/2024	CITY OF SOUTH BEND
\$ 973,418.00	CURB & SIDEWALK	5/2024	CITY OF SOUTH BEND
\$ 217,399.50	ADA CURB RAMPS	9/2024	CITY OF ELKHART

**2) PUBLIC WORKS PROJECTS IN PROGRESS:**

CONTRACT AMOUNT		COMPLETION DATE	OWNER
\$ 788,990.00	MULTI-USE PATH	10/2024	CITY OF ELKHART
\$ 7,394,177.00	STREETSCAPE	11/2024	CITY OF ELKHART
\$ 638,543.00	PARK IMPROVEMENTS	10/2024	TOWN OF WINONA LAKE
\$ 286,754.00	ROAD MEDIAN	4/15/2025	CITY OF ELKHART

**3) HAVE NEVER FAILED TO COMPLETE ANY WORK THAT WAS AWARDED TO US.**

**4) REFERENCES:**

- a. NISOURCE – MR. LUKE BRADLEY – 1039 PENNSYLVANIA AVE SOUTH BEND, IN 46601
- b. LOZIER MANUFACTURING – MR. KEN MURR – 402 N MAIN MIDDLEBURY, IN 46540
- c. HONEYWELL AEROSPACE – 3520 WESTMOOR ST SOUTH BEND, IN



**Premium Concrete Services, Inc.**  
**712 Richmond Street**  
**Elkhart, IN 46516**  
**(574) 264-0196**

**SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE**

- 1) Project: 2024 Traffic Calming PROJECT # 123-075 - Schedule:**  
After given the notice to proceed, Premium Concrete Services, Inc. will create a letter to hand out to residents with details of upcoming work. PCS will then contact Indiana 811 to locate all utility lines within construction limits. Layout and staking of sites will be next. Then removals, excavation, grading, and subgrade with a 3-man crew. After excavation and grading phases are complete, concrete work will commence. Forming and pouring of concrete work will be completed with a 5-man crew. Top soil and seeding, followed by pavement markings & installation of signage will complete the project. Subs will be utilized on this project to complete traffic control, pavement markings, signage & trucking. Multiple crews may be working at the same time. Project will be completed on schedule.
  
- 2) a) State Barricading Inc.- 24963 US 20 West South Bend, IN 46628 – Traffic Maintenance & Signs**  
**b) Acorn Landscaping – 3680 W Sample St South Bend, IN 46619 – Top Soil and Sodding.**  
**c) Kennedy Expressline – 4324 Ashard Dr South Bend, IN 46628 - Trucking**  
**d) Hawk Enterprises – 1850 East North St Crown Point, IN 46307 - Electric**  
**e) KC Tree, Inc – 8913 East US Hwy 20 New Carlisle, IN 46552 – Tree Removal**  
**f) 1<sup>st</sup> Class Logistics – 2213 St Charles Ave South Bend, IN 46614 - Trucking**  
**g) Slusser’s Green Thumb, Inc. – 1610 Genesis Dr LaPorte, IN 46350 - Landscaping**  
**h) Traffic Control Specialists – 1810 W Pacific Ave Knox, IN 46534 – Traffic Maintenance & Signs**  
  
Premium Concrete Services, Inc. Does not require bonding for its subcontractors
  
- 3) Will supply list of subcontractors soon after award of project.**
  
- 4) Equipment use for project: Skid Steers, Mini Excavators, Excavators, Compactors, Rollers, Walk-behind Saws, Cut-off Saws, Friction Screed, Dump Truck. Current plan is to use owned equipment, however depending on workload some rental equipment may be necessary.**
  
- 5) Yes, Premium Concrete Services, Inc. has quotes for all materials in proposal.**

**CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN**



**FORM MBE-2.0  
EVIDENCE OF GOOD FAITH EFFORTS**

**This completed form should be included as part of the Bids documents related to City of South Bend Public Works Projects requiring Good Faith Efforts to obtain MBE participation.**

Project Number: 123-075 Date: 9/23/24  
 Project Name: 2024 Traffic Calming  
 Bidder: PREMIUM CONCRETE SERVICES  
 Contact Person: ROB BECKER Telephone: (574) 264-0196  
 Address: 712 RICHMOND ST  
 City: ELKHART State: IN Zip: 46516  
 Email: RBECKER@PREMIUMSERVICES.GROUP

To determine whether a bidder has demonstrated good faith efforts to reach the MBE utilization goals set forth in the City of South Bend Public Works Project Specifications, the City and its agencies, boards, or commissions, **REQUIRE ALL** of the following Good Faith Efforts as listed in the table below\*:

EVIDENCE OF GOOD FAITH EFFORTS	
<b>MBE LIST(S):</b> The bidder reviewed 1) the City of South Bend's Minority and Women Business Enterprise Inclusion Program Plan; 2) the list of certified MWBEs provided by the City; and 3) the Indiana Department of Administration list of Minority and Women Owned Businesses (both certified and non-certified) found at: <a href="http://www.in.gov/idoa/">http://www.in.gov/idoa/</a> .	
GOOD FAITH EFFORTS TO OBTAIN MBE PARTICIPATION	
The bidder shall initial each item below, as evidence of its good faith efforts to obtain MBE participation in the awarded contract.	
RB	I <b>affirm</b> that I reviewed the City of South Bend's Minority and Women Business Enterprise Inclusion Program Plan and the Indiana Department of Administration's certified list of Indiana Minority and Women Business Enterprises, found on their website ( <a href="http://www.in.gov/idoa/">http://www.in.gov/idoa/</a> ).
RB	I <b>affirm</b> that I have made good faith efforts to select portions of the contract work to be performed by MWBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE participation.
RB	I <b>affirm</b> that I have made good faith efforts to solicit through all reasonable and available means the interest of all MBEs in the scopes of work of the contract.
RB	I <b>affirm</b> that I attended all pre-bid meetings scheduled by the City of South Bend to inform MBEs of contracting and subcontracting opportunities.
RB	I <b>affirm</b> that I advertised in general circulation and/or trade association publications concerning subcontract opportunities and allowed MBEs reasonable time to respond to such advertisements.
RB	I <b>affirm</b> that I performed any and all necessary steps to provide written notices in a manner reasonably calculated to inform MBEs of subcontracting opportunities and allowed sufficient time for MBEs to participate effectively.
RB	I <b>affirm</b> that I followed up on initial solicitations with interested MBEs.
RB	I <b>affirm</b> that I negotiated with interested MBEs in good faith, including providing such MBEs with adequate information about the plans, specifications and other requirements of the subcontract.
RB	I <b>affirm</b> that I have made good faith efforts to assist interested MBEs in obtaining bonding, lines of credit, or insurance as required by the City or the bidder, where appropriate.

**CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN**



**FORM MBE-2.0  
EVIDENCE OF GOOD FAITH EFFORTS**

	RB	I affirm that I have made good faith efforts to assist interested MBEs in obtaining necessary equipment, supplies, materials, or related assistances or services, where appropriate.
	RB	I affirm that I did not reject any MBEs as unqualified without sound business reasons based on a thorough investigation of their capabilities.
<p><b>CONTRACT RECORDS:</b> The bidder has maintained the following records for each MBE that has bid on the subcontracting opportunity:</p> <ol style="list-style-type: none"> <li>1. Name, address, and telephone number;</li> <li>2. A description of information provided by the bidder or subcontractor; and</li> <li>3. A statement of whether an agreement was reached, and if not, why not, including any reasons for concluding that the MBE was unqualified to perform the job.</li> </ol>		

**\*Proper demonstration of Good Faith Efforts requires your initials next to all of the above boxes. Any omissions shall be considered grounds for rejection of the bid by the Board of Public Works. The City of South Bend reserves the right to request additional information.**



**CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN**



**FORM WBE-2.0  
EVIDENCE OF GOOD FAITH EFFORTS**

This completed form should be included as part of the Bids documents related to City of South Bend Public Works Projects requiring Good Faith Efforts to obtain MWBE participation.

Project Number: 123-075 Date: 9/23/24  
 Project Name: 2024 Traffic Calming  
 Bidder: PREMIUM CONCRETE SERVICES  
 Contact Person: ROB BECKER Telephone: (574) 264-0196  
 Address: 712 RICHMOND ST  
 City: ELKHART State: IN Zip: 46516  
 Email: RBECKER@PREMIUMSERVICES.GROUP

To determine whether a bidder has demonstrated good faith efforts to reach the WBE utilization goals set forth in the City of South Bend Public Works Project Specifications, the City and its agencies, boards, or commissions, **REQUIRE ALL** of the following Good Faith Efforts as listed in the table below\*:

EVIDENCE OF GOOD FAITH EFFORTS	
<p><b>WBE LIST(S):</b> The bidder reviewed 1) the City of South Bend's Minority and Women Business Enterprise Inclusion Program Plan; 2) the list of certified MWBEs provided by the City; and 3) the Indiana Department of Administration list of Minority and Women Owned Businesses (both certified and non-certified) found at: <a href="http://www.in.gov/idoa/">http://www.in.gov/idoa/</a>.</p>	
GOOD FAITH EFFORTS TO OBTAIN WBE PARTICIPATION	
<p>The bidder shall initial each item below, as evidence of its good faith efforts to obtain WBE participation in the awarded contract.</p>	
RB	I affirm that I reviewed the City of South Bend's Minority and Women Business Enterprise Inclusion Program Plan and the Indiana Department of Administration's certified list of Indiana Minority and Women Business Enterprises, found on their website ( <a href="http://www.in.gov/idoa/">http://www.in.gov/idoa/</a> ).
RB	I affirm that I have made good faith efforts to select portions of the contract work to be performed by WBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate WBE participation.
RB	I affirm that I have made good faith efforts to solicit through all reasonable and available means the interest of all WBEs in the scopes of work of the contract.
RB	I affirm that I attended all pre-bid meetings scheduled by the City of South Bend to inform WBEs of contracting and subcontracting opportunities.
RB	I affirm that I advertised in general circulation and/or trade association publications concerning subcontract opportunities and allowed WBEs reasonable time to respond to such advertisements.
RB	I affirm that I performed any and all necessary steps to provide written notices in a manner reasonably calculated to inform WBEs of subcontracting opportunities and allowed sufficient time for WBEs to participate effectively.
RB	I affirm that I followed up on initial solicitations with interested WBEs.
RB	I affirm that I negotiated with interested WBEs in good faith, including providing such WBEs with adequate information about the plans, specifications and other requirements of the subcontract.
RB	I affirm that I have made good faith efforts to assist interested WBEs in obtaining bonding, lines of credit, or insurance as required by the City or the bidder, where appropriate.

**CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN**



**FORM WBE-2.0  
EVIDENCE OF GOOD FAITH EFFORTS**

	<p align="center">RB</p>	<p>I affirm that I have made good faith efforts to assist interested WBEs in obtaining necessary equipment, supplies, materials, or related assistances or services, where appropriate.</p>
	<p align="center">RB</p>	<p>I affirm that I did not reject any WBEs as unqualified without sound business reasons based on a thorough investigation of their capabilities.</p>
	<p><b>CONTRACT RECORDS:</b> The bidder has maintained the following records for each WBE that has bid on the subcontracting opportunity:</p> <ol style="list-style-type: none"> <li>1. Name, address, and telephone number;</li> <li>2. A description of information provided by the bidder or subcontractor; and</li> <li>3. A statement of whether an agreement was reached, and if not, why not, including any reasons for concluding that the MWBE was unqualified to perform the job.</li> </ol>	

**\*Proper demonstration of Good Faith Efforts requires your initials next to all of the above boxes. Any omissions shall be considered grounds for rejection of the bid by the Board of Public Works. The City of South Bend reserves the right to request additional information.**

CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN



FORM MBE-2.1  
MBE CONTACTED

This completed form should be supplied with Bids that pertain to City of South Bend Public Works Projects requiring Good Faith Efforts to contact MBEs. It is the bidder's sole responsibility to verify whether any listed minority-owned business meets the MBE qualifications. Attach additional pages if necessary.

PAGE 1 OF 1

Project Number: 123-075 MBE Participation Goal 4.30%

Project Name: 2024 Traffic Calming

Bidder: PREMIUM CONCRETE SERVICES

By: [Signature] SENIOR ESTIMATOR 9/23/24  
(Signature) (Title) (Date)

MBE Firm 1ST CLASS LOGISTICS

Owner or Contact at MBE Firm BERNARD COUTEE

Telephone: (574) 993-0071 Fax: \_\_\_\_\_ Email: 1STCLASSLOGISTICS2013@GMAIL.COM

TYPE OF WORK SOLICITED FOR THIS PROJECT:

TRUCKING

RESULTS OF CONTACT WITH THE MBE FIRM:

WILL UTILIZE IF AWARDED

MBE Firm \_\_\_\_\_

Owner or Contact at MBE Firm \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

TYPE OF WORK SOLICITED FOR THIS PROJECT:

RESULTS OF CONTACT WITH THE MBE FIRM:

CITY OF SOUTH BEND  
MINORITY AND WOMEN BUSINESS ENTERPRISE INCLUSION PROGRAM PLAN  
FORM MBE-2.1  
WBE CONTACTED



This completed form should be supplied with Bids that pertain to City of South Bend Public Works Projects requiring Good Faith Efforts to contact WBEs. It is the bidder's sole responsibility to verify whether any listed woman-owned business meets the WBE qualifications. Attach additional pages if necessary.

PAGE 1 OF 1

Project Number: 123-075 WBE Participation Goal 6.10%

Project Name: 2024 Traffic Calming

Bidder: PREMIUM CONCRETE SERVICES

By: *[Signature]* SENIOR ESTIMATOR 9/23/24  
(Signature) (Title) (Date)

WBE Firm STATE BARRICADING

Owner or Contact at WBE Firm JAMES MICHALSKI

Telephone: (574) 287-2078 Fax: \_\_\_\_\_ Email: STATEBARRICADE1@AOL.COM

TYPE OF WORK SOLICITED FOR THIS PROJECT:

TRAFFIC & SIGN INSTALLATION

RESULTS OF CONTACT WITH THE WBE FIRM:

WILL UTILIZE IF AWARDED

WBE Firm THE AIRMARKING CO

Owner or Contact at WBE Firm NICK RELIAS

Telephone: (574) 223-5817 Fax: \_\_\_\_\_ Email: NICK@AIRMARKING.COM

TYPE OF WORK SOLICITED FOR THIS PROJECT:

PAVEMENT MARKINGS

RESULTS OF CONTACT WITH THE WBE FIRM:

CURRENT PLAN IS TO UTILIZE ANOTHER CONTRACTOR FOR THIS WORK

1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9251  
FAX 574/ 235-9171  
TDD 574/ 235-5567

CITY OF SOUTH BEND, JAMES MUELLER, MAYOR  
**BOARD OF PUBLIC WORKS**

Date: September 17, 2024  
To: All Planholders  
From: Theresa Heffner, Clerk, Board of Public Works  
Subject: Addendum Number: 1  
Project Name: 2024 Traffic Calming  
Project Number: 123-075

**ACKNOWLEDGEMENT OF RECEIPT OF ADDENDUM**

Date Received: 9/19/24

This addendum is being forwarded to you for the above referenced project.

**Please sign below and acknowledge receipt of this Addendum by faxing this sheet to the Board of Public Works at (574) 235-9171 within 48 hours of receipt. A copy MUST also be included with your bid package upon submittal.**

**THIS ADDENDUM MAY AFFECT YOUR BID.**

Notes:

The attached documents are hereby added to the Specifications and Contract Documents and become a part of herein.

Company: PREMIUM CONCRETE SERVICES

Authorized Signature: 

Date: 9/19/24

**CITY OF SOUTH BEND, INDIANA**  
**CONTRACTOR'S BID FOR PUBLIC WORK**  
**RESPONSIBLE BIDDER CHECKLIST**

Project Name 2024 Traffic Calming  
Project No. 123-075  
For Bids Due September 24, 2024  
Contractor Name: PREMIUM CONCRETE SERVICES

The City seeks to enhance its ability to identify responsive and responsible bidders on all City public works projects by institution of comprehensive submission requirements in compliance with State law. Quality workmanship, efficient operation, safety, and timely completion of projects requires that all bidders meet certain minimum requirements to be responsive and responsible bidders.  
**THIS FORM MUST BE SUBMITTED WITH YOUR BID.**

**\*\*THIS FORM ONLY APPLIES TO BIDS GREATER THAN \$250,000. \*\***

**INSTRUCTIONS:**

**If you are a pre-qualified bidder, complete Section I only.**

**If you are not a pre-qualified bidder, complete Section II only.**

Section II acts as an application for pre-qualification. Submission of Section II will allow the bidder to be considered for pre-qualification for bids with the City of South Bend Department of Public Works. Pre-qualified bidders will then be exempt from a portion of the submission requirements outlined in Section 6-71 of The Responsible Bidding **Ordinance No. 10975-23** (hereinafter, "Responsible Bidding Ordinance") for a period of twelve (12) months.

Thereafter, contractors who are pre-qualified must submit a complete application for continuation of "pre-qualified" standing, on a form provided by the City ("Responsible Bidder Checklist (1) Pre-Qualified Bidders") within twelve (12) months of obtaining pre-qualified standing. If the status of any item changes within the twelve (12) months, it is the responsibility of the contractor to notify the City. Failure by any pre-qualified contractor to submit its complete application for continuation of "pre-qualified" standing within the time prescribed above shall result in automatic removal of the designation, effective immediately following the twelve (12) months of pre-qualified standing.

However, the "removed" contractor or subcontractor shall still be permitted to bid on City public works projects, though the contractor must submit all required documents under 6-71 until "pre-qualified" status is re-established.

**Please Note: The City reserves the right to request supplemental information from the bidder, additional verification of any information provided by the bidder, and may also conduct random inquiries of the bidder's current and previous customers regardless of pre-qualified standing.**

It is the sole responsibility of the potential bidder to comply with all submission requirements applicable to the bidder in Section 6-71 of the Responsible Bidding Ordinance no later than the date of the public bid opening.

**POST BID SUBMISSIONS:**

Post-bid submissions must be submitted in accordance with Section 6-72 of the Responsible Bidding Ordinance. The post-bid submission requirements are as follows:

1. All bidders shall collect, maintain, and provide upon request, a current written list that discloses the name, address, licensing status, and type of work for any subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the public work project, including individuals performing work as independent contractors.
2. Each subcontractor, whose portion of the project is estimated to be at least two-hundred fifty thousand dollars (\$250,000.00), shall be required to adhere to the requirements of Section I of the Responsible Bidder Ordinance as though it were bidding directly to the City, except that the subcontractor shall submit the required information (including the name, address, and type of work) to the successful bidder prior to the commencement of work.
3. Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, the City may withhold all payment otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the City approves such information.
4. The disclosure of a subcontractor list ("Disclosed Subcontractor(s)") to the City by a bidder shall not create any rights in the Disclosed Subcontractor(s). Thus, a bidder may substitute another subcontractor for a Disclosed Subcontractor by giving the City, upon request, written notice of the name, address, licensing status, and type of work of the substitute subcontractor.
5. The successful bidder for projects greater than \$250,000 and all subcontractors performing work greater than \$250,000 on a public works project are required to submit certified payroll utilizing the federal form known as WH-347 or a similar form on a bi-weekly basis, submitted within 10 days after the end of each bi-weekly payroll period. Certified payrolls shall identify the job title and craft for each employee. **Certified payrolls shall be submitted electronically.**

**Please Note: Submissions deemed inadequate, incomplete, or untimely by the City may result in the automatic disqualification of the bid.**

The City, after review of complete and timely submissions, shall, in its sole discretion, after taking into account all information in the submission requirements, determine whether a bidder is responsive and responsible, and provide a Pre-Qualification Verification Letter. The City specifically reserves the right to utilize all information provided in the contractor's submission and any information obtained by the City through its own independent verification of the information provided by the contractor.

I. PRE-QUALIFIED BIDDER CHECKLIST

(a) Acknowledgements:

- (i)  By checking this box, I hereby acknowledge that I am a pre-qualified bidder with the City of South Bend and that I have met the pre-qualification requirements within the last twelve (12) months. **A copy of my Pre-Qualification verification letter is attached.**
- (ii)  By checking this box, I hereby acknowledge that the City reserves the right to request supplemental information, additional verification of any information provided by me, and may also conduct random inquiries of my current and prior customers.
- (iii)  By checking this box, I hereby acknowledge that apprenticeship and training programs that I participate in have graduated at least five (5) apprentices in each of the past five (5) years.
- (iv)  By checking this box, I hereby acknowledge that all subcontractors performing work greater than \$250,000 also meet the qualifications of the Responsible Bidder Ordinance.

(b) Attachments:

- (i)  Indiana Secretary of State's on-line records (ie. Business verification) dated within sixty (60) days of the submission of said document showing that business is in existence, current with the Indiana Secretary of State's Business Entity Report, and eligible for a certificate of good standing. (Not applicable to individuals, sole proprietors or partnerships).
- (ii)  Statement on staffing capabilities, including labor sources. This statement indicates and ensures I have sufficient employees on staff to complete the work. It outlines how I intend to meet the staffing needs of the work.
- (iii)  List of projects of similar size and scope of work performed in all areas, including the State of Indiana, within the last three (3) years.
- (iv)  For every project, submit evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. This includes, but may not be limited to, letters from apprenticeship coordinators detailing the bidder's association with the program, and the United States Department of Labor Office of Apprenticeship Certificates of Registration of Apprenticeship Programs for each type of work to be performed on the project.



**II. PRE-QUALIFICATION CHECKLIST (FOR BIDDERS THAT ARE NOT PRE-QUALIFIED)**

(a) Acknowledgements:

- (i)   X   By checking this box, I hereby acknowledge that I am not a pre-qualified bidder with the City of South Bend.
- (ii)   X   By checking this box, I hereby acknowledge that the City reserves the right to request supplemental information, additional verification of any information provided, and may also conduct random inquiries of my current and prior customers. The City reserved the right to utilize all information provided in this submission and all information obtained in inquiries or requests to determine if a bidder is responsive and responsible. Additionally, I acknowledge that all information provided to the City shall be regarded as public records.
- (iii)   X   By checking this box, I hereby acknowledge that copies of all Applicable apprenticeship certificates or standards for training programs applicable to the work performed on the project may be requested at any time and shall be furnished upon request.
- (iv)   X   By checking this box, I hereby acknowledge and ensure that I and all sub-contractors, from whom I have accepted a bid and/or intend to hire to perform work on the public work project, are properly licensed. Furthermore, I acknowledge my understanding that it is my responsibility to ensure that all sub-contractors have the necessary licenses to undertake the work called for in this bid. If a sub-contractor loses their license at any point, it is the responsibility of that sub-contractor to notify the City.
- (v)   X   By checking this box, I hereby acknowledge that apprenticeship and training programs that I participate in have graduated at least five (5) apprentices in each of the past five (5) years.
- (vi)   X   By checking this box, I hereby acknowledge that all subcontractors performing work greater than \$250,000 also meet the qualifications of the Responsible Bidder Ordinance.


(b) Attachments:

- (i)   X   Indiana Secretary of State's on-line records (ie. Business verification) dated within sixty (60) days of the submission of said document showing that business is in existence, current with the Indiana Secretary of State's Business Entity Report, and eligible for a certificate of good standing. (Not applicable to individuals, sole proprietors or partnerships).
- (ii)   X   List identifying all former business names.
- (iii)   X   Any determinations by a court or governmental agency any violations of federal state, or local laws including, but not limited to, violations of contracting or antitrust laws, tax or licensing laws, environmental laws, Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts, within the preceding five (5) years.
- (iv)   X   Statement about staffing capabilities, including labor sources. This statement indicates and ensures I have sufficient employees on staff to complete the work I am bidding on OR outlines how I intend to meet the staffing needs of the work.
- (v)   X   Statement that individuals who will perform work on the public work project on my behalf will be properly classified as an employee or as an independent contractor under all applicable state and federal laws and local ordinances.
- (v)   X   For every project, submit evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. This includes, but may not be limited to, letters from apprenticeship coordinators detailing the bidder's association with

the program, and the United States Department of Labor Office of Apprenticeship Certificates of Registration of Apprenticeship Programs for each type of work to be performed on the project.

- (vi)   X   Copy of a written plan for employee drug testing that covers all of my employees who will perform work on the public work project and meets or exceeds the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6.
- (vii)   X   Evidence that I am utilizing a surety company which is on the Bureau of Fiscal Service "Department of Treasury's Listing of Approved Sureties" as required in the bid specifications or contract.
- (viii)   X   Written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the preceding three years.
- (ix)   X   List of projects of similar size and scope of work performed in all areas, including the State of Indiana, within three (3) years prior to the date on which the bid is due.

Date:   9/23/24  

  
\_\_\_\_\_  
(Sign Here)

  MAX YEAKEY    
(Print Name Here)

  PREMIUM CONCRETE SERVICES    
(Name of Company)

  712 RICHMOND ST    
(Address of Company)

  ELKHART    
(City)

  IN    
(State)

  (574) 264-0196    
(Telephone Number)

State of Indiana  
Office of the Secretary of State

Certified Copies

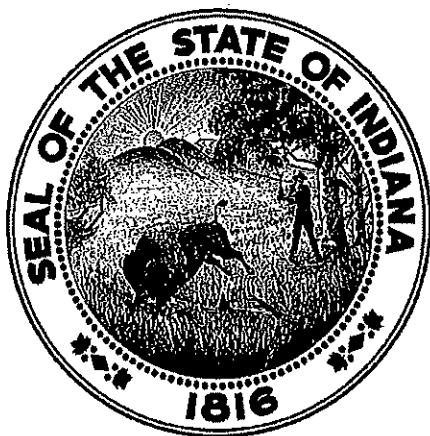
To Whom These Presents Come, Greeting:

I, DIEGO MORALES, Secretary of State of Indiana, do hereby certify that I am, by virtue of the laws of the State of Indiana, the custodian of the corporate records and the proper official to execute this certificate:

I further certify that this is a true and complete copy of this 4 page document consisting of the following records filed in this office:

Certification Date: May 22, 2024  
Business Name: PREMIUM CONCRETE SERVICES, INC.  
Business ID: 2004120100105

Transaction	Date Filed	No. of pages
Business Entity Report	09/06/2022	2
Certificate of Assumed Business Name	10/12/2022	2
	<b>Total No. of pages</b>	<b>4</b>



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, May 22, 2024

*Diego Morales*

DIEGO MORALES  
SECRETARY OF STATE

2004120100105 / 16709194

All certificates should be validated here: <https://bsd.sos.in.gov/ValidateCertificate>  
Expires on June 21, 2024.

APPROVED AND FILED  
HOLLI SULLIVAN  
INDIANA SECRETARY OF STATE  
09/06/2022 02:25 PM

**BUSINESS ENTITY REPORT**

**NAME AND PRINCIPAL OFFICE ADDRESS**

BUSINESS ID 2004120100105  
BUSINESS TYPE Domestic For-Profit Corporation  
BUSINESS NAME PREMIUM CONCRETE SERVICES, INC.  
ENTITY CREATION DATE 11/24/2004  
JURISDICTION OF FORMATION Indiana  
PRINCIPAL OFFICE ADDRESS 712 RICHMOND ST, ELKHART, IN, 46516, USA

**YEARS EFFECTIVE**

YEARS 2022/2023

**EFFECTIVE DATE**

EFFECTIVE DATE 09/06/2022  
EFFECTIVE TIME 2:25 PM

**REGISTERED OFFICE AND ADDRESS**

REGISTERED AGENT TYPE Individual  
NAME MAX A. YEAKEY  
ADDRESS 712 Richmond Street, Elkhart, IN, 46516, USA

**GOVERNING PERSON INFORMATION**

TITLE President  
NAME Becky L. Yeakey  
ADDRESS 712 Richmond Street, Elkhart, IN, 46516, USA

TITLE Vice President  
NAME Max A. Yeakey  
ADDRESS 712 Richmond Street, Elkhart, IN, 46516, USA

**APPROVED AND FILED**  
HOLLI SULLIVAN  
INDIANA SECRETARY OF STATE  
09/06/2022 02:25 PM

**SIGNATURE**

IN WITNESS WHEREOF, THE UNDERSIGNED HEREBY VERIFIES, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE, THIS DAY **September 6, 2022**.

THE UNDERSIGNED ACKNOWLEDGES THAT A PERSON COMMITS A CLASS A MISDEMEANOR BY SIGNING A DOCUMENT THAT THE PERSON KNOWS IS FALSE IN A MATERIAL RESPECT WITH THE INTENT THAT THE DOCUMENT BE DELIVERED TO THE SECRETARY OF STATE FOR FILING.

**SIGNATURE**

/s/ Matthew A. Yeakey

**TITLE**

Legal Representative

Business ID : 2004120100105

Filing No. : 9549531

State of Indiana  
Office of the Secretary of State

Certificate of Assumed Business Name  
of

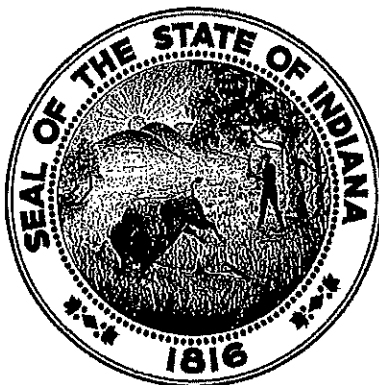
**PREMIUM CONCRETE SERVICES, INC.**

I, HOLLI SULLIVAN, Secretary of State, hereby certify that a Certificate of Assumed Business Name of the above Domestic For-Profit Corporation has been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Code.

Following said transaction, the above named entity will transact business under the assumed business name(s) of:

PREMIUM SERVICES

NOW, THEREFORE, with this document I certify that said transaction will become effective Tuesday, October 11, 2022.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, October 12, 2022.

HOLLI SULLIVAN  
SECRETARY OF STATE

2004120100105 / 9591594

To ensure the certificate's validity, go to <https://bsd.sos.in.gov/PublicBusinessSearch>

APPROVED AND FILED  
HOLLI SULLIVAN  
INDIANA SECRETARY OF STATE  
10/12/2022 08:45 AM

CERTIFICATE OF ASSUMED BUSINESS NAME

NAME AND PRINCIPAL OFFICE ADDRESS

BUSINESS ID 2004120100105  
BUSINESS TYPE Domestic For-Profit Corporation  
BUSINESS NAME PREMIUM CONCRETE SERVICES, INC.  
PRINCIPAL OFFICE ADDRESS 712 RICHMOND ST, ELKHART, IN, 46516, USA

EFFECTIVE DATE

EFFECTIVE DATE 10/11/2022  
EFFECTIVE TIME 04:58PM

ASSUMED NAME AND ADDRESS

Premium Services 712 Richmond Street, Elkhart, IN, 46516, USA

SIGNATURE

IN WITNESS WHEREOF, THE UNDERSIGNED HEREBY VERIFIES, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE, THIS DAY October 11, 2022.

THE UNDERSIGNED ACKNOWLEDGES THAT A PERSON COMMITS A CLASS A MISDEMEANOR BY SIGNING A DOCUMENT THAT THE PERSON KNOWS IS FALSE IN A MATERIAL RESPECT WITH THE INTENT THAT THE DOCUMENT BE DELIVERED TO THE SECRETARY OF STATE FOR FILING.

SIGNATURE Saulo I. Delgado  
TITLE Legal Representative

Business ID : 2004120100105  
Filing No. : 9591594



Premium Concrete Services, Inc.  
dba Premium Services  
712 Richmond Street  
Elkhart, IN 46516  
574-264-0196 fax 574-266-5392

---

May 23, 2024

To Whom it May Concern,

Premium Concrete Services, Inc. has never been identified by any other business name in the past. As of October 12, 2022, as filed with the Indiana Office of the Secretary of State, Premium Concrete Services, Inc. also conducts business as Premium Services.

Max Yeakey  
Vice-President





Premium Concrete Services, Inc.  
dba Premium Services  
712 Richmond Street  
Elkhart, IN 46516  
574-264-0196 fax 574-266-5392

---

May 23, 2024

To Whom it May Concern,

Premium Concrete Services, Inc. has no federal, state, or local tax delinquencies owed to any of the fore mentioned taxing bodies, nor has owed any in the past three years.

Max Yeakey  
Vice-President



Premium Concrete Services, Inc.  
dba Premium Services  
712 Richmond Street  
Elkhart, IN 46516  
574-264-0196 fax 574-266-5392

---

May 23, 2024

To Whom it May Concern,

Premium Concrete Services, Inc. currently employs 63 people, 5 of which are field supervisors, 9 concrete finishers, 18 laborers, 10 heavy equipment operators, 1 carpenter and 1 ironworker. We are signatory to the local Cement Masons, Laborers, Operators, Carpenters, and Ironworkers unions through which extra employees can be pulled from when needed.

Max Yeakey  
Vice-President

# INDIANA LABORERS' TRAINING TRUST FUND

*David A. Frye*  
*Secretary-Treasurer*  
*Jerry J. Bolk*  
*Chris Brickey*  
*Ricky Henson, Jr.*  
*Ramon Mendoza, Jr.*  
*Brian Short*



*John P. Brown*  
*Chairman*  
*Kelly Abel*  
*Michael Ferrara*  
*Stan Meyer*  
*Nick Timmerman*  
*Jim Wiseman*

**P.O. Box 758 - Bedford, Indiana 47421**  
**(812) 279-9751**

*Sean Coakley, Director*

**FAX: (812) 279-5545**  
**Toll Free (800) 742-4086**

June 6, 2024

To Whom It May Concern:

This letter is to confirm that "Premium Concrete Services, Inc." is a signatory contractor in good standing with the Indiana Laborers' Training Trust Fund.

The above-mentioned company is a participant in the Joint Apprenticeship and Training Committee through this Union and has been an active participant in good standing and is currently eligible to use our apprentices on a project.

Further, our organization's program is approved by the U.S. Veterans Administration to participate in the GI educational benefits program. A copy of our approval letters are attached along with the collective bargaining agreement stating the ratios of Journey workers to Apprentices; which is one (1) Apprentice for every four (4) Journey workers and thereafter may not employ more that (1) Apprentice for every (3) Journey workers.

Sincerely,

Sean Coakley,  
Director

SC:jb

# The United States Department of Labor



## Bureau of Apprenticeship and Training

### Certificate of Registration

INDIANA LABORER'S TRAINING TRUST FUND

BEDFORD, INDIANA

For the trade classification of CONSTRUCTION CRAFT LABORER

*Registered as part of the National Apprenticeship Program  
in accordance with the basic standards of apprenticeship  
established by the Secretary of Labor*

December 14, 1995

Date

IN040-0528

Registration No.

Secretary of Labor

*Robert B. Hill*

*Anthony Suerge*  
Director, Bureau of Apprenticeship and Training

# STATE OF INDIANA

DEPARTMENT OF VETERANS AFFAIRS  
STATE APPROVING AGENCY  
402 WEST WASHINGTON STREET ROOM W-469  
INDIANAPOLIS, INDIANA 46204-2738



Eric Holcomb, Governor  
James M. Brown, Director

Jeremy Brewer  
Apprenticeship Coordinator  
Indiana Laborers Training Trust Fund-Apprenticeship  
439 Patton Hill Rd.  
Bedford, IN 47421

January 9, 2019

Dear Jeremy Brewer,

The Indiana State Approving Agency conducted a supervisory visit on 01/8/2019 at Indiana Laborers Training Trust Fund-Apprenticeship. The purpose of the visit was to provide training to the Certifying Officials and review enrollment certifications, record retention and reporting procedures.

The organization demonstrated proper record maintenance and record maintenance and reporting procedures. During the visit, we discussed the importance of reporting hours on a monthly basis, good record keeping techniques, and how to report a leave of absence or completion via VA Form 22-1999b. We also updated the Certifying Officials via VA Form 22-8794, work processes, and wage scale.

If you need any assistance or have any questions regarding this technical visit please contact me directly at [tgriffin@dva.in.gov](mailto:tgriffin@dva.in.gov) or (317) 232-3916. Thank you for the courtesy extended during my visit. The education and training opportunities that your organization continues to provide veterans and their dependents are appreciated.

Sincerely,

Taniqua Griffin  
Program Director

APPROVED  
JAN - 9 2019  
INDIANA STATE APPROVING AGENCY

# STATE OF INDIANA

DEPARTMENT OF VETERANS AFFAIRS  
STATE APPROVING AGENCY  
402 WEST WASHINGTON STREET ROOM W469  
INDIANAPOLIS, INDIANA 46204-2738



Eric Holcomb, Governor  
James M. Brown, Director

January 9, 2019

Jeremy Brewer  
Apprenticeship Coordinator  
Indiana Laborers Training Trust Fund-Apprenticeship  
439 Patton Hill Rd.  
Bedford, IN 47421

Dear Jeremy Brewer,

This will acknowledge receipt of your updated **Wage Scale** for the **Construction Craft Laborer** program offered by Indiana Laborers Training Trust Fund-Apprenticeship. The State Approving Agency has reviewed the document as listed below:

**Wage Scale: Construction Craft Laborer**

**FACILITY CODE: 30004114**

To the best of my knowledge Indiana Laborers Training Trust Fund-Apprenticeship does not utilize erroneous or misleading advertisement, either by actual statement, omission, or intimation. It is understood by Indiana Laborers Training Trust Fund-Apprenticeship that they will maintain a complete record of all advertising utilized by or on behalf of the Indiana Laborers Training Trust Fund-Apprenticeship in regards to their training programs during the preceding 12 months. Indiana Laborers Training Trust Fund-Apprenticeship's advertising will be available for review by any and all future supervisory visits by the SAA, or the U.S. Department of Veteran Affairs.

Please Review the entire packet for content and accuracy. Approval is granted pursuant to the provisions of Title 38, U.S. Code 3687, with an effective date of **April 1, 2018**.

If you have any questions, please feel free to give me a call at 317-232-3916 or email me at [tgriffin@dva.in.gov](mailto:tgriffin@dva.in.gov). Thank you for what you do for our Veterans, and have a great day!

Sincerely,

Taniqua Griffin  
Program Director  
State Approving Agency  
Cc: VARO/ELR

APPROVED  
JAN - 9 2019  
INDIANA STATE APPROVING AGENCY

# STATE OF INDIANA

DEPARTMENT OF VETERANS AFFAIRS  
STATE APPROVING AGENCY  
402 WEST WASHINGTON STREET ROOM W-469  
INDIANAPOLIS, INDIANA 46204-2738



Eric Holcomb, Governor  
James M. Brown, Director

Jeremy Brewer  
Apprenticeship Coordinator  
Indiana Laborers Training Trust Fund-Apprenticeship  
439 Patton Hill Rd.  
Bedford, IN 47421

January 9, 2019

Dear Jeremy Brewer,

This will acknowledge receipt of your **revised Work Processes** for the **Construction Craft Laborer** program offered at Hoosier Energy, located in Bedford, Indiana. The State Approving Agency has reviewed the document as listed below:

<u>TRAINING PROGRAM</u>	<u>LENGTH</u>	<u>DOT CODE</u>
Construction Craft Laborer	4,000-7800 hours	47-2061.00

**FACILITY CODE: 30004114**

To the best of my knowledge Indiana Laborers Training Trust Fund-Apprenticeship does not utilize erroneous or misleading advertisement, either by actual statement, omission, or intimation. It is understood by Indiana Laborers Training Trust Fund-Apprenticeship that they will maintain a complete record of all advertising utilized by or on behalf of the company in regards to their training programs during the preceding 12 months. The company's advertising will be available for review by any and all future supervisory visits by the SAA, or the U.S. Department of Veteran Affairs.

This approval is made pursuant to and under the provisions of Title 38, U. S. Code 3687, with an effective date of **January 8, 2019**.

If you have any questions, please contact me at 317-232-3916.

Sincerely,

Taniqua Griffin  
Program Director  
State Approving Agency  
Cc:VARO/ELR

APPROVED  
JAN - 9 2019  
INDIANA STATE APPROVING AGENCY

## Apprentice Status Report By Indenture Date

Apprentices Indentured Between 1/1/2019 And 12/31/2023

Apprentice Program: IN2

Year	Apprentice Status	Apprentices	Percentage
------	-------------------	-------------	------------

**2019**

Active	26	2.84 %
Adv. to Journeyman	96	10.47 %
Deceased	9	0.98 %
Graduated	110	12.00 %
Inactive	11	1.20 %
Journeyman	12	1.31 %
Med. Susp.	1	0.11 %
Reinstate	2	0.22 %
Suspended	1	0.11 %
Terminated	578	63.03 %
Voluntary withdraw	71	7.74 %
<b>Total Indentured</b>		<b>917</b>

**2020**

Active	32	4.95 %
Adv. to Journeyman	72	11.15 %
Deceased	2	0.31 %
Graduated	59	9.13 %
Journeyman	1	0.15 %
Not Registered	1	0.15 %
Reinstate	2	0.31 %
Suspended	1	0.15 %
Terminated	431	66.72 %
Voluntary withdraw	45	6.97 %
<b>Total Indentured</b>		<b>646</b>



# Apprentice Status Report By Indenture Date

Apprentices Indentured Between 1/1/2019 And 12/31/2023

Apprentice Program: IN2

Year	Apprentice Status	Apprentices	Percentage
------	-------------------	-------------	------------

**2021**

Active	98	13.07 %
Active Duty	1	0.13 %
Adv. to Journeyman	68	9.07 %
Deceased	2	0.27 %
Graduated	65	8.67 %
Reinstate	4	0.53 %
Suspended	2	0.27 %
Terminated	467	62.27 %
Voluntary withdraw	43	5.73 %
<b>Total Indentured</b>	<b>750</b>	

**2022**

Active	341	35.56 %
Adv. to Journeyman	70	7.30 %
Deceased	5	0.52 %
Graduated	23	2.40 %
Journeyman	1	0.10 %
Med. Susp.	2	0.21 %
Not Registered	1	0.10 %
Reinstate	10	1.04 %
Suspended	9	0.94 %
Terminated	467	48.70 %
Voluntary withdraw	30	3.13 %
<b>Total Indentured</b>	<b>959</b>	

# Apprentice Status Report By Indenture Date

Apprentices Indentured Between 1/1/2019 And 12/31/2023

Apprentice Program: IN2

Year	Apprentice Status	Apprentices	Percentage
<b>2023</b>		1	0.10 %
	Active	597	57.90 %
	Active Duty	1	0.10 %
	Adv. to Journeyman	35	3.39 %
	Deceased	2	0.19 %
	Graduated	1	0.10 %
	Journeyman	3	0.29 %
	Med. Susp.	3	0.29 %
	Not Registered	4	0.39 %
	Reinstate	34	3.30 %
	Suspended	4	0.39 %
	Terminated	325	31.52 %
	Voluntary withdraw	21	2.04 %
	<b>Total Indentured</b>		<b>1031</b>

Plasterers' & Cement Masons'  
Apprenticeship Coordinator Local Union #692



Phone: (219) 707-7767  
Email: bkristoff@plcmlocal692.org

To Whom it May Concern:

June 6, 2024

This letter is to certify that Premium Services, Inc. is and has been a signatory contractor with OPCMIA Local 692 and has participated in the Plasterers & Cement Masons Apprenticeship Training Program for many years. Premium Services Inc. is a valued Contractor in good standing with Local 692 and the JATC. All our apprentices are registered with the United States Department of Labor.

I may be reached at (219) 707-7767 if additional information is needed.

Further, our organization's program is approved by the U.S. Veterans Administration to participate in the GI Education Benefit Program.

Thank you,

Brian Kristoff  
Apprentice Coordinator  
Plasterers & Cement Masons



**Plasterers' & Cement Masons'**  
Apprenticeship Coordinator Local Union #692

Phone: (219) 707-7767  
Email: bkristoff@plcmlocal692.org

### Local 692 Apprenticeship Summary

Year	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	NEW	Grads	Total
2016	31	14	26	25	3	71
2017	35	20	21	61	20	76
2018	30	36	19	52	16	85
2019	30	26	16	13	13	78
2020	30	34	22	52	15	86
2021	25	28	23	16	12	76
2022	22	35	36	35	10	93



THE UNITED STATES DEPARTMENT OF LABOR  
Office of Apprenticeship

Certificate of Registration of Apprenticeship Program

PLASTERERS & CEMENT MASONS LOCAL 692 J.A.T.C.  
MERRILLVILLE, INDIANA  
FOR THE TRADE CLASSIFICATIONS: CEMENT MASON; PLASTERER

*Registered as part of the National Apprenticeship System  
in accordance with the basic standards of apprenticeship  
established by the Secretary of Labor*

MAY 22, 1995  
Date Revised: November 1, 2018  
IN010950002  
Registration No.



*AL V. Bell*  
Administrator, Office of Apprenticeship



**PENSION TRUST FUND • WELFARE FUND • RETIREE WELFARE PLAN  
VACATION SAVINGS PLAN • RETIREMENT ENHANCEMENT FUND**

6150 JOLIET ROAD, COUNTRYSIDE, IL 60525-3994

PHONE: (708) 482-7300 FAX: (708) 482-3056

**JAMES M. SWEENEY, CHAIRMAN / DAVID M. SNELTEN, SECRETARY-TREASURER**

June 7, 2024

Premium Concrete Services, Inc  
Becky Yeakey:  
712 Richmond Street  
Elkhart, IN 46516

Dear Becky Yeakey,

This letter serves as formal notification that as of the date of this letter, Premium Concrete Services, Inc 44180 is in "Good Standing" with the Midwest Operating Engineers Fringe Benefit Funds for fringe benefit contribution reports and payments. Our records indicate that Premium Concrete Services, Inc has accurately reported hours and payments to the Fund Office.

The Midwest Operating Engineers Fringe Benefit Funds reserves the right to withdraw Premium Concrete Services, Inc "Good Standing" status if our assumption is found to be incorrect.

If you have any questions, please contact Premium Concrete Services, Inc.

Sincerely,

*Jenie Brown*

Jenie Brown  
Accounts Receivable Manager

# **ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PLAN**

U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE & HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF:

49 CFR PART 199

49 CFR PART 40

**Premium Concrete Services, Inc.**

712 Richmond St, Elkhart, IN 46516

574-264-0196

Original Date of Implementation: 2/15/2004  
New Effective Date: 2/15/2022

**PLAN REVISION DATE: April 1, 2021**

*REVISION DATE MODIFIED BY NCMS ONLY.*

©NATIONAL COMPLIANCE MANAGEMENT SERVICE, INC. (NCMS) 2011

Copyright Certificate of Registration TX 8-415-218

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## I. INTRODUCTION

### 1. Development of "Combined" Plan

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is the agency within the Department of Transportation (DOT) that regulates operators in the natural gas and hazardous liquid pipeline industry. PHMSA's Drug and Alcohol Testing Regulation, 49 CFR Part 199<sup>1</sup> requires each operator to develop, maintain, and follow an Anti-Drug and an Alcohol Misuse Prevention Plan. Historically, companies have produced these plans as two separate documents. This "combined" Anti- Drug and Alcohol Misuse Prevention plan, merges both PHMSA-required plans into a single document.

Authorization for a combined plan was granted by PHMSA's Office of Pipeline Safety stating: "PHMSA will allow the combining of the two plans into one written plan, as long as all requirements of each regulation are met." The "requirements of each regulation" means the requirements of Part 199 and the requirements of DOT's "Procedures for Transportation Workplace Drug and Alcohol Testing," 49 CFR Part 40<sup>2</sup>.

The Anti-Drug and Alcohol Misuse Prevention Plan henceforth referred to as the "Plan," meets the requirements of Part 199 and Part 40.

### 2. Approach

The Plan will use the generic word "Company" in reference to the operator or contractor, as applicable, for which it is written. PHMSA's requirement for plan development and implementation applies equally to each operator and contractor that performs covered safety-sensitive operations, maintenance, or emergency- response functions on a pipeline or LNG facility within the natural gas and hazardous pipeline industry. The Plan will describe how the Company will comply with government requirements.

The Plan will identify "Company-additional" requirements - those that go beyond the minimum requirements of DOT. Company-additional requirements will be underscored. Therefore, consider anything that is not underscored a requirement of DOT or a process put in place by the Company to meet a DOT requirement. Appendix D outlines the Company disciplinary actions and additional procedures.

The Plan is written in "plain language" and follows the requirements of each rule. However, the Plan does not repeat the language of either Part 40 or Part 199. Doing so would require the Company to produce a new plan every time DOT or PHMSA issued a change to their respective rule. The goal of DOT is to know that the company understands the requirements of the rules and how the Company will go about achieving compliance. The Plan makes use of existing DOT language in places where summaries are used to explain a more detailed process (e.g., specimen collection and alcohol test procedures are extracted from DOT's "Employee Guide").<sup>3</sup>

Appendix E. of the Plan includes references to the PHMSA Inspection Protocol Forms<sup>4</sup> for the purposes of assisting inspectors with specific areas of Plan compliance.

---

<sup>1</sup> Title 49 Code of Federal Regulations (CFR), Part 199, "Drug and Alcohol Testing Requirements," Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

<sup>2</sup> Title 49, Code of Federal Regulations (CFR), Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," Office of the Secretary, Department of Transportation.

<sup>3</sup> "What Employees Need To Know About DOT Drug & Alcohol Testing," ODAPC, DOT.

<sup>4</sup> "PHMSA Anti-Drug and Alcohol Misuse Program Inspection Protocol Form, PHMSA Substance Abuse Program, Comprehensive Audit and Inspection Protocol Form, Specimen Collection Sites and PHMSA Substance Abuse Program, Comprehensive Audit and Inspection Protocol Form, Alcohol Testing Sites."

### 3. Background

**Safety.** The DOT requires transportation employers to develop and implement drug and alcohol testing programs in the interest of public safety. Safety is the highest priority for DOT. One of the means by which the DOT helps ensure safety is by subjecting those workers responsible for transportation safety to drug and alcohol testing. Workers tested under the DOT program have a direct impact on the safety of the traveling public or the safety of those potentially affected by the transportation of hazardous products, such as natural gas, liquefied natural gas (LNG) and hazardous liquids.

**Test Procedures.** The overall responsibility for management and coordination of the DOT program resides within the Office of the Secretary of Transportation's (OST), Office of Drug and Alcohol Policy and Compliance (ODAPC). ODAPC issues Part 40. Whether the transportation employee is a pipeline worker, truck driver, or airline pilot, their drug and alcohol tests are conducted using the same Part 40 procedures. This consistency benefits all employees affected by DOT regulations in each agency's regulations must adhere to DOT's testing procedures. Better known simply as "Part 40", this rule has become the standard for workplace testing in the United States.

**Compliance Enforcement.** Regulation and enforcement within the different transportation industries is the responsibility of the DOT agency that has authority over the particular industry. The regulatory authority requiring drug and alcohol testing of safety-sensitive employees in aviation, trucking, railroads, and mass transit industries is the Omnibus Transportation Employee Testing Act of 1991<sup>5</sup> (OTETA). The OTETA did not specifically address the pipeline industry. PHMSA has regulatory authority over the pipeline industry and conveyed their authority, for drug and alcohol testing, through the issuance of their regulation - Part 199. Part 199 spells out *who* is subject to testing, *when* and in *what* situations. Operators, and in turn, their associated contractors, implement the regulations.

## II. GENERAL

### 1. Scope

Operators of pipeline facilities subject to 49 CFR Parts 192<sup>6</sup>, 193<sup>7</sup>, or 195<sup>8</sup> are required to test covered employees for the presence of prohibited drugs and alcohol. Contractors doing similar work on the behalf of their operators are subject to the same requirements. Part 199 requires of each operator the assurance that any contractor performing any DOT covered safety-sensitive work for that operator, under Parts 192, 193, or 195, is in full compliance with the provisions of the DOT's drug and alcohol program, as applicable.

### 2. Applicability

Part 199, and the provisions of the Plan, applies to operators and contractors only with respect to their employees located within the territory of the United States, including those employees located within the limits of the "Outer Continental Shelf". Part 199 and the provisions of the Plan do not apply to covered functions performed on master meter systems or pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.

---

<sup>5</sup> Public Law 102-143, October 28, 1991, Title V – Omnibus Transportation Employee Testing, 105 Stat. 952-965; 49 U.S.C. 45104(2).

<sup>6</sup> Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards

<sup>7</sup> Part 193 – Liquefied Natural Gas Facilities: Federal Safety Standards

<sup>8</sup> Part 195 – Transportation of Hazardous Liquids by Pipeline

### 3. Compliance

**Plan Development.** The Plan meets the requirements of Part 199, paragraphs §199.101 and §199.202, respectively, to develop a written anti-drug and a written alcohol misuse prevention plan. The Plan describes the methods and procedures for compliance with the drug and alcohol program requirements of the DOT, including the employee assistance program. The Plan covers the operational, day-to-day requirements that are found in Part 199, and the procedural, testing requirements that are found in Part 40. The Plan provides appendices for the name and address of each laboratory that analyzes specimens for the Company, the Company's Medical Review Officer, and Substance Abuse Professionals. The Plan communicates to employees, Company officials, and DOT officials the path that the Company will follow in order to comply with the requirements for a successful DOT drug and alcohol program.

**Plan Availability.** The Plan will be posted in a common place, selected by the Company, for employee review and feedback. A copy of the Plan will be made available to all covered safety-sensitive employees. Any covered safety-sensitive employee desiring a copy of Part 40 and/or Part 199 must contact the Designated Employer Representative (see Appendix B). The Plan provides a basic description of the rules and testing requirements, and shows how the Company implements and follows them. The Plan is not meant as a substitute for the detail provided in either rule. If there is any difference in instruction or interpretation between the Plan and the rules, the rules prevail. The Plan will be updated at any time its language, or the intent of its language, differs from that of either Part 40 or Part 199. Employees are encouraged to obtain and read Part 40 and Part 199 on their own.

### 4. "DOT" vs. "PHMSA"

All DOT testing procedures will follow Part 40 requirements. All DOT procedural responsibilities for pipeline operators and contractors will follow Part 199. In the Plan, the term "DOT" will be used for reference to general requirements (e.g., testing procedures) placed on all transportation employers, including operators and contractors. The use of the term "PHMSA" will be to distinguish specific, unique administration requirements versus general, DOT requirements (e.g., random alcohol testing is not authorized by PHMSA).

### 5. DOT Procedures

The company will assure that the procedures of Part 40 are followed for drug and alcohol testing conducted under the requirements and authority of Part 199; a violation of Part 40 is a violation of Part 199. If the Company employs a Consortium/Third-Party Administrator (C/TPA) to assist in program development, implementation, and management, the C/TPA will, likewise, follow all the requirements of Part 40 and Part 199. It is the Company's goal to establish and maintain compliance with the DOT drug and alcohol program.

### 6. Stand-down Waiver

DOT "stand-down" is not in effect for this Company. The Company does not hold a stand-down waiver under Part 40, and has not applied for one. Should this status change, the Company will notify all covered safety-sensitive employees and Company officials, in accordance with Part 40 requirements.

### 7. Preemption of State and Local Laws

Part 40 and Part 199 are Federal laws. Federal law preempts any state or local law, rule, regulation or order to the extent that: (a) compliance with both the state or local requirement and Part 40 or 199 is not possible; or (b) compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 40 or 199; or (c) the state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities. This provision does not 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.

## 8. Definitions

Definitions from Parts 40, 191, 195, and 199 have been combined in alphabetical order and are provided in a single listing. For purposes of the Plan, the following definitions apply:

**Accident/Incident** - 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.

a) (§191.3) – An accident on a gas pipeline or LNG facility is defined as an "incident," as follows:

- (1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility, liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:
  - (a) A death, or personal injury necessitating inpatient hospitalization;
  - (b) Estimated property damage of \$122,000\* or more, including loss to the operator and others, or both, but excluding the cost of gas lost; or
  - (c) Unintentional estimated gas loss of three million cubic feet or more;  
\*For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with the procedures in Appendix A to Part 191.
- (2) An event that results in an emergency shutdown of an LNG facility or an underground natural gas storage facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.
- (3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (1) or (2).

b) (§195.50) – An accident report is required for each failure in a pipeline system in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

- (1) Explosion or fire not intentionally set by the operator.
- (2) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if this release is:
  - (a) Not otherwise reportable under this section;
  - (b) Not one described in §195.52(a)(4);
  - (c) Confined to Company property or pipeline right-of-way; and
  - (d) Cleaned up promptly;
- (3) Death of any person.
- (4) Personal injury necessitating hospitalization;
- (5) Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

**Administrator** - The Administrator, Pipeline and Hazardous Materials Safety Administration (PHMSA) or his or her delegate.

**Adulterated specimen** - A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

**Affiliate** - Persons are affiliates of one another if, directly or indirectly, one controls or has the power to control the other or a third party controls or has the power to control both. Indicators of control include, but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a Public Interest Exclusion (PIE), an organization having the same or similar management, ownership, or principal employees as the service agent concerning who public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Part 40, Subpart R.

**Air blank** - In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

**Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

**Alcohol concentration** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this part.

**Alcohol confirmation test** - A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

**Alcohol screening device (ASD)** - A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

**Alcohol screening test** - An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Alcohol testing site** - A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

**Alcohol use** - The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

**Aliquot** - A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

**Breath Alcohol Technician (BAT)** - A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

**Cancelled test** - A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

**Chain-of-custody (or Custody and Control Form (CCF))** - The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) as approved by the Office of Management and Budget.

**Collection Container** - A container into which the employee urinates to provide the specimen for a drug test.

**Collection Site** - A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

**Collector** - A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

**Confirmatory drug test** - A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

**Confirmation (or confirmatory) validity test** - A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

**Confirmed drug test** - A confirmation test result received by an MRO from a laboratory.

**Consortium/Third-Party Administrator (C/TPA)** - A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purposes of Part 40.

**Continuing education** - Training for substance abuse professionals (SAPs) who have completed qualification training and are performing SAP functions, designed to keep SAPs current on changes and developments in the DOT drug and alcohol testing program.

**Covered function (or safety-sensitive function)** - An operations, maintenance, or emergency-response function regulated by 49 CFR Part 192, 193, or 195 that is performed on a pipeline or on an LNG facility.

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

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

**DOT Procedures (or Part 40)** - The Procedures for Transportation Workplace Drug and Alcohol Testing Program published by the Office of the Secretary of Transportation in 49 CFR Part 40.

**DOT, The Department, DOT agency** - These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of this part, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

**Drugs** - The drugs for which tests are required under Part 40 and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

**Employee (covered employee)** - Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under Part 40, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services. For the purposes of regulation under Part 199, the term employee means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors. This includes full-time, part-time and temporary employees. It also includes any applicant for a covered function.

**Employer** - A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with Part 40. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of Part 40.

**Error Correction Training** - Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.

**Evidential Breath Testing Device (EBT)** - A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web Page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

**HHS, Department of Health and Human Services** - The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**Initial drug test (also known as a "Screening drug test")** - The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

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

**Invalid drug test** - The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

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

**Laboratory** - Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

**Limit of Detection (LOD)** - The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

**Limit of Quantitation** - For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

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

**Negative result** - The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

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

**Office of Drug and Alcohol Policy and Compliance (ODAPC)** - The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of Part 40.

**Operator** - A person who owns or operates pipeline facilities subject to 49 CFR Part 192, 193, or 195.

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



**Performs a covered function** - Actually performing, ready to perform, or immediately available to perform a covered function.

**Pipeline or Pipeline System** - All parts of those physical facilities through which gas, hazardous liquids or carbon dioxide moves in transportation, including, but limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, pumping units, breakout tanks and fabricated assemblies.

**Pipeline facility** – New and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas, or transportation of hazardous liquids or carbon dioxide during the course of transportation.

**Positive rate for random drug testing** - The number of verified positive results for random drug tests conducted under Part 199, plus the number of refusals of random drug tests required by Part 199, divided by the total number of random drug tests conducted plus the number of refusals of random tests under Part 199.

**Positive result** - The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

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

**Prohibited drug** – Means any of the substances specified in 49 CFR Part 40.

**Qualification Training** - The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program; Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD- ROM, video).

**Reconfirmed** - The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**Refresher Training** - The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning Part 40 and DOT agency drug and alcohol testing regulations (e.g., Part 199). Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

**Refusal to submit, refuse, or refuse to take** - Behavior consistent with Part 40 concerning refusal to take a drug test or refusal to take an alcohol test.

**Rejected for testing** - The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

**Screening drug test** - See Initial drug test definition above.

**Screening Test Technician (STT)** - A person who instructs and assists employees in the alcohol testing process and operates an ASD.

**Secretary** - The Secretary of Transportation or the Secretary's designee.

**Service agent** – Any person or entity, other than the employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

**Shipping container** - A container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.

**Specimen bottle** - The bottle that, after being sealed and labeled according to the procedures in Part 40, is used to hold the urine specimen during transportation to the laboratory.

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

**Split specimen collection** - A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

**State agency** - An agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.)

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

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

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

**Verified test** - A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

### **III. POLICY AND RESPONSIBILITIES**

#### **1. Company Policy**

**Policy Statement.** The Company has a long-standing commitment to maintain the highest standards for employee safety and health. The use of controlled substances and the misuse of alcohol are contrary to these high standards. The use or possession of illegal controlled substances or alcoholic beverages while on Company property, or in any Company vehicle, or on Company time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

**DOT Compliance.** The Company is aware that it is ultimately responsible for meeting the requirements of Part 40 and 199. The DOT authorizes transportation employers to use a service agent(s) to perform tasks necessary to comply with the Plan. The Company understands that, under the DOT regulations, it is responsible for the actions of its service agents. The Company is responsible for developing and implementing a successful and comprehensive DOT drug and alcohol program. Components of the Company's program include clear policies, provisions for education and training, drug and alcohol testing, and when needed, referral for evaluation, education, and treatment. The Company shall ensure that all covered safety-sensitive employees are aware of the provisions and coverage of the Plan.

#### **2. Responsibilities of Key Personnel**

The Company will convey to responsible individuals -- the Designated Employer Representative(s) and affected supervisors - that, to the best of their ability, the privacy and confidentiality of any covered safety-sensitive employee subject to the Plan must be maintained at all times.

**Designated Employer Representative (DER).** Appendix B contains the name, address, and phone number of the DER(s). The DER is:

- a. the key employee for the Company's drug and alcohol program functions, and has the knowledge and authority to make decisions about the testing process and answer questions about it.
- b. **not** a service agent.
- c. one or more employees of the Company assigned to ensure adequate coverage on all shifts and at all locations.
- d. responsible for the preparation of the Plan, as well as providing oversight and evaluation on the Plan.
- e. responsible to review all adverse personnel action or discipline applied under the Plan for consistency and conformance to human resources policies and procedures.
- f. responsible for scheduling random, return-to-duty and follow-up testing, as applicable, and is authorized to receive and maintain, in a secure file system, all drug and alcohol testing results.
- g. responsible for providing answers to employee questions regarding the testing program, and information on the resources available for drug and alcohol counseling.
- h. responsible for overseeing the employee assistance program (EAP).

**Supervisor.** A Company individual(s) responsible for observing the performance and behavior of employees that is suggestive enough to lead to reasonable suspicion/cause drug and/or alcohol testing. Supervisors who will determine whether an employee must be drug tested and/or alcohol tested based on reasonable suspicion/cause will be trained in the "signs and symptoms" of each substance. The supervisor is required to document a reasonable suspicion/cause event. The supervisor may also be responsible for requests as the second supervisor for substantiation and concurrence for reasonable suspicion/cause drug test, if applicable.

### 3. Responsibilities of Covered Employees

**Compliance.** Each covered safety-sensitive employee must comply with the requirements of the Plan, and the DOT drug and alcohol rules it pertains to; in order to remain eligible to work in a DOT covered safety-sensitive position. Each covered safety-sensitive employee has the responsibility to read, be knowledgeable of, and comply with, the requirements of the Plan, and Parts 40 and 199. Committing a DOT violation will result in the employees' immediate removal from the covered function, and remain so until successfully completing the DOT return-to-duty conditions of Part 40. The Plan describes circumstances for being tested, violations, prohibited conduct and their subsequent consequences. The Plan describes what is available to each covered safety-sensitive employee as services (e.g., EAP) in such cases where the employee has a potential problem with drugs or alcohol prior to a drug or alcohol test. It is a condition of employment for all covered safety-sensitive employees to sign the Acknowledgement/Receipt Form (Appendix A). In doing so, the employee attests to comply with the drug and alcohol program requirements of the Company and the requirements of the Plan. Failure to comply with this condition may result in disciplinary action up to and including termination.

### 4. Use of Service Agents

**Compliance.** The Company will contract with service agents to accomplish many of the requirements of Parts 40 and 199. Appendix B (Designated Personnel and Service Agents) provides the names and addresses of service agents that are under contract. Service agents, including C/TPA's, will comply with Parts 40 and 199 in the services provided. The work of any service agent providing services to the Company will be open to inspection by the Company. The service agent must allow access to property and records by the operator, the Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of Part 199. No service agent will serve as DER for this Company.

**Public Interest Exclusion.** The Company will not use a service agent against whom a Public Interest Exclusion (PIE) has been issued. The Company will stop using the services of a service agent no later than 90 days after the DOT has published the decision in the Federal Register or posted it on its web site that a PIE has been issued. The Company may apply to the ODAPC Director for an extension of 30 days if it is demonstrated that a substitute service agent cannot be found within 90 days.

**Consortium/Third Party Administrator.** The Company may employ the service of a Consortium/Third Party Administrator (C/TPA) to assist the DER with overall program management and consultation on any program issue. While the C/TPA will not serve as the DER, the C/TPA may support the DER by explaining the regulations and offering guidance on program-compliance issues.

**Service Agent Limitations.** Service agents are subject to the following limitations concerning activities in the DOT drug and alcohol testing program.

- (a) A service agent must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.
- (b) A service agent must not act an intermediary in the transmission of drug test results from the laboratory to the MRO. All confirmed drug test results for the Company are received by the MRO directly from the laboratory.
- (c) A service agent must not transmit drug test results directly from the laboratory to the Company. All confirmed drug test results for the Company are received by the MRO directly from the laboratory.
- (d) A service agent must not act as an intermediary in the transmission of alcohol test results 0.02 or higher from the STT or BAT to the DER.
- (e) A service agent must not act as an intermediary in the transmission of individual SAP reports to the Company. The service agent is allowed to receive and maintain individual SAP summary reports and follow-up testing plans from the DER. The SAP is allowed to transmit the reports and testing plans simultaneously to the DER and service agent. The only exception, to the limitation of the service agent acting as an intermediary, is the transmission of the SAP report from the SAP to an owner-operator or other self-employed individual.
- (f) A service agent must not make decisions to test an employee based upon reasonable suspicion, post-accident, return-to-duty and follow-up determination criteria. A DER cannot delegate these duties to a C/TPA. The C/TPA may provide advice and information to the DER regarding testing issues and how the Company should schedule required testing. The only exception to this limitation would involve making the determination for testing of an owner-operator or other self-employed individual.
- (g) A service agent must not make a determination that an employee has refused a drug or alcohol test. The DER and the Company must make this determination. However, a service agent may provide advice and information to the DER regarding refusal-to-test issues. Exceptions to this limitation are in the case of a required test for an owner-operator or other self-employed individual, and the individual fails to appear for the test with a legitimate reason; or an MRO determines that an individual has refused to test on the basis of adulteration or substitution.
- (h) A service agent must not act as the DER, including Company actions to remove employees from safety-sensitive duties.
- (i) A service agent must ensure that the laboratory conducting testing receives only Copy 1 of the CCF. Transmission of other copies of the CCF or any ATF's are not allowed.
- (j) A service agent must not impose conditions or requirements on the Company that DOT regulations do not authorize.
- (k) A service agent must not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions you have performed, because of a payment dispute or other reasons.
- (l) While a service agent must follow the DOT agency regulations, the Company remains accountable to DOT for compliance, and the failure of a service agent to implement any aspect of the program and other applicable DOT agency regulations would make the Company subject to enforcement action by DOT.

## 5. Critical Service Agent Positions

**Compliance.** The Company recognizes the significance of critical service agent positions within the DOT drug and alcohol program. The Company understands the importance of each service agent meeting their initial qualifications, as applicable, and then maintaining compliance throughout the conduct of their program functions, all in accordance with Part 40 and Part 199 requirements. The Company will ensure that the follow critical positions meet DOT rule requirements.

- a) Medical Review Officer (MRO) (§40.121 and §199.109(b)); (See Plan Section V.8)
- b) Substance Abuse Professional (SAP) (§40.281); (See Plan Section VII.1)
- c) Urine Specimen Collector (§40.33); (See Plan Section V.4.)
- d) Screening test Technician (§40.213); and, (See Plan Section VI. 2. & 3.)
- e) Breath Alcohol Technician (§40.213) (see Plan Section VI.2. & 3.)

## 6. "Non-DOT" Testing Program

**Compliance.** The Company may implement an additional drug and/or alcohol testing program, referred to as a "non-DOT program". Any additional testing program would be completely independent of the DOT testing program. Such a testing program would be developed under the Company's own authority and kept separate from the DOT program. All DOT testing would be accomplished first; the Company's non-DOT program would commence afterwards. The non-DOT program would use different forms and not use the Federal Custody and Control Form or the DOT Alcohol Testing Form. The non-DOT program could test different people, for different drugs, and different reasons-for-testing. If the Company implements its own non-DOT testing program, the Company will define the program and notify all employees through a non-DOT Program Plan.

## IV. DOT PROGRAM REQUIREMENTS

### 1. Employees Subject to Testing

**Compliance.** Any employee who would perform an operations, maintenance, or emergency-response function, regulated by Part 192, 193, or 195, on a pipeline or LNG facility, is subject to mandatory DOT drug and alcohol testing under this program. Such individuals are subject to DOT testing because their job functions have been determined to be a covered, safety-sensitive, transportation function. Appendix C (Covered Positions) provides specific employee titles, for this Company, of those subject to testing under this program. However, it is the work that an individual performs, not their title of their job, which determines whether their work is covered and therefore subject to drug and alcohol testing

**Operator or Contractor.** Covered employees may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor; this includes full-time, part-time and temporary employees and includes any applicant for a covered function.

### 2. Acknowledgement/Receipt Form

The "Acknowledgement/Receipt Form", (Appendix A), applies to all drug and/or alcohol tests, or related foregoing or subsequent DOT procedures, while the employee is in a covered safety-sensitive function with the Company. The signed form will be maintained by the Company. For any test, the expectations placed on the employee by the Company are to "follow all instructions" in order to accomplish the test.

### 3. History-check Requirement

**Compliance.** Prior to the first time that the Company uses an employee to perform covered safety-sensitive duties (i.e., a new hire or an employee transferring into a covered safety-sensitive position) the Company will require a "history check" of the employee. The history check will look back into the employee's past two years of DOT employment for DOT violations. History checks are conducted only after obtaining the employee's written authorization to do so. Any employee refusing to provide written consent will not be permitted to perform covered safety-sensitive functions. The Company will not allow the covered safety-sensitive employee to perform their functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless the Company has obtained or made and documented a good faith effort to obtain alcohol and drug testing information from previous DOT-regulated employers.

**Information request.** The Company will request the following information about the employee:

- a) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- b) Verified positive drug tests;
- c) Refusals to be tested (including verified adulterated or substituted drug test results);
- d) Other violations of DOT agency drug and alcohol testing regulations; and
- e) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty and follow-up testing requirements.

The Company will make at least two attempts by telephone, e-mail or fax, and maintain documentation associated with the attempts to obtain history-check information (e.g., date and time of the attempt, persons contacted). If the Company finds evidence of past DOT violations, those violations may be used as the reason for not hiring the individual or for termination.

**Violation Consequences.** The Company will not use any employee in a DOT covered safety-sensitive position that has had a past DOT violation and has not complied with DOT eligibility standards for returning to covered safety-sensitive work. The Company will also ask the employee if they had any pre-employment test that was positive for which the previous employer did not hire them. The employee's answer to this question will be maintained as part of the employee's history-check information.

### 4. Employee Notification of Tests

Employees will be notified directly when a test must be conducted. While the circumstances for a test will differ by its reason-for-test, the Company will endeavor to conduct all tests with only a limited number of Company personnel having knowledge of the reason for the test.

All testing will be unannounced until the last possible moment. The timing will vary in conjunction with the reason-for-test. For example, a pre-employment test will be announced during the job application; a random test is announced within the test period, but just prior to the test, to maintain the element of surprise; and, announcements of post-accident or reasonable suspicion tests are controlled by the circumstances that come to light around the time of the event (e.g., accident). All alcohol tests will be conducted just prior to, during, or just after the performance of covered safety-sensitive duties. Drug tests may be conducted anytime the employee is at work.

The DER and Company supervisors will be responsible for notifications and to help maintain the element of confidentiality. When an employee is notified for a test, the employee must proceed to the collection site immediately. Immediately means that after notification, all the employee's actions must lead to an immediate specimen collection (or test).

The Company considers "travel time to the collection site, plus 30 minutes" as the maximum acceptable interval of time between notification and testing.

In test situations such as post-accident and reasonable suspicion/cause, where the employee's job performance is called into possible question, supervisors will use their discretion and training to minimize further confrontation. A reasonable attempt will be made by the supervisors to isolate and inform the employee of the decision to test, the steps that must be taken to accomplish the test, and the consequences of refusing the test. If possible, for post-accident and reasonable suspicion tests, the Company will have the DER or a supervisor accompany the employee to the collection site.

## 5. DOT Drug Violations

**Drug Violations.** The following provides a listing of DOT drug violations prohibited of covered safety-sensitive employees:

- a) A verified positive drug test result;
- b) A refusal to be tested, determined by:
  - (1) Having a verified adulterated or substituted drug test result;
  - (2) Failing to appear for any drug test (except a pre-employment test) within a reasonable time, as determined by the Company, after being directed to do so by the Company;
  - (3) Failing to remain at the drug testing site until the testing process is complete;
  - (4) Failing to provide a urine specimen for any drug test;
  - (5) Failing to allow a directly observed or monitored collection in a drug test that requires such a collection procedure;
  - (6) Failing to provide a sufficient amount of urine for a drug test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - (7) Failing or declining to take an additional drug test the Company or collector has directed the employee to take;
  - (8) Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER; or,
  - (9) Failing to cooperate with any part of the testing process (e.g., refuse to empty pockets or failure to wash hands when so directed by the collector, behave in a confrontational way that disrupts the collection process, tampering with a specimen).
  - (10) For an observed collection, fail to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
  - (11) Possess or wear a prosthetic or other device that could interfere with the collection process;
  - (12) Admit to the collector or MRO that a specimen has been adulterated or substituted.

## 6. DOT Alcohol Violations and Prohibited Conduct

**Alcohol Violations.** The following provides a listing of DOT alcohol violations prohibited of covered safety-sensitive employees:

- a) A test result of 0.04 or higher alcohol concentration;
- b) A refusal to be tested, determined by:
  - (1) Failing to appear for any alcohol test (except a pre-employment test) within a reasonable time, as determined by the Company, after being directed to do so by the Company;
  - (2) Failing to remain at the alcohol testing site until the testing process is complete;
  - (3) Failing to provide an adequate amount of saliva or breath for an alcohol test;
  - (4) Failing to provide a sufficient amount of breath for an alcohol test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - (5) Failing to undergo a medical examination or evaluation, as directed by the DER;
  - (6) Failing to sign the certification statement on the Alcohol Testing Form; or,
  - (7) Failing to cooperate with any part of the testing process.

- c) On-duty use of alcohol while performing covered functions.
- d) Pre-duty use of alcohol within four (4) hours prior to performing covered functions, or if the employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty.
- e) Use of alcohol within eight (8) hours following an accident in which the performance of covered functions has not been discounted by the Company as a contributing factor to the accident, unless the employee has already been given a post-accident alcohol test.

**Alcohol Prohibited Conduct.** The following is prohibited conduct of DOT covered safety-sensitive employees:

- a) A test result of 0.02 or greater alcohol concentration, but less than 0.04.

## 7. Violation Consequences and Company Actions

**After DOT Rule Violations.** The Company will not allow any covered employee who has a DOT drug or alcohol violation to perform covered safety-sensitive duties for the Company. Immediately upon learning of the violation, the DER shall assure the removal of the employee from all covered safety-sensitive duties. That employee will be ineligible to work in any DOT covered safety-sensitive function for the Company until the employee has successfully completed the DOT return-to-duty process; however, whether or not to do so is a business decision of the Company, not DOT. The company will refer the employee to a Substance Abuse Professional (SAP) as soon as practicable after the verified violation report.

If the Company has a zero tolerance policy, any covered safety-sensitive employee who has a DOT drug or alcohol violation will be terminated upon such violation (refer to Appendix D, Company Disciplinary Actions and Additional Procedures). However, the employee will be referred to a SAP. The employee will be made aware that they must complete the DOT return-to-duty process prior to again performing covered safety-sensitive work for a company that is subject to the DOT alcohol and drug testing regulations.

**After DOT Alcohol Prohibited Conduct.** The Company will not allow any covered safety-sensitive employee to perform, or continue to perform, any function covered by Part 199 when the employee is found to have an alcohol concentration of 0.02 or higher, but less than 0.04. The Company may continue testing the employee until the alcohol concentration is less than 0.02, or the Company may not use the employee in a covered safety-sensitive function until the start of the employees next regularly scheduled shift, which must be not less than eight hours follow the test that indicated, "prohibited conduct".

## V. ANTI-DRUG PROGRAM

### 1. DOT-Required Drug Tests

**Compliance.** The Company will ensure that each employee who performs a DOT-covered function will be drug tested for the following reasons when called for by Part 199: All drug tests will be conducted following the procedures of Part 40. Only urine specimens screened and confirmed at HHS certified laboratories are allowed for drug testing. Point-of-collection urine testing or instant tests are not authorized.

**Pre-Employment Testing.** A pre-employment drug test will be conducted before an individual is hired or contracted into a covered position and when an individual is transferred or promoted from a non-covered to a covered position. This includes when an individual switches back and forth from a covered position to a non-covered position and back again. This also applies to employees returning from a leave of absence greater than 30 days who have not been participating in the Company's drug program and subsequently subject to the random selection process.

A negative DOT urine drug test results is required prior to performing a covered functions. DOT does not allow the use of a "quick test" (e.g., a urine test that produces an immediate test results) or any other methodology other than urine. Pre-employment tests are normally unobserved by the collector. However, provisions will be available at the collection site for a directly observed collection to take place should the circumstances requires such action.



**Post-Accident Testing.** As soon as possible but no later than 32 hours after an accident, the Company will drug test each surviving covered safety-sensitive employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The Company may decide not to test under this paragraph but such a decision will be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident. The Company will document the decisions that support the determination not to conduct a post-accident drug test.

If a test required by this section is not administered within the 32 hours following the accident, the company will prepare and maintain its decision stating the reasons why the test was not promptly administered. If a test required by the above paragraph of this section is not administered within 32 hours following the accident, the Company will cease attempts to administer a drug test and will state in the record the reasons for not administering the test. Refer to Appendix F: *Post-Accident or Reasonable Cause/Suspicion Supervisor Written Record.*

The Company must take all reasonable steps to obtain a urine specimen from an employee after an accident, but any injury should be treated first. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, to prohibit a covered safety-sensitive employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The affected employee will not be allowed to proceed alone to or from the collection site. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Company or Company's representative of their location if they leave the scene of the accident prior to submission to such a test, may be deemed by the Company to have refused to submit to testing. Post-accident tests are normally unobserved by the collector. However, provisions will be available at the collection site for a directly observed collection to take place should circumstances require such action. Depending on the circumstances of the accident, and if feasible, the employee will not be allowed to perform covered functions pending the results of the drug test.

#### **Random Drug Testing:**

The company will conduct a number of random tests each calendar year that meets or exceeds the current minimum annual percentage random testing rate. The current annual random drug testing rate is 50 percent.

The Company may use the services of the C/TPA to manage all aspects of the Company's random testing program. If the Company conducts random testing through a C/TPA, the number of employees to be tested may be calculated for each individual Company or may be based on the total number of covered safety-sensitive employees covered by the C/TPA who are subject to random testing (e.g., consortium random testing pool).

All covered safety-sensitive employees will be immediately placed in the random pool after obtaining a negative result on their pre-employment test. Covered safety-sensitive employees will remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing. The selector of employees shall be made by using a computer-based, scientifically valid method (e.g., random number generator or equivalent random selection method) that is matched with an employee's social security or employee ID number. When requested during an audit or inspection, the DER will provide the name of the computer-based application that is currently being used by the Company for random number selection.

The DER will assure the pool contains employee social security number or employee ID numbers that are current, complete, and correct. Employees will have an equal chance of being selected for testing.

Random testing will occur on a quarterly basis. Prior to selection, the DER shall ensure that the random testing pool has been updated to include all current covered employees in the Company's workforce. The number of tests to be conducted will be based on the number of covered employees at the beginning of each quarter's test cycle. The DER, or C/TPA, shall use the random selection procedures to compile a list of covered employees selected for testing in each testing cycle. The number of employees selected shall be sufficient to assure that the minimum number of required tests can be achieved. The list of employees selected will be retained by the DER in a secure location until the time of testing when the list will be provided to the appropriate division manager, department head, or supervisor who will, in turn, notify the employee(s) to report for testing.

Random testing is unannounced, with employees being notified that they have been selected for testing after they have reported for duty on the day of collection. Specimen collection will be conducted on different days of the week throughout each test cycle to prevent employees from matching their drug use patterns to the schedule for collection. Random tests are normally unobserved by the collector. However, provisions will be available at the collection site for a directly observed collection to take place should circumstances require such action.

Once notified by the appropriate Company official, employees will be instructed to report immediately to the collection site.

**Reasonable Suspicion/Cause Testing.** The Company will conduct reasonable suspicion testing, also known as reasonable cause testing, based on the Company's observation of "signs and symptoms" of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. At least two Company supervisors, one of whom is trained in detection of the possible signs and symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. If the Company has 50 or fewer employees subject to testing under PHMSA regulations, only one supervisor, trained in detecting possible drug use signs and symptoms, is needed to make the decision to test.

The supervisor making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion/cause test. This documentation of the employee's conduct shall be prepared and signed within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier. Refer to Appendix G: Reasonable Cause/Suspicion Observation Checklist. 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 in route to the collection site for the employee to compromise the test through any method of tampering that could affect the outcome of the test results. Reasonable suspicion/cause tests are normally unobserved by the collector. However, provisions will be available at the collection site for a directly observed collection to take place should circumstances require such action.

The employee shall not perform a covered function 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 belief that the employee may be under the influence of a drug. If the employee insists on driving, a supervisor should notify the proper local law enforcement authority that an employee believed to be under the influence of a drug is leaving the Company premises driving a motor vehicle.

**Return-to-Duty Testing.** The Company will conduct a return-to-duty test prior to an employee returning to covered safety-sensitive duty following a DOT violation. When an employee has a DOT violation the employee cannot work again in any DOT covered safety-sensitive function until successfully completing the Substance Abuse Professional (SAP) return-to-duty requirements. Only after the SAP has reported to the Company that the employee is eligible to return to covered safety-sensitive duties is the Company authorized to return the employee to a covered function. However, whether or not to do so is a business decision of the Company, not the DOT. When the Company makes the decision to return the employee to covered safety-sensitive duty, the Company will initiate the order for the return-to-duty test. All return-to-duty tests will be conducted using direct-observation collection procedures.

A return-to-duty test, as a minimum, will be for the substance associated with the violation. A return-to-duty test may, however, be for both drugs and alcohol. The decision belongs solely to the SAP from information gained during the SAP-evaluation/treatment processes. The results of a return-to-duty drug test must be negative in order "to count" and allow the employee to return to work. A cancelled test must be recollected; a positive test or refusal-to-test will be considered as a new, separate violation.

When the employee "passes" their return-to-duty test, their name is immediately placed into the Company's random testing pool.

If the Company has a zero tolerance policy, any covered safety-sensitive employee who has a DOT drug or alcohol violation will be terminated upon such violation (refer to Appendix D, Company Disciplinary Actions and Additional Procedures). However, the employee will be referred to a SAP. The employee will be made aware that they must complete the DOT return-to-duty process prior to again performing covered safety-sensitive work for a company that is subject to the DOT alcohol and drug testing regulations.

**Follow-up Testing.** The Company will conduct follow-up testing, as a series of tests that occur after an employee returns to covered safety-sensitive work, following a negative result on the return-to-duty drug and/ or alcohol tests. Follow-up testing, as a minimum, will be for the substance associated with the violation. In addition, follow-up testing may be for both drug and alcohol, as directed by the SAP's written follow-up testing plan.

Follow-up testing is the Company's responsibility to conduct. Follow-up testing will run concurrently with random testing. All follow-up tests will be conducted using direct-observation collection procedures.

The number and frequency of the follow-up tests will be determined by the SAP, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. The follow-up plan will give both the number of tests and their frequency; the Company will select the actual day and time of the test and the tests are unannounced. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.

Even if the Company has a zero tolerance policy, in the case where the Company hires an employee who previously had a positive test and successfully completed the return-to-duty process and has an acceptable SAP evaluation, the Company must follow the follow-up testing procedure in accordance with the DOT alcohol and drug testing regulations.

## **2. Drug Tests That Require Direct Observation Procedures**

**Compliance.** The Company will conduct all return-to-duty and follow-up drug tests using the direct observation collection procedures specified by Part 40. Pre-employment, post-accident, reasonable suspicion/cause and random drug tests are normally conducted by giving the employee the privilege of privacy when providing the urine specimen. However, should it become required that these collections be conducted under direct observation procedures, the Company will explain to the employee the reason(s) and convey instructions to the collector to ensure that this done. Direct observation procedures will also be used for collections when a specimen is provided and the temperature is out of range, when the specimen appears to have been tampered with or when a previous specimen has been reported as invalid, adulterated, substituted or negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, as defined in Part 40.

If a service agent is aware that a directly observed collection should have been collected but was not, the service agent will inform the Company to direct the employee to have an immediate recollection under observation.

## **3. Specimen Collection Procedures**

**Compliance.** The Company will follow the requirements of Part 40 for its DOT collections. A full description of DOT collection requirements that collectors will follow can be found in Part 40, Subpart C ("Urine Collection Personnel"), and Subpart D ("Collection Sites, Forms, Equipment and Supplies Used in a DOT Urine Collection"), and Subpart E ("Urine Specimen Collections").

## Collection Site Personnel.

The Company will ensure that collection sites utilized by its employees are aware of their responsibilities with regard to the DOT specimen collection process. These responsibilities are to collect urine specimens using Part 40 procedures, current "DOT Urine Specimen Collection Guidelines" and applicable DOT agency regulations, ship the specimens to a Department of Health and Human Services (HHS) certified laboratory for analysis, and distribute copies of the Federal Drug Testing Custody and Control Form (CCF) to the laboratory, Medical Review Officer, employer or employer's C/TPA and employee in a confidential manner. All attempts are made to use collectors who have been trained in accordance with Part 40. The Company, or the Company's C/TPA, will ask the collection sites conducting DOT collections to attest to the fact that they comply with DOT standards of practice. The direct supervisor of a covered safety-sensitive employee shall not serve as a collector in conducting any required drug test unless it is otherwise impracticable. Collectors will complete requalification/certification every five years. Collectors will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations.

**Collection Site, Forms, and Specimen.** The Company will provide the employee with the specific location of the collection site where the drug test will take place. The collector will select or allow the employee to select an individually wrapped or sealed collection container from collection kit materials. In most cases, the Company will provide the employee with a drug testing kit, which includes the CCF, to present to the collector. The only specimen that will be conducted for any DOT collection is urine; the only form that will be used is the Federal CCF.

**Collections.** The Company will inform every employee that they are required to carry and present a current valid photo ID, such as a driver's license, passport, or employer-issued picture ID to the collection site. The employee will be advised that the collector will ask them to empty their pockets, remove any unnecessary garments (the employee may retain their wallet) and wash and dry their hands prior to the collection. The employee will be instructed to follow the collector's instructions throughout the collection process. Normally, the employee will be afforded privacy to provide a urine specimen. Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where questions of specimen validity arise, like an unusual specimen temperature.

After the employee has provided the specimen (a minimum of 45 mL) of their urine into a collection container, the collector will check the temperature and color of the urine. All DOT collections are "split specimen collections." The collector will pour the urine into two separate bottles (bottle "A" as the primary specimen and bottle "B" as the split specimen), seal them with tamper-evident tape, and then ask the employee to initial the seals after they have been placed on the bottles. (Remember: Neither the employee nor the collector should let the specimen out of their sight until it has been poured into two separate bottles and sealed.) Next, the employee will write their name, date of birth, and daytime and evening phone numbers on the MRO Copy (Copy 2) of the CCF. This is so the MRO can contact the employee directly if any questions arise about their test.

Lastly, the collector will complete the necessary documentation on Copy 1 of the CCF and package the CCF and the two specimen bottles in the plastic bag and seal the bag for shipment to the laboratory. Copies of the CCF will be distributed: Copy 2 to the MRO and Copy 4 to the employer or the employer's C/TPA; the collector keeps Copy 3; and the employee gets Copy 5. The employee may list any prescription and over-the-counter medications they may be taking on the back of their copy of the CCF (this may serve as a reminder for the employee in the event the MRO calls to discuss their test results).

**Possible collection issues.** If the employee is unable to provide 45mL of urine on the first attempt, the time will be noted, and they will be required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from their Company (e.g., supervisor accompanying the employee). Leaving the testing area without authorization may be considered a refusal to test. The employee will be urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours, and asked to provide a new specimen (into a new collection container). If the DER is contacted, the DER should instruct the employee to remain at the collection site to complete the collection process. If the employee does not provide a sufficient specimen within three hours, the DER, in consultation with the MRO, will direct the employee to obtain a medical evaluation within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no acceptable physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.

**Directly observed collections.** If a direct observation collection is required of the employee, the Company will ensure that the DOT requirements (i.e., direct observation by the same-sex collector, observation of body-to-bottle urination, and use of full turn-around observation) procedures are followed.

#### 4. PHMSA Inspection Protocol for Specimen Collection Sites

**Compliance.** "PHMSA's Substance Abuse Program Comprehensive Audit and Inspection Protocol Form, Specimen Collection Sites, Form No.: 3.1.7 (Revision 2)" provides a separate inspection protocol for Specimen Collection Sites. The Company provides this protocol to correspond with the detail found in the PHMSA Inspection Form. As previously stated, the Company will ensure that all DOT drug tests comply with Part 40 requirements.

**Collection Personnel.** The Company will ensure that only qualified collectors are used to conduct Company DOT tests. An immediate supervisor of an employee may be used in cases where there are no qualified collectors available, and where their use is the only way to get the test conducted. Collectors will maintain documentation to verify they meet training requirements and will make that documentation available to the Company on request. If an error occurs causing a test to be cancelled and the error is directly attributed to the collector, the collector will undergo error-correction training within 30 days of the date of notification of the error that led to the need for training.

**Collection Sites, Forms and Supplies.** The Company will use designated collection sites that meet DOT requirements. If the collection site uses a facility normally used for other purposes, the collector will ensure that it meets DOT standards before continuing the collection.

Access to collection materials and specimens will be restricted, and the facility will be secured against access during the procedure to ensure privacy to the employee and prevent distraction of the collector. Limited-access signs will be posted as necessary. The collector will maintain personal control over each specimen and CCF throughout the collection process and will prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored. The current CCF and a collection kit, that meets the requirements of Appendix A to Part 40, will be used for DOT collections.

**Specimen Collections.** Collectors will explain the basic collection procedures to the employee, including showing the employee the instructions on the back of the CCF. In most all collections, the Company will provide the employee with a kit and CCF to carry to the collection site. In other collections, collectors will provide the employee with an individually wrapped or sealed collection container from the collection kit materials.

Precautions will be taken to ensure that unadulterated specimens are obtained and correctly identified. Specimen integrity will be maintained by: bluing agents being added in the toilet tank and all water sources secured; positive photo identification of the employee for collection, notification of the DER if the employee fails to arrive at the assigned time; having the employee remove any unnecessary outer garments (purses or briefcases will remain with the outer garments); having employees wash and dry their hands; and, to the greatest extent possible, the collector will keep an employee's collection container within view of both the collector and the employee between the time the employee has urinated and the specimen is sealed. Any unusual behavior will be noted on the CCF.

Following the collection, the specimen will be checked for sufficient volume (i.e., 45 mL), acceptable temperature range (i.e., between 90-100 degrees F), and shows no signs of tampering (e.g., color, odor). Having problematic issues with specimen volume, the collector will follow DOT's "shy bladder" procedures; problems with temperature or tampering will result in the collector conducting a second collection under direct observation (see Section V.2, "Drug Tests That Require Direct Observation Procedures"). Direct observation procedures will be used for all collections where the reason-for-test is either return-to-duty or follow-up. Direct observation procedures will also be used for collections when a specimen is provided and the temperature is out of range, when the specimen appears to have been tampered with or when a previous specimen has been reported as invalid, adulterated, substituted or negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL, but less than or equal to 5mg/dL, as defined in Part 40. If the collector does a monitored collection, same gender monitors will be used if the monitors are non-medical personnel.

All collections are completed by the specimens being sealed and labeled, the CCF being properly executed, and the specimens and the CCF being sealed in a plastic bag for shipment to the laboratory.

## 5. Drug Testing Laboratory

**Compliance.** "PHMSA's Substance Abuse Program Comprehensive Audit and Inspection Protocol Form, Specimen Collection Sites, Form No. 3.1.7 (Revision 2)" provides a separate inspection protocol for Specimen Collection Sites. The Company provides this protocol to correspond with the detail found in the PHMSA Inspection Form. As previously stated, the Company will ensure that all DOT drug tests comply with Part 40 requirements.

**Laboratory.** The Company shall ensure that all DOT testing is conducted only by a laboratory that is certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP). Doing so ensures that the Company complies with the requirements of Part 40 and with all applicable requirements of HHS in testing DOT specimens, whether or not those requirements are explicitly stated in the Plan. The laboratory used by this Company is specified in Appendix B. The laboratory will report the certified results to the MRO and only to the MRO, at the address provided on the Federal CCF. Results will not be reported directly to the Company or to or through another service agent, such as the C/TPA.

**Specimen.** Urine is the only specimen that is authorized for DOT drug testing. The Company will not use any other specimen (e.g., hair or saliva) for a DOT-required drug test. A "quick test" (e.g., a urine test that produces an immediate test result) is also prohibited by DOT.

**Drug Testing.** The laboratory will ensure that, on each DOT test, each specimen is tested for **marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP)**. (See Table 1) The testing is a "two step" process: all presumptive positive results on the initial test must be confirmed by a confirmation test. The initial and the confirmation tests use different chemical principles, and separate portions of the original specimen, for test. DOT specimens will not be tested for any other drugs. DOT specimens will not be subjected to DNA testing.

**Validity Testing.** The laboratory will ensure that, on each DOT test, each specimen is also subjected to "validity testing". The purpose of validity testing is to determine if the employee tampered with their specimen during the collection process. Validity testing measures the creatinine concentration and specific gravity to detect a diluted or substituted specimen; pH is measured as one criterion established to detect an adulterated specimen. Validity testing also incorporates HHS criteria (used by DOT) in testing for specific adulterants such as nitrites, chromates, surfactants, and other active chemical compounds.

**Laboratory Specimen Handling and Reporting.** When the laboratory receives a DOT specimen they will unpack and enter it into the testing process. Part of that process is to examine the condition of the specimen bottles and accompanying CCF. The laboratory will look closely for any specific reason to stop the testing process (e.g., "fatal flaws"). If the laboratory determines a fatal flaw exists, the specimen is rejected for testing and the test is cancelled by the MRO. If a fatal flaw does not exist, the specimen will be tested. The following are DOT "fatal flaws":

- a) There is no CCF;
- b) In cases where a specimen has been collected, there is no specimen submitted with the CCF;
- c) There is no printed collector's name and no collector's signature;
- d) Two separate collections are performed using one CCF;
- e) The specimen ID numbers on the specimen bottle and the CCF do not match;
- f) The specimen bottle seal is broken or shows evidence of tampering (and a split specimen cannot be re-designated, (see §40.83(h)); and
- g) Because of leakage or other causes, there is an insufficient amount of urine in the primary specimen bottle for analysis and the specimens cannot be re-designated, (see §40.83(h)).

The laboratory will open only the primary specimen (Bottle "A") to conduct the two tests (initial and confirmatory). If the specimen tests negative in either test and does not have any specimen validity issues, the result will be reported to the MRO as negative. Only if the specimen test results are positive, adulterated, substituted, and/or invalid under both tests will the specimen be reported to the MRO as positive, adulterated, substituted, and/or invalid, respectively. These results are also referred to as "non-negative" results.

## Required DOT Drug Tests & Cutoffs

TYPE OF DRUG Initial Test Analyte	INITIAL TEST Cutoff Concentration <sup>9</sup>	CONFIRMATORY TEST Analyte	CONFIRMATORY TEST Cutoff Concentration
Marijuana metabolites (THCA) <sup>10</sup>	50 ng/mL <sup>11</sup>	THCA	15 ng/mL
Cocaine metabolite (Benzoylecgonine)	150 ng/mL <sup>11</sup>	Benzoylecgonine	100 ng/mL
Opioids:			
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL 2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL 100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL 100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL 250 ng/mL
MDMA <sup>12</sup> /MDA <sup>13</sup>	500 ng/mL	MDMA MDA	250 ng/mL 250 ng/mL

Table 1

<sup>9</sup> For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

*Immunoassay:* The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater. If not, separate immunoassays must be used for the analytes within the group.

*Alternate technology:* Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

<sup>10</sup> An immunoassay must be calibrated with the target analyte Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)

<sup>11</sup> *Alternate technology (THCA and benzoylecgonine):* When using alternate technology to test for THCA and Benzoylecgonine, the screening and confirmatory test cutoff concentrations must be the same respectively (i.e., 15 ng/mL for THCA and 100 ng/mL for Benzoylecgonine).

<sup>12</sup> Methylenedioxymethamphetamine (MDMA)

<sup>13</sup> Methylenedioxyamphetamine (MDA)

## 6. Laboratory Retention Periods and Reports

**Specimen Retention.** Specimens that are confirmed by the laboratory to be positive, adulterated, substituted, or invalid will be retained by the laboratory in properly secured, long-term, frozen storage for at least one year. Any employee split specimen not sent to another laboratory for testing, will be retained by the laboratory for the same period of time that the primary specimen is retained and will be maintained under the same storage conditions. Within this one-year period, the MRO, the employee, the Company, PHMSA or other state agencies with jurisdiction, may request in writing that the specimens be retained for an additional period. If the laboratory does not receive the request to retain the specimen within the one-year period, the specimen will be discarded.

**Record Retention.** All laboratory records pertaining to any test for this Company on its covered safety-sensitive employees will be retained for two years. The employer-specific data that is created by the laboratory for the laboratory statistical summary will be retained for two years. Within this two-year period, the MRO, the employee, the Company, PHMSA or other state agencies with jurisdiction, may request in writing that the records be retained for an additional period. If the laboratory does not receive the request to retain the records within the two-year period, the records will be discarded.

**Semi-annual Reports.** The laboratory will prepare and send to the Company the aggregate employer-specific summary on a semi-annual basis. The format for this report is found in Part 40, Appendix B.

## 7. Laboratory Quality Control

**Inspections.** The laboratory shall permit inspections by the Company, the PHMSA Administrator, or if the Company is subject to the jurisdiction of a state agency, a representative of the state agency. Additionally, if the Company uses a C/TPA, that C/TPA may conduct a periodic inspection of the laboratory on the behalf of the companies that are clients of the C/TPA.

## 8. MRO Review of Drug Test Results

**Compliance.** The Company will have, on staff or contract for the services of, an MRO who is a licensed physician with knowledge of drug abuse and is qualified under Part 40. The MRO will follow the requirements of Part 40 in carrying out the functions of the "independent and impartial gatekeeper of the drug testing process". A full description of the DOT MRO requirements can be found in Part 40, Subpart G ("Medical Review Officers and the Verification Process", and Subpart H (Split Specimen Testing). The MRO will complete requalification/certification training every five years. The MRO will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations.

The MRO will act to investigate and correct problems where possible and notify appropriate parties (e.g., HHS, DOT, employers, service agents) where assistance is needed (e.g., cancelled or problematic tests, incorrect results).

**Duties.** All confirmed drug test results for the Company are received by the MRO directly from the laboratory. The MRO is responsible for the review of both negative and non-negative test results, review of the CCFs associated with each test, and to conduct quality control reviews of the MRO staff. The MRO will review and interpret confirmed positive, adulterated, substituted, and invalid test results. The MRO will verify a confirmed positive test result for marijuana, cocaine, amphetamines, semi-synthetic opioids (i.e., hydrocodone, hydromorphone, oxycodone and oxymorphone), and/or PCP unless the employee presents a legitimate medical explanation for the presence of drug(s)/metabolite(s) in his or her system. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive, adulterated, substituted or invalid test result. This action would include conducting a medical interview with the employee and review of the employee's medical history, or review of any other relevant biomedical factors, such as the results of a physical examination following an opioid positive. If the MRO determines that it is necessary, the MRO will request the laboratory test for D, L stereoisomers of amphetamine and methamphetamine or testing for tetrahydrocannabinavarin (THC-V) when verifying lab results.



The MRO shall review and take all reasonable and necessary steps to verify the authenticity of all medical records made available by the tested employee when the source of the confirmed result could have been from legally prescribed medication. The MRO shall not, however, consider the results of urine or other specimens that are not obtained or processed in accordance with DOT regulations.

**Results.** The MRO will use staff under his direct supervision to handle administrative processes for negative test results including receiving the result from the laboratory, reviewing the paperwork for accuracy, and reporting of the result to the DER. The MRO will personally review at least 5 percent of all CCFs reviewed by their staff, on a quarterly basis, not to exceed more than 500 negative results in a quarter.

The MRO staff may make the initial contact with employees having confirmed positive, adulterated, substituted, and invalid test results, for the purposes of setting up an interview for the MRO. The MRO will personally conduct the interview with the employee to determine whether there is a legitimate medical explanation for these results. This interview will be conducted, in most cases, before the Company is notified. If the result is confirmed positive by the laboratory, and a legitimate medical explanation is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive. If the confirmed result is adulterated or substituted, and a legitimate medical explanation is established, the MRO will report the result to the DER as cancelled and notify ODAPC, in accordance with Part 40 procedures. If not, the MRO will report the result to the DER as a refusal to test. If the result is invalid, and an acceptable reason is established, the MRO will report the result to the DER as cancelled and the process will stop, unless a negative test result is needed (e.g., pre-employment, return-to-duty and follow-up). If an acceptable reason is not established, the MRO will report the result to the DER as cancelled and order an immediate recollection under direct observation.

**Reports.** All drug test results will be reported to the Company DER in a confidential and timely manner. Before reporting any results, the MRO will have received a copy of the CCF showing where the employee has signed the form. The time period from collecting the specimen to reporting the verified test result is generally shorter for negatives than for non-negatives. Non-negatives will not be reported to the DER until all information required for the employee interview is received and approved by the MRO. The MRO will transmit the report(s) of verified tests to the Company DER within two days of verification by the MRO. The Company may use a C/TPA as its intermediary in receiving drug test results. If so, those reports will be handled in accordance with Part 40 requirements. If the MRO does not use Copy 2 of the CCF for reporting results, the MRO will maintain a copy of the signed or stamped report in addition to the signed or stamped and dated Copy 2. If the MRO uses an electronic data file to report negatives, the MRO will maintain a retrievable copy of that report in a format suitable for inspection and auditing by a DOT representative.

## 9. Split Specimen Testing

**Split Specimen.** When the MRO has verified a result as positive, adulterated, or substituted, the MRO will notify the employee of their right to have the split specimen tested. The employee must notify the MRO within 72 hours of the result being verified in order to have this testing conducted. If the employee requests that the split specimen be tested within the 72-hour period, the MRO will ensure that the split specimen is tested. Testing of the split specimen is only conducted at the request of the employee, and then only after using the MRO as the requesting agent for the employee. The MRO will select the second laboratory. The MRO will immediately provide written notice to the laboratory that tested the primary specimen, directing the laboratory to forward the split specimen to the second HHS-certified laboratory. The MRO will document the date and time of the employee's request.

The Company is responsible for making sure that the MRO, first laboratory, and second laboratory perform the functions noted in Part 40 in a timely manner, once the employee has made a timely request for a test of the split specimen (e.g., by establishing appropriate accounts with laboratories for testing split specimens).

The Company must not condition compliance with these requirements on the employee's direct payment to the MRO or laboratory or the employee's agreement for reimbursement of the costs of testing. For example, if the Company's asks the employee to pay for some or all of the cost of testing the split specimen, and the employee is unwilling or unable to do so, the Company must ensure that the test takes place in a timely manner, which means that the Company will pay for the split testing.

The Company may seek payment or reimbursement of all or part of the cost of the split specimen from the employee. Part 40 takes no position on who ultimately pays the cost of the test, so long as the Company ensures that the testing is conducted as required and the results released appropriately.

**Laboratory.** The testing of the split specimen will be conducted at another HHS-certified laboratory, different from the original laboratory. The MRO will select the second laboratory. The split specimen will be tested for the same substance or condition that was found in the primary specimen. The MRO will report back to the DER and the employee whether the split reconfirms the primary. If the test of the split does not reconfirm the primary, both tests will be cancelled as if they never occurred.

## 10. Medical or Recreational Marijuana

The DOT does not accommodate the use of medical or recreational marijuana by DOT-covered safety-sensitive employees.

## VI. ALCOHOL MISUSE PREVENTION PROGRAM

### 1. DOT-Required Alcohol Tests

**Compliance.** The Company will ensure that each employee who performs a DOT-covered function will be alcohol tested for the following reasons when called for by Part 199. All alcohol tests will be conducted following the procedures of Part 40.

**Pre-Employment Testing.** PHMSA does not mandate a pre-employment alcohol test for covered safety-sensitive employees in the pipeline industry. PHMSA does give operators and contractors who wish to conduct a pre-employment alcohol test the authority to do so. If the Company decides to conduct pre-employment alcohol testing, all applicants will be advised of the test prior to the test occurring, and all tests will be conducted before the first performance of covered functions by every covered safety-sensitive employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions). The Company will treat all covered safety-sensitive employees the same for the purpose of pre-employment alcohol testing; the Company will not test some covered safety-sensitive employees and not others. The Company will conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test. A result of less than 0.02 alcohol concentration is required prior to performing covered functions.

**Post-Accident Testing.** As soon as possible, the Company will alcohol test each surviving covered safety-sensitive employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The Company may decide not to test under this paragraph but such a decision will be based on specific information that the covered safety-sensitive employee's performance had no role in the cause(s) or severity of the accident. The Company will document the decisions that support the determination not to conduct a post-accident alcohol test.

If a test required by this section is not administered within the 8 hours following the accident, the Company will prepare and maintain its decision stating the reasons why the test was not promptly administered. If a test required by the above paragraph of this section is not administered within 8 hours following the accident, the Company will cease attempts to administer an alcohol test and will state in the record the reasons for not administering the test. Refer to Appendix F: *Post-Accident or Reasonable Cause/Suspicion Supervisor Written Record.*

If the alcohol test is not completed within 2 hours the Company will prepare and maintain a written statement documenting the reason the test was not conducted. If the test is not completed within 8 hours, the Company shall cease attempts to do so. The Company will take all reasonable steps to obtain a breath test from an employee after an accident, but any injury should be treated first. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, to prohibit a covered safety-sensitive employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

The affected employee will not be allowed to proceed alone to the testing site. A covered safety-sensitive employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Company or Company's representative of their location if they leave the scene of the accident prior to submission to such test, may be deemed by the Company to have refused to submit to testing.

**Random Testing.** PHMSA does not authorize random alcohol testing of covered safety-sensitive employees within the natural gas and hazardous liquids pipeline industry. The Company will not conduct DOT random alcohol testing of their PHMSA-regulated employees.

**Reasonable Suspicion/Cause Testing.** The Company will conduct reasonable suspicion testing, also known as reasonable cause testing, based on the Company's observation of "signs and symptoms" of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. A supervisor trained in detection of the possible signs and symptoms of alcohol use shall make the decision to test an employee. The decision to test will only be made on an employee during, just before, or just after his performance of DOT functions.

The supervisor making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion/cause test. This documentation of the employee's conduct should be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier. Refer to Appendix G: Reasonable Cause/Suspicion Observation Checklist. The potentially affected employee should not be allowed to proceed alone to or from the test site.

If the reasonable suspicion test is not administered within 2 hours following the determination, the Company will prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test is not administered within 8 hours, the Company will cease attempts to administer an alcohol test and record the reasons for not testing. Regardless of whether or not a reasonable suspicion alcohol test is conducted, the Company will not permit a covered employee to report for duty or remain on duty performing covered functions while the employee is under the influence of, or impaired by alcohol, as determined by the behavioral, speech, or performance indicators of alcohol misuse. The Company will not take any action, under the PHMSA regulation, 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 action under Company authority or otherwise consistent with the law.

If the test results are 0.02 or greater, the employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable belief that he may be under the influence of alcohol. If the employee insists on driving, a supervisor should notify the proper local law enforcement authority that an employee believed to be under the influence of alcohol is leaving the Company premises driving a motor vehicle.

**Return-to-Duty Testing.** The Company will conduct a return-to-duty test prior to an employee returning to covered safety-sensitive duty following a DOT violation. When an employee has a DOT violation the employee cannot work again in any DOT covered safety-sensitive function until successfully completing the SAP/return-to-duty requirements. Only after the SAP has reported to the Company that the employee is eligible to return to covered safety-sensitive duties is the Company authorized to return the employee to a covered function. However, whether or not to do so is a business decision of the Company, not the DOT. When the Company makes the decision to return the employee to safety-sensitive duty, the Company will initiate the order for the return-to-duty test.

A return-to-duty test, as a minimum, will be for the substance associated with the violation. A return-to-duty test may, however, be for both drugs and alcohol. The decision belongs solely to the SAP from information gained during the SAP-evaluation/treatment processes. The results of a return-to-duty alcohol test must be less than 0.02 in order "to count" and allow the employee to return to work. A cancelled test does not meet this criterion and requires a retest; a result greater than 0.02 but less than 0.04 must be retested until the result is less than 0.02; a result of 0.04 or greater is a new, separate violation.

If the Company has a zero tolerance policy, any covered safety-sensitive employee who has a DOT drug or alcohol violation will be terminated upon such violation (refer to Appendix D, Company Disciplinary Actions and Additional Procedures). However, the employee will be referred to a SAP. The employee will be made aware that they must complete the DOT return-to-duty process prior to again performing covered safety-sensitive work for a company that is subject to the DOT alcohol and drug testing regulations.

**Follow-up Testing.** The Company will conduct follow-up testing, as a series of tests that occur after an employee returns to covered safety-sensitive work, following a negative result on the return-to-duty drug and/or alcohol tests. Follow-up testing, as a minimum, will be for the substance associated with the violation. In addition, follow-up testing may be for both drugs and alcohol, as directed by the SAP's written follow-up testing plan.

Follow-up testing is the Company's responsibility to conduct. The number and frequency of the follow-up tests will be determined by the SAP, but shall consist of at least six tests in the first 12 months following the covered safety-sensitive employee's return to duty. The follow-up plan will give both the number of tests and their frequency; the Company will select the actual day and time of the test and the tests are unannounced. Testing will only be conducted for an employee during, just before, or after his/her performance of DOT functions. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.

## 2. Alcohol Test

**Compliance.** The Company will follow Part 40 procedures for alcohol testing. A full description of DOT alcohol testing requirements can be found in Part 40, Subpart J ("Alcohol Testing Personnel"); Subpart K ("Testing Sites, Forms, Equipment and Supplies Used in Alcohol Testing"); Subpart L ("Alcohol Screening Tests"); Subpart M ("Alcohol Confirmation Tests"); and, Subpart N ("Problems in Alcohol Testing"). These procedures apply to all DOT alcohol tests regardless of the reason for the test.

**Personnel and Testing Devices.** The Company will only use qualified Screening Test Technicians (STT) or Breath Alcohol Technicians (BAT) for DOT alcohol tests. Technicians will complete requalification/certification training every five years. The technicians will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations. These technicians will only conduct the test using DOT-approved devices. Devices are approved by the National Highway Traffic Safety Administration (NHTSA), an agency of DOT, and placed on the Conforming Products List (CPL).<sup>14</sup> The devices used by the Company will be maintained according to the particular manufacturer's specifications in the Quality Assurance Plan (QAP). External calibration checks will be performed at the intervals specified in the manufacturer's instructions for any EBT used for DOT-required alcohol confirmation testing. The inspection, maintenance and calibration of the EBT shall be performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency.

**Testing Site, Forms, and Specimen.** The Company will provide the employee with the specific location where the test will take place. Tests will be conducted in an area to prevent unauthorized people from hearing or seeing the employee's test result. The Company will remind the employee that failure to sign the DOT Alcohol Testing Form (ATF) at the instruction of the testing technician will be viewed as a refusal to test. The alcohol screening test may be conducted with breath or saliva, as applicable for the device used by the testing technician. Only breath will be used for the confirmation test, which is conducted by a BAT using an EBT.

**Test.** The Company will inform the employee that they are required to carry and present a current valid picture ID, such as a driver's license, passport, or employer-issued picture ID to the testing site. The testing technician will perform a screening test and show the employee the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide the employee a copy and also provide the Company and/or the Company's C/TPA a copy. If the screening test result is 0.02 or greater, the employee will be required to take a confirmation test, which can only be administered by a BAT using an EBT. The BAT will wait at least 15-minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, the employee will not be allowed to eat, drink, smoke, belch, put anything in their mouth or leave the testing area. Leaving the testing area without authorization may be considered a refusal to test. The BAT will perform an "air blank" (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it. The confirmation test result is the final result of the test, and the will be shown to the employee and on the printout from the EBT. If the result is less than 0.02, no action is taken under Part 199. Any result of 0.02 or greater will be immediately reported to the Company.

<sup>14</sup> National Highway Traffic Safety Administration, Conforming Products List for Evidential Breath Measurement Devices.

### 3. PHMSA Inspection Protocol for Alcohol Testing Sites

**Compliance.** PHMSA's Substance Abuse Program Comprehensive Audit and Inspection Protocol Form, Alcohol Testing Sites, Form No. 3.1.8 (Revision 2)" provides a separate inspection protocol for Alcohol Testing Sites. The Company provides this protocol to correspond with the detail found in the PHMSA Inspection Form. As previously stated, the Company will ensure that all DOT alcohol tests comply with Part 40 requirements.

**Alcohol Testing Personnel.** The Company will ensure that only qualified STTs and BATs are used to conduct Company DOT tests. STTs and BATs are responsible to maintain their own verification documentation and will make it available to the Company on request. A supervisor of an employee may not be used to conduct a reasonable suspicion/cause test if that supervisor was the one who made the determination to test.

**Alcohol Testing Sites, Forms and Supplies.** The testing site will ensure visual and aural privacy to the employee being tested to prevent unauthorized persons from seeing or hearing test results. The site will have the needed personnel, materials, equipment, and facilities to provide for the collection and analysis of breath and/or saliva samples, and a suitable clean surface for writing. The site will be able to prevent unauthorized personnel from entering the testing site, and ensure no unauthorized employee has access to an unsecured EBT, and that when an EBT or ASD is not being used for testing, it is stored in a secure place. Tests will be conducted on only one employee at a time.

Only EBTs and ASDs listed on the NHTSA CPL will be used for DOT alcohol testing, and only an EBT must be used for conducting the confirmation tests. The QAP and associated manufacturer's instructions will be followed for all EBTs and ASDs used by the Company. It is the responsibility of the testing sites used by the Company to carry out this responsibility for the Company.

**Alcohol Screening Tests.** Only the DOT-approved ATF will be used for all Company alcohol tests. The employee will provide a positive identification through the use of photo ID or by employer representative prior to the test. The BAT or STT shall explain the testing process to the employee, including showing the employee the instructions on the back of the ATF. If the employee has a designated testing time and does not appear, the BAT or STT will notify the DER. Testing will begin without undue delay. An alcohol test will be given prior to a drug test and medical attention, if it is required, will not be delayed in order to conduct a test. The testing technician will explain the testing procedure to the employee, including showing the employee the instructions on the back of the ATF.

The ATF will be completed and the employee will be asked to sign the ATF. Failure to sign is a refusal to test. The BAT or STT will select, or allow the employee to select, an individually wrapped or sealed mouthpiece from the testing materials and insert it into the device in accordance with the manufacturer's instructions. The employee will be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained. The employee will be shown the displayed test result. The device will print a label with, or the technician will write, the result and pertinent information on the ATF.

**Alcohol Screening with an ASD.** It is not the intent of the Company to use an ASD for an alcohol test. However, it is possible that, when necessary, one may have to be used to conduct the test. In those cases, the STT or BAT will follow the manufacturer's instructions, and only use a device that has been under their control. The ASD may be either a saliva device or a breath tube. The expiration date will be shown to the employee. A device will not be used after its expiration date. The device will be opened in the presence of the employee, and the employee will be offered the opportunity to use the device, according to instructions. In any case, where the technician uses the device, the device will be inserted into the employee's mouth and gather saliva, with the technician wearing single-use examination gloves while doing so and change them following each test. Assurance will be made that the device has properly activated and that the correct amount of time will be allowed to elapse before reading the result. If problems occur (e.g., the device does not activate, it is dropped on the floor), it will be discarded and a new test will be conducted using a new device.

The STT or BAT will note on the ATF the reason for the new test. If efforts to get the ASD to work properly fail, the technician will direct the employee to take a new test immediately, using an EBT for the screening test. Devices, swabs, gloves or other materials used in the prior saliva or breath tube testing will not be used in subsequent tests.

**Alcohol Screening Results.** A result with an alcohol concentration of less than 0.02 will be recorded on the ATF; the result will be transmitted, in a confidential manner, to the DER with the test concluded without consequence. A result with an alcohol concentration of 0.02 or higher requires the employee to take a confirmation test. If the same BAT who conducted the alcohol screening test will also conduct the confirmation test, the test will begin immediately. If a different BAT will conduct the confirmation test, the technician conducting the screening test will direct the employee to the site where the test will take place. The technician will also advise the employee not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee's mouth, or belch, during the 15-minute waiting period until the test occurs. The different BAT will require positive identification of the employee, explain the confirmation procedures, and use a new ATF. The BAT will note on the "Remarks" line of the ATF that a different BAT or STT conducted the screening test. The employee will be observed by the technician or an employer representative on the way to the confirmation testing site. The employee will be directed not to attempt to drive a motor vehicle to the confirmation testing site.

#### **Alcohol Confirmation Test.**

All alcohol confirmation tests will be conducted by BATs using EBTs. The BAT will ensure that the time since the screening test has been at least 15 minutes, and the employee has been advised not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee's mouth, or belch. The BAT will conduct an air blank on the EBT in the presence of the employee. The reading must be 0.00 for the test to proceed. If the reading is greater than 0.00, another air blank must be conducted; the EBT must not be used (taken out of service) if the second reading is greater than 0.00. The EBT cannot be used for testing until it is found to be within tolerance limits on an external check of calibration. A new sealed mouthpiece will be opened, in view of the employee, and used for the test. The employee will be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained. The results will be shown to the employee and printed for application to the ATF.

**Alcohol Confirmation Results.** If the alcohol confirmation test result is lower than 0.02, nothing further is required of the employee. If the alcohol confirmation test result is 0.02 or higher, the BAT will immediately transmit the result directly to the DER in a confidential manner.

**Problems in Alcohol Testing.** The Plan addresses the situations in which an employee has refused to take an alcohol test. See Section IV.6, "DOT Alcohol Violations and Prohibited Conduct." In situations where an employee is unable to provide sufficient saliva to complete a screening test, the Company will ensure that the employee takes a breath test immediately. In situations where an employee is unable to provide sufficient breath to complete a test, the employee will be sent for an evaluation, within five days, by a licensed physician who is acceptable to the Company. The physician will have expertise in the medical issues raised by the employee's failure to provide a breath specimen, as well as be apprised of the consequences of the appropriate DOT agency regulation for refusing to take the required alcohol test. The physician will provide the Company with a signed statement of their conclusions. If it is the reasonable medical judgment of the physician, that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of breath, the test will be canceled by the Company. If there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of breath, this constitutes a refusal to test.

**Canceling an Alcohol Test.** The Company will ensure that an alcohol test is canceled if a fatal flaw occurs. Fatal flaws are: 1) in the case of a screening test conducted on a saliva ASD or a breath tube ASD, the STT or BAT reads the result either sooner than or later than the time allotted by the manufacturer; the saliva ASD does not activate; the device is used for a test after its expiration date; or, in the case of a screening or confirmation test conducted on an EBT, 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; 2) in the case of a confirmation test the BAT conducts the confirmation test before the end of the minimum 15-minute waiting period; the BAT does not conduct an air blank before the confirmation test; there is not a 0.00 result on the air blank conducted before the confirmation test; the EBT does not print the result; or, the next external calibration check of the EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this case, every result of 0.02 or above obtained on the EBT since the last valid external calibration check is canceled.

The Company will ensure that an alcohol test is canceled if a correctable flaw occurs and is not corrected. Correctable flaws are: the BAT or STT does not sign the ATF; the BAT or STT fails to note on the "Remarks" line of the ATF that the employee has not signed the ATF after the result is obtained; and, the BAT or STT uses a non-DOT form for the test.

**Corrected Alcohol Problems.** The Company will ensure that BATs and STTs will try to successfully complete each alcohol test for an employee. If they become aware of a problem that will cause the test to be canceled, they will try to correct the problem promptly, if practicable. Repeating the test is an acceptable part of this process. If repeating the testing process is necessary, a new test (new ATF, new device) must begin as soon as possible. If repeating the testing process is necessary, the technician is not limited in the number of attempts to complete the test, provided that the employee is making a good faith effort to comply with the testing process. If another testing device is not available for the new test at the testing site, the technician will immediately notify the DER and advise the DER that the test could not be completed. The DER will make all reasonable efforts to ensure that the test is conducted at another testing site as soon as possible. If the Company or its service agent administering the testing process becomes aware of a correctable flaw that has not been corrected, all practicable action will be taken to correct the problem so that the test is not cancelled. If the problem resulted from the omission of required information, the person responsible for providing the information must supply in writing the missing information and a signed statement that it is true and accurate.

If the problem is the use of a non-DOT form, the technician must, as the person responsible for the use of the incorrect form, certify in writing that the incorrect form contains all the information needed for a valid DOT alcohol test. The technician must also provide a signed statement that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond the technician's control, and the steps the technician has taken to prevent future use of non-DOT forms for DOT tests. The technician must supply this information on the same business day on which the collector was notified of the problem, transmitting it by fax, e-mail or courier. If the technician cannot correct the problem, the technician must cancel the test.

## **VII. PROGRAM ELEMENTS COMMON TO DRUG AND ALCOHOL**

### **1. Substance Abuse Professional**

**Compliance.** The Company will follow the requirements of Part 40 for its Substance Abuse Professional (SAP) obligations. A full description of the SAP requirements is in Part 40, Subpart O ("Substance Abuse Professionals and the Return-to-Duty Process").

**Qualifications.** The Company will refer employees only to SAP's who have the credentials, basic knowledge, and qualification training, including fulfilling obligations for continuing education courses, for DOT violations. The SAP will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations. The SAP will not be an advocate for the Company or the employee. The SAP's function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.

**SAP Referral.** The Company will provide to each employee who violates a DOT drug and alcohol regulation a listing of SAP's readily available to the employee and acceptable to the Company. The list will include SAP names, addresses, and telephone numbers. There will not be a charge to the employee for compiling or providing this list. The Company may use its C/TPA or other service agent to provide this information. Any covered safety-sensitive employee who has violated DOT drug and alcohol regulations cannot again perform any DOT covered safety-sensitive duties for this Company until and unless the employee successfully completes the SAP evaluation, referral, and education/treatment process.

**Payment.** The Company is not required to pay for a SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation.

**Company Responsibility.** The Company is only bound by DOT to ensure that if the employee is provided an opportunity to return to a DOT covered safety-sensitive duty following a violation, that the Company ensure that the employee receives an evaluation by a SAP meeting the requirements of Part 40 and that the employee successfully complies with the SAP's evaluation recommendations before returning to the covered safety-sensitive job. Even if a SAP believes that the employee is ready to return to safety-sensitive work, the Company is under no obligation to return the employee to work. Under the DOT regulations, hiring and reinstatement decisions are left to the employer. The DOT leaves all payment issues for SAP evaluations and services to the Company and the employee to resolve.

**SAP Process.** The SAP will make a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use. The SAP will refer the employee to an appropriate education and/or treatment program. At the completion of the education and/or treatment, the SAP will conduct a face-to-face follow-up evaluation to determine if the employee actively participated in the education and/or treatment program and demonstrated successful compliance with the initial assessment and evaluation recommendations.

Reports will be provided to the Company on both the initial requirements and the outcome of the follow-up evaluation. The report will be specific and will include all of the Part 40 requirements of a written SAP report. The SAP will provide the DER with a written follow-up drug and/or alcohol testing plan for the employee and, if deemed necessary, will also provide the employee and the Company with recommendations for continuing education and/or treatment.

## **2. Employee Assistance Program**

The Company will provide an Employee Assistance Program (EAP) for its employees and supervisors. The EAP may be established "in house," as part of internal personnel service or may be contracted to an entity that provides EAP services at other locations. The function of the EAP will be to provide employees with informational material on the awareness and danger of drug and alcohol use. General EAP-information material, such as the availability of brochures or videos, and community service "hotline" telephone numbers will be displayed in common areas and distributed to employees. Employees will be encouraged to call the hotline if needed. Additionally, this Plan will be displayed and made available to all employees. The Plan contains the employer's policy regarding the use of prohibited drugs and alcohol misuse. The areas and places in which the above material will be displayed include employee bulletin boards, break rooms, locker rooms, or other areas designated by the Company. If applicable, the Company will provide written notice to representatives of employee organizations of the availability of drug and alcohol education materials.

## **3. Supervisor Training**

Each supervisor who will determine whether an employee must be drug tested and/or alcohol tested based on reasonable suspicion/cause will be trained in the "signs and symptoms" of each substance. Each supervisor will receive one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable *drug* use and one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable *alcohol* use. The two 60-minute training periods may run concurrently equaling 120-minutes.



#### 4. Contractor Monitoring

**Compliance.** Operators are responsible for ensuring that contractors and contractor employees working for, and/or on the properties of, the operator are in compliance with the requirements of Part 40 and 199. With respect to those covered safety-sensitive employees who are contractors or employed by a contractor, an operator may provide by contract that all requirements of Part 40 and 199 will be carried out by the contractor.

To assure that the contractor is in full compliance, the contractor will allow access to property and records by the operator, the operator designee, the Administrator, any DOT agency with regulatory authority over the operator or covered safety-sensitive employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of Part 40 and 199. The operator will ensure that all contractors are qualified prior to commencing, as well as during the performance of, covered functions for the operator.

**Qualifying Potential Contractor.** Qualifications of the potential contractor as it pertains to drug and alcohol testing policies and procedures are assured by requesting the potential contractor to submit a copy of its Plan for review and compliance with PHMSA regulations. After review of the Plan is completed, written correspondence to the contractor will advise whether or not it 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 by PHMSA.

**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 will include, as a minimum, the name, type of test and test date of the employees who will perform any work or functions covered by Part 199 under that contract. A list of each contractor's covered safety-sensitive employees may be distributed to appropriate Company field management. All contractors will be required to submit drug and alcohol testing statistical information on a periodic basis, which may be based on the duration of the contract. Typically, this requirement will be on a semi-annual basis. The Company may require a more frequent schedule for submission of drug and alcohol testing data should they determine a need for such statistics. The Company shall maintain a complete file on each contractor's statistical drug and alcohol testing reports. The Company shall make these reports available when requested by a PHMSA agency-designated representative, or representatives of those state agencies under which jurisdiction the Company operates. The operator will also submit contractor Management Information System (MIS) reports to PHMSA by March 15<sup>th</sup> each year.

The contractor will cooperate with the operator, or the operator's designee, if additional information is requested to further verify compliance of the regulations.

#### 5. Recordkeeping

**Compliance.** The Company will ensure that all records required by the DOT are maintained in a location with controlled access. The Company is not required to keep records related to a program requirement that does not apply to Part 40 or 199. The Company or its C/TPA will maintain the records in a locked file system and will be accessed only on a strict "need to know" basis. The Company or its C/TPA will not release an employee's drug and alcohol records to third parties without the employee's specific written consent. A "third party" is any person or organization to whom Parts 40 or 199 do not explicitly authorize or require the transmission of information in the course of the drug and alcohol testing process. "Specific written consent" means a statement signed by the employee that he or she agrees to the release of a particular piece of information to a particular, explicitly identified, person or organization at a particular time.

The Company or its C/TPA will release the employee's information without consent to DOT, PHMSA, or other government agency having regulatory authority over the Company or employee without consent. The Company or its C/TPA will release the employee's information without consent as a part of an accident investigation by the National Transportation Safety Board. The Company or its C/TPA will release the employee's information without consent in certain legal proceedings. These proceedings include a lawsuit, grievance, administrative proceeding (e.g., an unemployment compensation hearing brought by or on behalf of an employee resulting from a positive drug or alcohol test or refusal to test), a criminal or civil action resulting from an employee's performance of covered safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the Company to produce the information. In such a proceeding the information will be released to the decision maker in the proceeding with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding. After releasing the information, the Company or its C/TPA will notify the employee.

If the Company uses a C/TPA to maintain the records, the Company will ensure that the C/TPA can produce these records at the Company's principal place of business in the time required by the DOT agency for an inspection. The records will be provided within two business days after receipt of the request. Most records will be stored electronically, where permitted by Part 40 and 199. The Company will ensure that the records are easily accessible, legible, and formatted and stored in an organized manner. If electronic records do not meet these criteria for the DOT inspector, the Company will convert them to printed documentation in a rapid and readily auditable manner, at the request of DOT agency personnel.

**Records and Retention Periods.** The Company or its C/TPA will maintain the following records for the noted time periods, as a minimum:

- a) Records kept for **five** years:
  - (1) Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
  - (2) Records of the inspection, maintenance, and calibration of EBTs;
  - (3) Records of verified positive drug test results;
  - (4) Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
  - (5) SAP reports;
  - (6) Follow-up tests and schedules for follow-up tests; and,
  - (7) Statistical data related to the Company's testing program, entitled "Management Information System," will be available to a representative of DOT, PHMSA, or a state agency having regulatory authority over the Company upon request.
  
- b) Records kept for **three** years:
  - (1) Records of information obtained from previous employers under Part 40 concerning drug and alcohol test results of employees;
  - (2) Records that demonstrate the drug-testing collection process; and,
  - (3) Records related to "signs and symptoms" alcohol and drug training for supervisors;
  - (4) Records related to employee education and training;
  - (5) Records of decisions not to administer post-accident covered employee alcohol and drug tests.
  
- c) Records kept for **two** years:
  - (1) Records related to the alcohol collection process (i.e., calibration documentation for evidential breath testing devices, documentation of breath alcohol technician training, documents generated in connection with decisions to administer reasonable suspicion alcohol tests, documents generated in connection with decisions on post-accident tests, and documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing); and,
  
- d) Records kept for **one** year:
  - (1) Negative and cancelled drug test results.
  - (2) Alcohol results less than 0.02.

**Employee Request for Records.** All employees have the right to request and obtain copies of any records pertaining to the employee's use of alcohol and/or drugs, including records of the employee's DOT-mandated drug and/or alcohol tests, and copies of SAP reports. Requests for records must be made in writing to the DER. A laboratory must provide, within 10 business days of receiving a written request from an employee, and made through the MRO, the records relating to the results of the employee's drug test (i.e., laboratory report and data package). Service agents providing records may charge no more than the cost of preparation and reproduction for copies of these records. SAPs must redact follow-up testing information from the report before providing it to the employee.

## **6. Management Information System**

**Compliance.** The Company will prepare and maintain the DOT Management Information System (MIS) report for its drug and alcohol testing program. This report will be submitted to PHMSA in accordance with annual submission requirements. If the Company uses a C/TPA then the C/TPA may prepare and maintain the MIS, reporting the MIS as the Company requires. The DER will certify each report submitted by a C/TPA for accuracy and completeness. The MIS report will be submitted electronically through the DAMIS portal on or before March 15<sup>th</sup>.

**Contractor Reporting for MIS.** If the Company is an operator, it will verify and identify all contractors who performed covered functions, as defined under Part 199, for this Company in a given calendar year. If required, by either mandated annual or PHMSA written request, the Company will submit an MIS report for each of these contractors. The contractor MIS reports will be submitted electronically through the DAMIS portal on or before March 15<sup>th</sup>.

**VIII. Appendix A - Acknowledgement/Receipt Form**

I acknowledge, by signing this form, that my full compliance with the Anti-Drug and Alcohol Misuse Prevention Plan (the "Plan") and DOT drug and alcohol regulation requirements is a condition of my initial and continued employment with the Company. I understand and agree that I may be discharged or otherwise disciplined for any drug and/or alcohol violation, committed by me, as cited in the Plan and/or in the DOT drug and alcohol regulatory requirements.

I also acknowledge, by signing this form, that a copy of the Plan has been made available to me and that I have read and understand the requirements of the Company and DOT drug and alcohol program. I have also been provided with informational materials on the dangers and problems of drug abuse and alcohol misuse.

Signed, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Employee Name (Please Print)**

\_\_\_\_\_  
**Employee Signature**

## **IX. Appendix B - Designated Personnel and Service Agents**

### **CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)**

Name: Drug and Alcohol Testing Compliance Services

Address: 4000 US HWY 259 N, Longview, TX 75605

Phone Number: 903-234-1136

### **DESIGNATED EMPLOYER REPRESENTATIVE (DER)/ALCOHOL & DRUG PROGRAM MANAGER**

Name: Jim Rodino

Address: 712 Richmond St, Elkhart, IN 46516

Phone Number: 712 Richmond St, Elkhart,

### **MEDICAL REVIEW OFFICER (MRO)**

Name: Donald S. Freedman, MD

Address: PO Box 550749, Jacksonville, FL 32255

Phone Number: 904-332-0472

### **SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY**

Name: Alere Laboratories

Address: 1111 Newton, Gretna, LA 70053

Phone Number: 800-433-3823

### **COLLECTION SITE(s) - DRUG AND BREATH ALCOHOL**

Collection site procedures, processes and personnel requirements will follow Part 40, Subpart C, Subpart D, Subpart E, Subpart J, Subpart K, Subpart L, Subpart M and Subpart N. A list of collection site facilities, utilized by the Company, will be available upon request.

### **LIST OF APPROVED EVIDENTIAL BREATH TESTING DEVICES (EBTS) UTILIZED:**

The Company will only utilize alcohol testing technicians who conduct the testing using DOT-approved devices. These devices are approved by the National Highway Traffic Safety Administration. A list of breath testing devices, utilized by the Company, will be available upon request.

### **SUBSTANCE ABUSE PROFESSIONAL (SAP)**

Name: Pamela Forsey

Address: 2319 Edison Rd, South Bend, IN 46615

Phone Number: 574-233-4183

### **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

Name: Pamela Forsey

Address: 2319 Edison Rd, South Bend, IN 46615

Phone Number: 574-233-4183

**X. Appendix C - Covered Positions**

**EMPLOYEE/SUPERVISOR\* POSITIONS SUBJECT TO ALCOHOL & DRUG TESTING  
JOB CLASSIFICATIONS/TITLES SUBJECT TO 49 CFR PART 192, 193 or 195)**

\*SUPERVISOR POSITIONS THAT HAVE RECEIVED ALCOHOL AND DRUG TRAINING (60 MINUTES DRUG, 60 MINUTES ALCOHOL)

<b>Title</b>	<b>Employee</b>	<b>Supervisor</b>	<b>Title</b>	<b>Employee</b>	<b>Supervisor</b>
	Yes	No			
Cement Masons	Yes	No			
Laborers	Yes	No			
Operators	Yes	No			
DER	No	Yes			
Safety Manager	No	Yes			
Supervisor	No	Yes			

## **XI. Appendix D - Company Disciplinary Actions and Additional Procedures**

### **1. Company Discipline**

Employees violating this Plan will be subject to disciplinary actions up to and including termination.

### **2. Additional Company Procedures**

Compliance with All Laws. This policy statement will be amended from time to time to comply with changes in Federal and State laws.

The Company reserves the right to revise or amend this policy with or without notice at any time.

THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK TO ADD ADDITIONAL COMPANY DISCIPLINARY ACTIONS AND PROCEDURES IF NEEDED.



## XII. Appendix E

### PHMSA Anti-Drug and Alcohol Misuse Program-Inspection Protocol Form, Comprehensive Audit and Inspection Protocol Forms- Specimen Collection Sites, Alcohol Testing Sites and Changes to Model Plan.

PHMSA Anti-Drug and Alcohol Misuse Program Inspection Protocol Form, Form No.: 4.1, Revision 3 (dated March 1, 2021)  
Protocol Area A – General Drug & Alcohol (D&A) Program Requirements

#### A-1: Designated Employer Representative (DER)

Has the operator appointed a Designated Employer Representative (DER)? §40.3, §40.15(d), §40.355(k), Verify that a service agent is not used to fulfill the function of a DER. §40.3, §40.15(d), §40.355(k)

***Plan: IX: Appendix B – Designated Personnel and Service Agents, III. Policy and Responsibilities – 2. Responsibilities of Key Personnel, Designated Employer Representative (DER), 4. Use of Service Agents, Compliance, Consortium/Third Party Administrator.***

#### A-2: Employer Responsibilities for Officials, Representatives, and Service Agents

Does the operator's D&A program have a process to ensure the operator remains responsible for all actions of its officials, representatives, and service agents, including a Consortium/Third Party Administrator (CTPA), to ensure compliance when these officials, representatives, and service agents carry out the requirements of Parts 199 and 40? §40.11(b), §40.15(c), §40.341

***Plan: III. Policy and Responsibilities – 4. Use of Service Agents, Compliance.***

#### A-3: Qualification Requirements

Verify the operator's D&A program positions and/or service agents meet the applicable qualification requirements of Part 40 and Part 199: Medical Review Officer (MRO) §40.121 and §199.109(b), Urine Specimen Collector §40.33, Substance Abuse Professional (SAP) §40.281, Laboratories certified by the Department of Health and Human Services (HHS) National Laboratory Certification program (NLCP) §40.81(a) and §199.107(a), Screening Test Technician (STT) §40.213, Breath Alcohol Technician (BAT) §40.213

***Plan: V. Anti-Drug Program – 3. Specimen Collection Procedures, 4. PHMSA Inspection Protocol for Specimen Collection Sites, 5. Drug Testing Laboratory, 8. MRO Review of Drug Test Results, VI. Alcohol Misuse Prevention Program – 2. Alcohol Test, VII. Program Elements Common to Drug and Alcohol – 1. Substance Abuse Professional***

#### A-4: Service Agent Limitations

Verify the operator's D&A program ensures its service agents: Do not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the DOT D&A testing process (including, but not limited to, collections, laboratory testing, MRO and SAP services). §40.355(a), Do not act as an intermediary in the transmission of laboratory drug test results direct from the laboratory to the MRO, operator, or to another service agent, or in the transmission of alcohol test results of 0.02 or higher direct from the STT or BAT to the DER. §40.355(b-d), Do not make decisions to test an employee based upon reasonable suspicion/cause, post-accident, return-to-duty, and follow-up determination criteria. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. §40.355(g) - see §40.355(h) for exceptions, Do not make determinations that an employee has refused a drug or alcohol test. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. §40.355(i) - see §40.355(j) for exceptions, Do not impose conditions or requirements on the operator, such as the DOT D&A testing of non-covered employees, that DOT regulations do not authorize. §40.355(m), Do not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions the service agent performed because of a payment dispute or other reasons. §40.355(n)

***Plan: III. Policy and Responsibilities – 4. Use of Service Agents, Service Agent Limitations.***

#### A-5: Supervisory Personnel Training

Does the operator require a 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use under the EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause? §199.113(c), Does the operator require a 60-minute period of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse for supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing? §199.241.

***Plan: VII. Program Elements Common to Drug and Alcohol – 3. Supervisor Training***

#### A-6: Covered Employees

Does the operator have a process to ensure the operator properly identifies the covered employees who are required to be DOT tested for the presence of prohibited drugs and alcohol? §199.3, Verify the operator does not conduct DOT tests for the presence of prohibited drugs and/or alcohol on any individual who is not a covered employee. §199.1, §199.3 and §40.347(b)(2)

***Plan: X. Appendix C – Covered Positions, III. Policy and Responsibilities – 6. "NON-DOT" Testing Program, IV. DOT Program Requirements – 1. Employees Subject to Testing, Compliance***

#### A-7: Employee DOT D&A Testing Record Checks

For an employee seeking to perform covered functions for the first time (i.e., new hire or an employee transferring into a safety-

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sensitive position): Does the operator obtain the employee's written consent prior to requesting DOT D&A testing information from prior DOT regulated employers? §40.25(a), §40.27, §40.321(b), §40.351(d), Note: a wet ink signature and separate request is required for each prior employer, Does the operator request DOT D&A testing information from each DOT regulated employer who has employed the employee during any period during the two years before the date of the employee's application or transfer? §40.25(b), Verify the operator does not permit an employee to perform a covered function after 30 days from the date on which the employee first performed a covered function, unless the operator has obtained, or made and documented, a good faith effort to obtain the DOT D&A testing information from prior DOT regulated employers. §40.25(d), Verify the operator does not permit an employee who has violated any DOT agency D&A regulation to perform a covered function unless the operator also obtains information that the employee subsequently complied with the return-to-duty requirements in Part 40, Subpart O and PHMSA's drug and alcohol regulations. §40.25(e)

**Plan: IV. DOT Program Requirements – 3. History Check Requirements.**

**A-8: DOT vs. Non-DOT Tests**

If a pipeline operator has a non-DOT drug and alcohol testing program: Does the operator have a process to ensure that all DOT D&A tests are completely separate from all non-DOT D&A tests in all respects? §40.13, Does the operator have a process to ensure that all DOT D&A tests take priority and must be conducted and completed before a non-DOT test is begun? §40.13(b)

**Plan: III. Policy and Responsibilities – 6. "NON-DOT" Testing Program.**

**A-9: Contractor Anti-Drug and Alcohol Misuse Prevention Programs**

If a pipeline operator allows contractors who perform covered functions on the operator's regulated pipeline or LNG facility to conduct their own D&A Programs: Does the operator have a process to oversee contractors to ensure they comply with Parts 199 and 40? §199.115, §199.245, Do the contractors allow access to property and records by the operator, PHMSA, and a representative of a state agency (if applicable) to allow for the monitoring the operator's compliance with Part 199? §199.115(b)

**Plan: VII. Program Elements Common to Drug and Alcohol – 4. Contractor Monitoring.**

**Protocol Area B – Anti-Drug Program**

**B-1: Written Anti-Drug Program**

Does the operator maintain and follow a written Anti-Drug Plan that conforms to the requirements of Part 199 and Part 40? §199.101(a), Ensure the Anti Drug Plan contains, at a minimum, the following: Methods and procedures for compliance with all the requirements of Part 199, including the Employee Assistance Program (EAP) §199.101(a)(1), The name and address of each laboratory that analyzes the specimens collected for drug testing §199.101(a)(2), The name and address of the operator's Medical Review Officer (MRO), and Substance Abuse Professional (SAP) §199.101(a)(3), Procedures for notifying employees of the coverage and provisions of the plan §199.101(a)(4)

**Plan: II. General – 3. Compliance, Plan Development, Plan Availability, VII. Program Elements Common to Drug and Alcohol 2. Employee Assistance Program, VIII. Appendix A – Acknowledgment/Receipt Form, IX. Appendix B – Designated Personnel And Service Agents**

**B-2: Prohibited Drugs**

Does the operator conduct DOT drug tests only for the "prohibited drugs" specified in Part 40? §199.1-5, §199.105 and §40.1-3 Marijuana, Cocaine, Amphetamines, Phencyclidine (PCP), Opioids

**Plan: II. General – 8. Definitions, Drugs, V. Anti-Drug Program – 5. Drug Testing Laboratory, Drug Testing, Table 1 Required DOT Drug Tests and Cutoffs**

**B-3a: Pre-Employment Drug Testing**

Does the operator have a process to ensure it does not hire or contract for the use of any person as a covered employee (e.g. new hire or transferred employee) to perform a covered function unless that person first passes a DOT drug test or is covered by an anti-drug program that conforms to Part 199? §199.105(a), Note: The anti-drug programs of the other DOT agencies and the USCG meet the requirements for an anti-drug program that conforms to Part 199, Does the operator have a process to ensure that a covered employee removed from the random drug test pool (for any length of time) passes a pre-employment DOT drug test before being placed back into the random drug test pool? §199.105(a)

**Plan: II. General – 8. Definitions, DOT, The Department, DOT Agency, V. Anti-Drug Program – 1. DOT-Required Drug Tests, Pre-Employment Testing**

**B-3b: Post-Accident Drug Testing**

Does the operator have a process to ensure it completes a DOT post-accident drug test as soon as possible but no later than 32 hours after an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? §199.105(b)(1), If the operator did not administer a DOT drug test within the 32 hours following an accident, does the operator have a process to ensure it ceases attempts to administer a drug test and states in the record the reason for not promptly administering the test? §199.105(b)(2), If the operator decides not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? §199.105(b)(1), If the operator decided not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure that it documents the decision and keeps that record for at least 3 years? §199.117(a)(5)

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***Plan: V. Anti-Drug Program – 1. DOT-Required Drug Tests, Post-Accident Testing, VII. Program Elements Common to Drug and Alcohol – 5. Recordkeeping, Records and Retention Periods, XIII. Appendix F – Post-Accident or Reasonable Cause/Suspicion Supervisor Written Record***

**B-3c: Random Drug Testing**

Does the operator use a scientifically valid selection method, such as a random number table or a computer-based random number generator that is matched with the employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers? §199.105(c)(5), Does the operator's selection method ensure that each covered employee has an equal chance of being selected each time selections are made? §199.105(c)(5), Does the operator have a process to ensure it selects a sufficient number of covered employees for random drug testing during each calendar year to equal an annual rate not less than the required minimum annual percentage rate? §199.105(c)(6), Does the operator have a process to ensure that random drug tests are unannounced and that the dates for administering the tests are spread reasonably throughout the calendar year? §199.105(c)(7), Note: Do not confuse random selection dates with test dates. For example, an operator may select once each quarter (i.e. 4 days a year) but the drug tests themselves must be reasonable spread throughout the calendar year.

***Plan: V. Anti-Drug Program – 1. DOT-Required Drug Tests, Random Drug Testing***

**B-3d: Reasonable Cause Drug Testing**

Does the operator have a process to ensure that DOT drug tests are performed when there is reasonable cause to believe the employee is using a prohibited drug? §199.105(d), Does the operator have a process to ensure the operator's decision to test is based on a reasonable and articulable belief that the employee is using a prohibited drug based on specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. §199.105(d), Does the operator have a process to ensure 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 between the two supervisors may be by telephone. §199.105(d), Note: In the case of operators with 50 or fewer employees subject to testing, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test. §199.105(d), Does the operator have a process to ensure service agents do not make decisions to drug test an employee based upon reasonable cause? While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. §40.355(g) (See §40.355(h) for exceptions.)

***Plan: V. Anti-Drug Program – 1. DOT-Required Drug Tests, Reasonable Suspicion/Cause Testing, III. Policy and Responsibilities, 4. Use of Service Agents, Service Agent Limitations (f).***

**B-3e: Return-to-Duty Drug Testing**

Does the operator have a process to ensure that a covered employee who refuses to take a drug test, or has a positive drug test, does not return to duty in any covered function until the covered employee completes a SAP evaluation, referral, and education/treatment process? §199.105(e) & Part 40, Subpart O, Does the operator have a process to ensure that a covered employee who refuses to take or has a positive drug test does not return to duty in any covered function until the covered employee successfully completes a return-to-duty drug test? §40.285(a), §40.289(b), §40.305(a) and §199.105(e), Does the operator have a process to ensure that all return-to-duty drug testing is performed under direct observation? §40.67(b)

***Plan: V. Anti-Drug Program – 1. DOT-Required Drug Tests, Return-to-Duty Testing, 2. Drug Tests That Require Direct Observation Procedures, Compliance.***

**B-3f: Follow-Up Drug Testing**

Does the operator have a process to ensure that a SAP establishes a follow-up testing plan for a covered employee who refused to take a drug test, or had a positive drug test, before allowing the covered employee to return to duty? §40.307, §40.309 and §199.105(f), Does the operator have a process to ensure that follow-up testing is performed on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months and that at least six tests must be conducted within the first 12 months following the covered employee's return to duty? §40.307, §40.309 and §199.105(f), Does the operator have a process to ensure that all follow-up drug testing is performed under direct observation? §40.67(b)

***Plan: V. Anti-Drug Program – 1. DOT-Required Drug Tests, Follow-up Testing, 2. Drug Tests That Require Direct Observation Procedures, Compliance.***

**B-4: Laboratory Drug Test Result Reports**

Does the laboratory report drug test results directly, and only, to the MRO at his or her place of business? Lab test results must not be reported to or through the DER or a service agent such as a C/TPA. §40.97(b), Does the laboratory transmit an aggregate statistical summary, by operator, of the drug test data listed in Part 40, Appendix B to the operator on a semi-annual basis?

***Plan: V. Anti-Drug Program – 5. Drug Testing Laboratory, Laboratory, 6. Laboratory Retention Periods and Reports, Semi-Annual Reports, III. Policy and Responsibilities, Use of Service Agents, Service Agent Limitations (b)(c)***

**B-5: MRO Review of Drug Testing Results**

Does the operator have a process to ensure its MRO provides quality assurance reviews of the drug testing process, including ensuring the review of the Custody and Control Form (CCF) on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be canceled? §199.109 and §40.123(b), Does the operator have a process to ensure its MRO performs the review functions required by §40.127 for negative drug test results received from a laboratory, prior to verifying the result and reporting it to the operator's Designated Employer Representative (DER)? §199.109 and §40.163, Does the operator have a process to ensure its MRO performs the review functions required by §40.129 for confirmed positive, adulterated, substituted, or invalid drug test results received from a laboratory, prior to verifying the result and reporting it to the DER? §199.109 and §40.163,

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Does the operator have a process to ensure that when its MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, the MRO notifies the employee of his or her right to have the split specimen tested and how to request the test? §199.109 and §40.153

**Plan: V. Anti-Drug Program – 8. MRO Review of Drug Test Results, Compliance, Duties, Results, Reports, 9. Split Specimen Testing, Split Specimen, Laboratory**

**B-6: MRO Drug Test Reports to the Operator**

Does the operator have a process to ensure its MRO reports all drug test results to the DER in accordance with the requirements in §40.163, §40.165, §40.167 and §199.109(d)? These requirements include: -reporting all drug test results to the DER, except in the circumstances provided for in §40.345, when a C/TPA may act as an intermediary §40.165(a); -reporting the results in a confidential manner §40.167(a); and, -reporting the results within the required time constraints §40.167(b) and (c), Does the operator have a process to ensure its MRO reports all drug test results to the DER unless the operator elects to receive drug test results through a C/TPA, acting as an intermediary, in which case the MRO reports the drug test results through the designated C/TPA? §199.109(d), §40.165, & §40.345

**Plan: V. Anti-Drug Program – 8. MRO Review of Drug Test Results, Reports.**

**B-7: Drug Regulation Violations**

Verify that the operator does not stand down an employee based on laboratory tests results before the Medical Review Officer (MRO) completes the drug test verification process unless an approved waiver has been granted. §199.7, §40.21, Does the operator have a process to ensure that a "covered employee" who violates a PHMSA/DOT drug regulation is removed from performing "covered functions"? §199.103, §40.23, Does the operator have a process to ensure it provides a listing of Substance Abuse Professionals (SAPs) that are readily available to an employee who violates a PHMSA/DOT drug regulation? §40.287, Note: A verified positive DOT drug test result or a refusal to test (including adulterating or substituting a urine specimen) constitutes a violation of a PHMSA/DOT drug regulation. §40.285(b) and §199.103(a)

**Plan: II. General – 6. Stand-down Waiver, IV. DOT Program Requirements – 7. Violation Consequences and Company Actions, After DOT Rule Violations**

**B-8: Employee Assistance Program (EAP)**

Does the operator have an EAP for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause?, The operator may establish the EAP as part of its internal personnel services or the operator may contract with an entity that provides EAP services. §199.113(a), Does the education under the EAP include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the operator's policy regarding the use of prohibited drug? §199.113(b)

**Plan: VII. Program Elements Common to Drug and Alcohol – 2. Employee Assistance Program, 3. Supervisor Training**

**Protocol Area C – Alcohol Misuse Prevention Program**

**C-1: Written Alcohol Misuse Plan**

Does the operator maintain and follow a written Alcohol Misuse Plan that conforms to the requirements of Part 199 and Part 40 and which contains methods and procedures for compliance with required alcohol testing, recordkeeping, reporting, education and training elements? §199.202

**Plan: I. Introduction – 1. Development of "Combined" Plan, VI. Alcohol Misuse Prevention Program**

**C-2: Alcohol Misuse Program Educational Materials**

Does the operator have a process to provide educational materials that explain alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements? §199.239(a), Does the operator provide a copy of these materials to each covered employee prior to the start of alcohol testing and to each person subsequently hired or transferred into a covered position? §199.239(a)(1), Does the operator provide written notice to representatives of employee organizations of the availability of this information? §199.239(a)(2)

**Plan: III. Policy and Responsibilities, 1. Company Policy, DOT Compliance, VII. Program Elements Common to Drug and Alcohol, 2. Employee Assistance Program**

**C-3: Alcohol Misuse Program Educational Materials Content**

Does the operator ensure educational materials are made available to covered employees and that the materials include detailed discussion of at least the following? §199.239(b), The identity of the person designated by the operator to answer covered employee questions about the materials, The categories of employees who are subject to the alcohol testing regulations in Part 199, Subpart C, Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with Part 199, Subpart C, Specific information concerning covered employee conduct that is prohibited by Part 199, Subpart C., The circumstances under which a covered employee will be tested for alcohol under Part 199, Subpart C, The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee, The requirement that a covered employee submit to alcohol tests administered in accordance with this Part 199, Subpart C, An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences, The consequences for covered employees found to have violated the prohibitions under Part 199, Subpart C, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243, The consequences for

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covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04, information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

**Plan:** *III. Policy and Responsibilities, 2. Responsibilities of Key Personnel, Designated Employer Representative (DER), 3. Responsibilities of Covered Employees, IV. DOT Program Requirements, 4. Employee Notification of Tests, 6. DOT Alcohol Violations and Prohibited Conduct, 7. Violation Consequences and Company Actions, VI. Alcohol Misuse Prevention Program, 1. DOT-Required Alcohol Tests, 2. Alcohol Test, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, VII. Program Elements Common to Drug and Alcohol, 2. Employee Assistance Program, IX. Appendix B – Designated Personnel and Service Agents, X. Appendix C – Covered Positions*

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**C-4: Alcohol-Related Prohibited Conduct**

Does the operator have a process to ensure that a covered employee is not permitted to perform covered functions if the employee has engaged in conduct prohibited by §§199.215 through 199.223 as shown below or an alcohol misuse rule of another DOT agency? §199.233, Prohibited conduct includes: Alcohol Concentration – having an alcohol concentration of 0.04 or greater while on duty. §199.215, §40.23(c) and §40.285, On-Duty Use – using alcohol while performing covered functions. §199.217, Pre-Duty Use – using alcohol within 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. §199.219, Use Following an Accident – a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not be discounted by the operator as a contributing factor to the accident, is prohibited from using alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under §199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident. §199.221, Refusal to Submit to a Required Alcohol Test – the refusal of a covered employee to submit to a post-accident alcohol test required under §199.225(a), a reasonable suspicion alcohol test required under §199.225(b), or a follow-up alcohol test required under §199.225(d). §199.223 and §40.285

**Plan:** *IV. DOT Program Requirements – 6. DOT Alcohol Violations and Prohibited Conduct*

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**C-5: Available Resources for Employees**

Does the operator have a process to ensure that each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol? This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. §40.285(b) and §199.243(a)

**Plan:** *IV. DOT Program Requirements – 7. Violation Consequences and Company Actions, After DOT Rule Violations., VII. Program Elements Common to Drug and Alcohol – 1. Substance Abuse Professional, SAP Referral*

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**C-6: Alcohol Concentration of 0.02 or Greater**

Does the operator have a process to ensure that a covered employee is prohibited from performing or continuing to perform covered functions when found to have an alcohol concentration of 0.02 or greater but less than 0.04, until the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e) or the start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test? §40.23(c) and §199.237(a)

**Plan:** *IV. DOT Program Requirements – 7. Violation Consequences and Company Actions, After DOT Alcohol Prohibited Conduct.*

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**C-7: Alcohol Screening Test Devices**

Does the operator use only Alcohol Screening Devices (ASDs) listed on ODAPC's web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" or Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for "Approved Evidential Breath Measurement Devices" to conduct alcohol screening tests? §40.229, Does the operator use ASDs only for screening tests for alcohol and must not be used for alcohol confirmation tests? §40.229, Note: an ASD can only be used for DOT alcohol screening tests if there are instructions for its use in Part 40, With respect to breath ASDs, verify the operator follows the device's use and care requirements listed in §40.233. §40.235

**Plan:** *VI. Alcohol Misuse Prevention Program – 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening with an ASD*

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**C-8: Alcohol Confirmation Test Devices**

Does the operator use only Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for "Approved Evidential Breath Measurement Devices" to conduct alcohol confirmation tests? §40.231, Does the operator ensure that the inspection, maintenance, and calibration of the EBTs are performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency? §40.233, Does the operator perform external calibration checks at the intervals and using the methods specified in the manufacturer's instructions for any EBT used for DOT required alcohol confirmation testing? §40.233

**Plan:** *VI. Alcohol Misuse Prevention Program – 2. Alcohol Test, Personnel and Training Devices*

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**C-9a: Pre-Employment Alcohol Testing (not required)**

If the operator chooses to conduct pre-employment alcohol testing: Does the operator have a process to ensure it conducts a pre-employment alcohol test before the first performance of a covered function by every covered employee (whether a new employee or

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someone who has transferred to a position involving the performance of covered functions)? §199.209(b)(1), Does the operator have a process to ensure it treats all covered employees the same with regards to pre-employment alcohol testing (i.e. must not test some covered employees and not others)? §199.209(b)(2), Does the operator have a process to ensure it conducts the pre-employment test only after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test? §199.209(b)(3)

**Plan: VI. Alcohol Misuse Prevention Program – 1. DOT-Required Alcohol Tests, Pre-Employment Testing.**

**C-9b: Post-Accident Alcohol Testing**

Does the operator have a process to ensure it completes a DOT post-accident alcohol test as soon as practicable following an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? §199.225(a)(1), If the operator did not administer a DOT alcohol test within 2 hours following an accident, does the operator have a process to ensure it prepares and maintains on file a record stating the reasons the test was not promptly administered? §199.225(a)(2)(i), If the operator does not administer a DOT alcohol test within 8 hours following an accident, does the operator have a process to ensure it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? §199.225(a)(2)(i), If the operator decides not to conduct a post-accident alcohol test of a covered employee, does the operator have a process to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? §199.225(a)(1), If the operator decided not to conduct a post-accident alcohol test of a covered employee, does the operator have a process to ensure it documents the decision and keeps that record for at least 3 years? §199.227(b)(4)

**Plan: VI. Alcohol Misuse Prevention Program – 1. DOT-Required Alcohol Tests, Post-Accident Testing, VII. Program Elements Common to Drug and Alcohol – 5. Recordkeeping, Records and Retention Periods, XIII. Appendix F – Post-Accident or Reasonable Cause/Suspicion Supervisor Written Record**

**C-9c: Reasonable Suspicion Alcohol Testing**

Does the operator have a process to ensure that DOT alcohol tests are performed when there is reasonable suspicion to believe the employee has violated the alcohol use prohibitions in Part 199, Subpart C? §199.225(b), Does the operator have a process to ensure the operator's determination that reasonable suspicion exists is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee and that the observations must be made during, just preceding, or just after the period of the work day the employee is required to be in compliance with Part 199, Subpart C? §199.225(b)(2)&(3), Does the operator have a process to ensure that a covered employee is directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions? §199.225(b)(3), If the operator does not administer a DOT alcohol test within 2 hours following the determination of reasonable suspicion, does the operator have a process to ensure that it prepares and maintains on file a record stating the reason the test was not promptly administered? §199.225(b)(4)(i), If the operator does not administer a DOT alcohol test within 8 hours following the determination of reasonable suspicion, does the operator have a process to ensure that it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? §199.225(b)(4)(i), Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to report for duty or remain on duty performing 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. §199.225(b)(4)(iii), Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to perform or continue to perform a covered function while the employee is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse until: An alcohol test is administered and the employee's alcohol concentration measures less than 0.02. §199.225(b)(4)(iii)(A) OR 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 the employee has violated the alcohol misuse prohibitions in Part 199, Subpart C. §199.225(b)(4)(iii)(B), Does the operator have a process to ensure it does not take any action under Part 199, Subpart C, against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test? §199.225(b)(4)(iv), Note: This does not prohibit an operator from taking any action under its own authority and otherwise consistent with the law.

**Plan: VI. Alcohol Misuse Prevention Program – 1. DOT-Required Alcohol Tests, Reasonable Suspicion/Cause Testing, IV. DOT Program Requirements – 6. DOT Alcohol Violations and Prohibited Conduct, 7. Violation Consequences and Company Actions, XIV. Appendix G – Reasonable Cause/Suspicion Supervisor Written Record**

**C-9d: Return-to-Duty Process and Alcohol Testing**

Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 may not return to duty to perform a covered function until the employee has complied with the SAP's evaluation, referral, and education/treatment process? §40.285(a), §40.305(a), Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 does not return to duty to perform a covered function until the employee undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02? §40.305(a), §199.225(c), §199.243(c), Does the operator have a process to ensure that all return-to-duty testing is performed under direct observation? §40.67(b).

**Plan: VI. Alcohol Misuse Prevention Program – 1. DOT-Required Alcohol Tests, Return-to-Duty Testing, V. Anti-Drug Program 2. Drug Tests That Require Direct Observation Procedures, All alcohol testing is direct observed.**

**C-9e: Follow-Up Process & Alcohol Testing**

Does the operator have a process to ensure the SAP has established a written follow-up testing plan after the SAP determined that the employee successfully complied with the SAP's return-to-duty recommendations for education and/or treatment and that a copy

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of the follow-up testing plan is presented to the DER? §40.307(a)&(b), Does the operator have a process to ensure that follow-up testing is conducted on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months? At least six tests must be conducted within the first 12 months following the covered employee's return to duty. §40.307, §40.309, §199.225(d) and §199.243(c)(2)(ii), Does the operator have a process to ensure that follow-up testing is conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions? §199.225(d)

***Plan: VI. Alcohol Misuse Prevention Plan – 1. DOT-Required Alcohol Tests, Follow-Up Testing, IV. DOT Program Requirements – 4. Employee Notification of Tests***

***C-10: BAT Alcohol Test Reports to the Operator***

Does the BAT or STT transmit alcohol screening test results to the DER in a confidential manner for concentrations or less than 0.02 using the DOT procedures described in §40.247 (refer to the code for specific requirements)? §40.247, Does the BAT immediately transmit alcohol confirmation test results directly to the DER in a confidential manner using the DOT procedures described in §40.255 (refer to the code for specific requirements)? §40.247

***Plan: VI. Alcohol Misuse Prevention Program – 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Results, Alcohol Confirmation Test***

***Protocol Area D – Drug and Alcohol Test Reporting***

***D. Reporting of Drug and Alcohol Test Results to PHMSA***

If the operator has more than 50 covered employees, verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year. §40.26, §199.119(a) and §199.229(a), If the operator has 50 or fewer covered employees (includes contractor employees), verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year when requested to do so by PHMSA notice. §40.26, §199.119(a) and §199.229(a), Does the operator have a process to ensure it identifies all contractors who performed covered functions for the operator in a given calendar year; and, if required by either mandated annual or PHMSA written request, submitted a MIS report for each of these contractors? §40.26, §199.119(a) and §199.229(a), If a service agent (e.g., C/TPA) prepares the MIS report on behalf of an operator, verify that each report is certified by the operator's anti-drug manager/alcohol misuse prevention manager or designated representative for accuracy and completeness. §199.119(f) and §199.229(d)

***Plan: VII. Program Elements Common to Drug and Alcohol – 6. Management Information System***

***Protocol Area E – Drug and Alcohol Program Records***

***E-1: Drug and Alcohol Program Recordkeeping***

Does the operator maintain the required drug and alcohol program records in a secure location with controlled access? §199.227(a) and §40.333(c), If the operator allows a service agent to maintain its required drug and alcohol program records, verify that the operator can produce these records at its principal place of business upon request by PHMSA or by a representative of a state agency. §199.117(b) and §40.333(d), If the operator stores records electronically, ensure the records are easily accessible, legible, formatted and stored in an organized manner. §40.333(e), Note: If electronic records do not meet these criteria, the operator must convert them to printed documentation in a rapid and readily auditable manner, at the request of PHMSA or by a representative of a state agency. §40.333(e), Verify that upon a signed written request from an employee that the operator provides to the employee all records of drug and alcohol use, testing results, and rehabilitation. §199.117(b) and §199.231(b)

***Plan: VII. Program Elements Common to Drug and Alcohol – 5. Recordkeeping, Compliance***

***E-2: Required Drug Test Records***

***Retention period – Five years***

Records of verified positive drug test results. §40.333(a)(1) and §199.117(a)(2), Documentation of refusals to take required drug tests (including substituted or adulterated drug test results). §40.333(a)(1), SAP reports and records that demonstrate compliance with SAP recommendations. §40.333(a)(1) and §199.117(a)(2), All follow-up drug test results and schedules for follow-up drug tests. §40.333(a)(1), MIS annual report data – regardless of whether or not an annual MIS report was submitted. §199.117(a)(2)

***Retention period – Three years***

Information obtained from previous operators under §40.25 concerning drug test results of employees. §40.333(a)(2), Records that demonstrate the collection process conforms to Part 199. §199.117(a)(1), Records confirming that supervisors and employees have been trained as required by Part 199. §199.117(a)(4), Records of decisions not to administer post-accident drug tests. §199.117(a)(5)

***Retention period – One year***

Records of negative and cancelled drug test results. §40.333(a)(4) and §199.117(a)(3)

***Plan: VII. Program Elements Common to Drug and Alcohol – 5. Recordkeeping, Records and Retention Periods***

***E-3: Required Alcohol Test Records***

***Retention period – Five years***

Records of alcohol test results indicating an alcohol concentration of 0.02 or greater. §40.333(a)(1) and §199.227(b)(1), Documentation of refusals to take required alcohol tests. §40.333(a)(1) and §199.227(b)(1), SAP reports, employee evaluations and referrals. §40.333(a)(1) and §199.227(b)(1), All follow-up alcohol test results and schedules for follow-up alcohol tests. §40.333(a)(1), MIS annual report data – regardless of whether or not an annual MIS report was submitted. §199.227(b)(1), Calibration Documentation – supersedes the DOT two-year requirement found in §40.333(a)(3) and §199.227(b)(1)

***Retention period – Three years***

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Information obtained from previous operators under §40.25 concerning alcohol test results of employees. §40.333(a)(2), Records of decisions not to administer post-accident alcohol tests. §199.227(b)(4)

Retention period – Two years

Records confirming that supervisors and employees have been trained as required by Part 199. §199.227(b)(2), Records related to the collection process (except calibration of EBT devices). §199.227(b)(2)

Retention period – One year

Records of all test results with a concentration below 0.02 as defined in Part 40. §40.333(a)(4) and §199.227(b)(3)

***Plan: VII. Program Elements Common to Drug and Alcohol – 5. Recordkeeping, Records and Retention Periods***

PHMSA Substance Abuse Program Comprehensive Audit and Inspection Protocol Form, Specimen Collection Sites, Form No.: 3.1.7, Revision 2 (Dated September 1, 2017)

Protocol Area O: Specimen Collection Sites

O.01 Urine Collection Personnel

Verify that training and usage of personnel is in compliance with the applicable requirements of Part 40.

O.01.a. Does the operator ensure that, unless no other collector is available, an immediate supervisor of an employee does not serve as a collection site person? §40.31(c)

***Plan: V. Anti-Drug Program, 3. Specimen Collection Procedures, Collection Site Personnel.***

O.01.b. Do collectors meet the training requirements of §40.33 and is documentation available showing that currently all requirements are met? §40.33(g).

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Personnel, Collection Personnel.***

O.01.c. Does the operator provide error correction training as required by §40.33(f) and does the training occur within 30 days of the date of notification of the error that led to the need for training?

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Personnel, Collection Personnel.***

O.02 Collection Sites, Forms and Supplies

Verify that collection sites, forms and supplies are in compliance with the applicable physical and security requirements of Part 40.

O.02.a. Has the employer designated a collection site that meets the requirements of §40.41.

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Collection Sites, Forms and Supplies.***

O.02.b. If the collection site uses a facility normally used for other purposes, are procedures in place to ensure before the collection that: (1) access to collection materials and specimens is effectively restricted; and (2) the facility is secured against access during the procedure to ensure privacy to the employee and prevent distraction of the collector? Also, are limited-access signs posted? §40.43(c)

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Collection Sites, Forms and Supplies.***

O.02.c. Are procedures in place to assure the collector maintains personal control over each specimen and CCF throughout the collection process and to prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored? §40.43(d)(5) and §40.43(e)

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Collection Sites, Forms and Supplies.***

O.02.d. Is the current Federal Drug Testing Custody and Control Form (CCF) or equivalent being used? §40.45

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Collection Sites, Forms and Supplies.***

O.02.e. Is a collection kit used that meets the requirements of Appendix A to Part 40? §40.49

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Collection Sites, Forms and Supplies.***

O.03 Urine Specimen Collections

Verify that procedures for collection of urine specimens are in compliance with the applicable requirements of Part 40.

O.03.a. Do collection site personnel explain the basic collection procedure to the employee, including showing the employee the instructions on the back of the CCF? §40.61(c)

***Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.***

O.03.b. Do collection site personnel provide the donor with an individually wrapped or sealed collection container from the collection kit materials? §40.63(c)

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**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.c. Are precautions taken to ensure that unadulterated specimens are obtained and correctly identified that meet the following requirements: Bluing agents in toilet tank and all water sources secure. §40.43(b)(1) and (2), Individual positively identified (photo ID, etc.). §40.61(c), Proper authority contacted if individual fails to arrive at the assigned time. §40.61(a), The donor shall remove any unnecessary outer garments. Purses or briefcases shall remain with outer garments. §40.61(f), Donor shall wash and dry his/her hands. §40.63(b), To the greatest extent possible, the collector must keep an employee's collection container within view of both himself/herself and the employee between the time the employee has urinated and the specimen is sealed. §40.43(d)(2), Any unusual behavior noted on the CCF. §40.63(e)

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.d. Are procedures being followed at the collection site after the specimen has been provided in compliance with the requirements of §40.65?

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.e. Have provisions been made if the donor is unable to provide at least 45 milliliters of urine? §40.65(a)

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.f. Are procedures in place for immediately collecting urine specimens under direct observation for the situations identified in §40.67(c)? 1. As of August 31, 2009, verify that all collections for return-to-duty and follow-up testing were performed under DER directed direct observation §40.67(b)

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.g. Are same gender collection personnel used if a collection is monitored under direct observation by non-medical personnel? §40.69(b)

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

O.03.h. Is the CCF properly executed by authorized collection site personnel upon receipt and transfer of a urine specimen? §40.73(a)

**Plan: V. Anti-Drug Program, 4. PHMSA Inspection Protocol for Specimen Collection Sites, Specimen Collections.**

PHMSA Substance Abuse Program Comprehensive Audit and Inspection Protocol Form, Alcohol Testing Sites, Form No.: 3.1.8, Revision 2 (Dated September 1, 2017)

**Protocol Area P. Alcohol Testing Sites – Audit Information**

**P.01 Alcohol Testing Personnel**

Verify that training and usage of personnel is in compliance with the applicable requirements of Part 40.

P.01.a. Does the operator's plan specify training for BATs and STTs that is in compliance with §40.213 and does the documentation certify that all requirements are met? §40.213(g)

**Plan: VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Personnel.**

P.01.b. Does the plan specify that a supervisor shall not serve as the BAT or STT if that supervisor makes the reasonable cause determination? §40.211(c) §199.225(b)(2)

**Plan: VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Personnel.**

**P.02 Alcohol Testing Sites, Forms and Supplies**

Verify that alcohol testing sites, forms and supplies are in compliance with the applicable physical and security requirements of Part 40.

P.02.a. Does the alcohol testing site comply with the applicable physical and security requirements of §40.221 and §40.223?

**Plan: VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Sites, Forms and Supplies.**

P.02.b. Does the plan specify that only EBTs and ASDs listed on the NHTSA CPL will be used for DOT alcohol testing §40.229? Also, does the plan specify that an EBT must be used for conducting the confirmation tests §40.231(a)?

**Plan: VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Sites, Forms and Supplies.**

P.02.c. Does the operator follow the Quality Assurance Plan (QAP) for the EBT that is used §40.233(c)(1)? If this service is contracted out does the operator ensure that the QAP is being followed §40.233(c)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Sites, Forms and Supplies.

P.02.d. Does the plan specify that the operator or its agents shall comply with the QAP and manufacturer's instructions and does the operator follow the QAP for the ASD that is used §40.235 and §40.235(c)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Testing Sites, Forms and Supplies.

**P.03 Alcohol Screening Tests**

Verify that alcohol screening tests are performed in compliance with the applicable requirements of Part 40.

P.03.a. Does the plan prescribe that only the DOT-approved Alcohol Testing Form (ATF) shall be utilized §40.225(a)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Tests.

P.03.b. Does the plan specify that the employee shall provide a positive identification through use of photo ID or by the employer representative §40.241(c)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Tests.

P.03.c. Does the plan indicate that the BAT or STT shall explain the testing process to the employee §40.241(e)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Tests.

P.03.d. Does the plan contain specific instructions for conducting alcohol screening tests in compliance with §40.241 and §40.243 requirements?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Tests.

P.03.e. Does the plan contain specific instructions for conducting alcohol screening tests using a saliva ASD in compliance with §40.245 requirements?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening with an ASD.

P.03.f. Does the plan specify actions that are taken after receipt of alcohol screening test results that are in compliance with §40.247?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Results.

**P.04 Alcohol Confirmation Tests**

Verify that alcohol confirmation tests are performed in compliance with the applicable requirements of Part 40.

P.04.a. Does the plan provide guidance for the actions a new BAT must complete to conduct a confirmation test in compliance with §40.251(b)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Confirmation Test.

P.04.b. Does the plan specify procedures to be followed in conducting a confirmation test that are in compliance with §40.253 and §40.255?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Confirmation Test.

**P.05 Problems in Alcohol Testing**

Verify that procedures for addressing problems in alcohol testing are in compliance with the applicable requirements of Part 40.

P.05.a. Does the plan address the situations for which the employee is considered to have refused to take an alcohol test §40.261(a)(1) to (7)?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Problems in Alcohol Testing.

P.05.b. Does the plan specify procedures concerning an employee's inability to provide an adequate amount of saliva for testing and instructions for requiring the employee to attempt again to provide adequate amount of saliva for testing §40.263?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Problems in Alcohol Testing.

P.05.c. Does the plan specify procedures concerning an employee's inability to provide an adequate amount of breath for testing in compliance with §40.265?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Problems in Alcohol Testing.

P.05.d. Does the plan specify under what conditions that an alcohol test shall be cancelled §40.267 and §40.269?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Cancelling an Alcohol Test.

P.05.e. Does the plan specify procedures concerning the potential inability to complete an alcohol test and trying to successfully complete the test §40.271?

**Plan:** VI. Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Correcting Alcohol Problems.

**Changes/Updates to the Model Plan – Revision Dates: 1/1/2018, 1/1/2020, 4/1/2021**

Section	Title	Change	Reason
Section II.	General – 8. Definitions	Updated Accident/Incident 191.3 (1) & (2), 191.3(1)(b)	Part 191 Update
Section II.	General – 8. Definitions	Updated Administrator Definition	Clarification
Section II.	General – 8. Definitions	Updated Alcohol Screening Device Definition	Part 40 Update
Section II.	General – 8. Definitions	Removed Blind Sample Definition	Part 40 Update
Section II.	General – 8. Definitions	Updated Chain-of-Custody Definition	Added OMB Approval
Section II.	General – 8. Definitions	Updated Continuing Education Definition	Removed reference to MRO.
Section II.	General – 8. Definitions	Updated DOT, The Department, DOT agency Definition	Part 40 Update
Section II.	General- 8. Definitions	Updated DOT, The Department, DOT agency Definition	Added USCG has not incorporated Part 40 for alcohol testing.
Section II.	General – 8. Definitions	Updated the Drugs Definition – Opiates to Opioids, Prohibited drug Opiates to Opioids	Part 40 Update
Section II.	General – 8. Definitions	Updated Evidential Breath Testing Device Definition	Part 40 Update
Section II.	General – 8. Definitions	Added Invalid result	Part 40 Update
Section II.	General – 8. Definitions	Updated Prohibited Drug Definition	Part 199 Update
Section II.	General – 8. Definitions	Service Agent Definition	Part 40 Update
Section III.	Policy and Responsibilities – 4. Use of Service Agents, Service Agent Limitations	Added Service Agent Limitations Section	PHMSA Inspection Form Update.
Section III.	Policy and Responsibilities – 5. Critical Service Agent Positions	Added Reference to Additional Sections within the Plan	Clarification
Section IV.	DOT Program Requirements – 3 History-check Requirement, Information Request	Last Paragraph, two attempts	Clarification
Section IV.	DOT Program Requirements – 7. Violation Consequences and Company Actions, After DOT Rule Violation	Added 2 <sup>nd</sup> Paragraph	Clarification
Section V.	Anti-Drug Program, 1. DOT-Required Drug Tests, Compliance	Added two sentences to end of 1 <sup>st</sup> Paragraph.	Part 40 Update
Section V.	Anti-Drug Program, 1. DOT-Required Drug Tests - Post-Accident Testing	Updated 1 <sup>st</sup> and 2 <sup>nd</sup> Paragraph	Part 199 update
Section V.	Anti-Drug Program, 1. DOT-Required Drug Tests – Random Drug Testing	Revised 1 <sup>st</sup> Paragraph, added last sentence to 3 <sup>rd</sup> Paragraph	Clarification and PHMSA Inspection Form Update.
Section V.	Anti-Drug Program, 1. DOT-Required Drug Tests - Return-To-Duty Testing	Added 4 <sup>th</sup> Paragraph	Clarification

Premium Concrete Services, Inc.- PHMSA DRUG/ALCOHOL PLAN

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Section V.	Anti-Drug Program, 1. DOT-Required Drug Tests - Follow-Up Testing	Added 4 <sup>th</sup> Paragraph	Clarification
Section V.	Anti-Drug Program, 2. Drug Tests That Require Direct Observation Procedures, Compliance	3 <sup>rd</sup> Sentence, Added Company will Explain to the Employee Reason(s) for Direct Observation, Added 2 <sup>nd</sup> Paragraph	Clarification, Part 40 Update
Section V.	Anti-Drug Program, 3. Specimen Collection Procedures, Collection Site Personnel	Updated 2 <sup>nd</sup> Sentence, Added Last Sentence	Part 40 Update
Section V.	Anti-Drug Program, 3. Specimen Collection Procedures, Collection Site, Forms and Specimen	Added 2 <sup>nd</sup> Sentence	Clarification
Section V.	Anti-Drug Program, 3. Specimen Collection Procedures, Possible collection issues	Removed 4 <sup>th</sup> Sentence of 1 <sup>st</sup> Paragraph, Deleted 2 <sup>nd</sup> Paragraph	Part 40 Update
Section V.	Anti-Drug Program, 5. Drug Testing Laboratory, Drug Testing, Required DOT Drug Tests and Cutoffs	Updated Opiates to Opioids, Updated Table 1 and Footnotes	Part 40 Update
Section V.	Anti-Drug Program, 5. Drug Testing Laboratory, Laboratory specimen handling and reporting.	Updated 1 <sup>st</sup> Paragraph, Last Sentence and Items a-g	Part 40 Update
Section V.	Anti-Drug Program, 6. Laboratory Retention Periods and Reports, Specimen retention and Record retention	Added 2 <sup>nd</sup> Sentence to Specimen retention, Added last two Sentences to Record retention	Update and Clarification
Section V.	Anti-Drug Program, 7. Laboratory Quality Control, Quality Control, Reporting Discrepancies	Removed Quality Control/Blind Specimen requirements.	Part 40 Update
Section V.	Anti-Drug Program, 8. MRO Review of Drug Test Results, Compliance	Added last two sentences to First Paragraph, Added 2 <sup>nd</sup> Paragraph.	Part 40 Update
Section V.	Anti-Drug Program, 8. MRO Review of Drug Test Results, Duties	Added 4 <sup>th</sup> Sentence to 1 <sup>st</sup> Paragraph, Changed Opiate to Opioid, Added Last Sentence to 1 <sup>st</sup> Paragraph, Revised 1 <sup>st</sup> Sentence of 2 <sup>nd</sup> Paragraph,	Part 40 Update
Section V.	Anti-Drug Program, 8. MRO Review of Drug Test Results, Results	First Paragraph, added second sentence.	Addition requested by State/Federal Inspector.
Section V.	Anti-Drug Program, 8. MRO Review of Drug Test Results, Reports	Added 5 <sup>th</sup> Sentence	Clarification
Section V.	Anti-Drug Program, 9. Split Specimen Testing	1 <sup>st</sup> Paragraph, updated 5 <sup>th</sup> , 6 <sup>th</sup> & 7 <sup>th</sup> Sentence	MRO notification and documentation.
Section V.	Anti-Drug Program - 9. Split Specimen Testing – Laboratory	Updated 2 <sup>nd</sup> Sentence	MRO will select the second laboratory
Section V.	Anti-Drug Program - 10. Medical or Recreational Marijuana	Added Recreational	Changes in State Laws
Section VI.	Alcohol Misuse Prevention Program, 1. DOT-Required Alcohol Tests - Post-Accident Testing	Updated 1 <sup>st</sup> and 2 <sup>nd</sup> Paragraph	Part 199 update
Section VI.	Alcohol Misuse Prevention Program, 1. DOT-Required Alcohol Tests – Reasonable Suspicion/Case Testing	Revised 3 <sup>rd</sup> Paragraph	PHMSA Inspection Form Update.
Section VI.	Alcohol Misuse Prevention Program, 1. DOT-Required Alcohol Tests - Return-to-Duty Testing	Added 3 <sup>rd</sup> Paragraph	Clarification
Section VI.	Alcohol Misuse Prevention Program, 2. Alcohol Test, Personnel and Testing Devices	Added 2 <sup>nd</sup> and 3 <sup>rd</sup> Sentence, added last Sentence	Part 40 Update
Section VI.	Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Alcohol Screening Results	Added 6 <sup>th</sup> & 7 <sup>th</sup> Sentence	Clarification
Section VI.	Alcohol Misuse Prevention Program, 3. PHMSA Inspection Protocol for Alcohol Testing Sites, Problems in Alcohol Testing	Added "within five days" to 4 <sup>th</sup> Sentence	Clarification
Section VII.	Program Elements Common to Drug and Alcohol, 1. Substance Abuse Professional, Qualifications	Added 2 <sup>nd</sup> Sentence	Part 40 Update
Section VII.	Program Elements Common to Drug and Alcohol, 2. Employee Assistance Program	Added last sentence	PHMSA Inspection Form Update.

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Section VII.	Program Elements Common to Drug and Alcohol, 5. Recordkeeping, Compliance	1 <sup>st</sup> Paragraph, 1 <sup>st</sup> Sentence, added "in a location with controlled access".	Clarification
Section VII.	Program Elements Common to Drug and Alcohol, 5. Recordkeeping - Records and Retention Periods, b)	Added (4) and (5)	Part 199 update and clarification.
Section VII.	Program Elements Common to Drug and Alcohol, 5. Recordkeeping – Records and Retention Periods, d)	Added "cancelled drug test results" to (1)	Clarification
Section VII.	Program Elements Common to Drug and Alcohol, 6. Management Information System - Compliance	Added last sentence	Part 199 update
Section VII.	Program Elements Common to Drug and Alcohol, 6. Management Information System - Contractor Reporting of MIS	Added last sentence	Part 199 update
Section VIII.	Appendix A – Acknowledgement/Receipt Form	Removed Company Representative Signature	Signature not required
Section X.	Appendix C – Covered Positions	Added, to Job Classifications/Titles, "Subject to 49 CFR Part 192, 193 or 195	Clarification
Section XII.	Appendix E – PHMSA Inspection Plan Cross-Reference and Changes to Model Plan	Added table to track changes and updates to Model Plan	Clarification
Section XIII.	Appendix F – Post-Accident or Reasonable Cause/Suspicion Supervisor Written Records	Previously an attachment. Incorporated into written Plan	Clarification
Section XIV.	Appendix G – Reasonable Cause/Suspicion Observation Checklist	Previously an attachment. Incorporate into written Plan.	Clarification
Several Sections	Several Sections of the Plan	Added Covered to Safety-Sensitive	Clarification. PHMSA refers to employees performing PHMSA-regulated work as "covered". ODAPC/Part 40 refers to modal coverage as "safety-sensitive".
Several Sections	Removed Endnotes in Reference to 2017 PHMSA HQ Inspection Form	Added 2021 PHMSA – Anti-Drug and Alcohol Misuse Program Inspection Protocol Form, 2017 Comprehensive Audit and Inspection Protocol Forms-Specimen Collection Sites and Alcohol Testing Sites (included references to Plan).	PHMSA released a new inspection form 3/1/2021 and replaced the Comprehensive Anti-Drug and Alcohol Misuse Program HQ Inspection Form.

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XIII. Appendix F

**Post-Accident or Reasonable Cause/Suspicion  
Supervisor Written Record**

(Check one):  Pipeline (PHMSA)       Driver (FMCSA)

Employee's Name \_\_\_\_\_ Dept. \_\_\_\_\_ Date \_\_\_\_\_  
Employee Id# \_\_\_\_\_ Job Title \_\_\_\_\_ Time \_\_\_\_\_

Describe Accident/Incident:

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1. Was EBT Breath Alcohol testing completed within two (2) hours of the accident, or the reasonable cause/suspicion situation? \_\_\_Yes \_\_\_No If not, why? (Examples – received notification too late, employee removed from the scene for medical treatment, EBT device not available, injuries precluded testing, breath alcohol technician not available)

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2. Was EBT Breath Alcohol testing completed within eight (8) hours? \_\_\_Yes \_\_\_No If not, why? (Examples – received notification too late, employee removed from the scene for medical treatment, EBT device not available, injuries precluded testing, breath alcohol technician not available)

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3. Was urine drug testing completed within thirty-two (32) hours of the accident or reasonable cause/suspicion situation? \_\_\_Yes \_\_\_No If not, why?

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Supervisor's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor's Signature: \_\_\_\_\_

Second Supervisor's Signature (if applicable): \_\_\_\_\_

**\*\*\* IMPORTANT \*\*\***

The above report is required in Post-Accident or Reasonable Cause/Suspicion testing when the **test(s) times were not met.**

The written report of Post-Accident or Reasonable Cause/Suspicion testing must be completed and signed by the supervisor within 48 hours of the incident and subsequently faxed or e-mailed to the Company Designated Employer Representative (DER).

**XIV. Appendix G**

**Reasonable Cause/Suspicion Observation Checklist  
(STRICTLY CONFIDENTIAL)**

EMPLOYEE: \_\_\_\_\_ PERIOD OF EVALUATION: \_\_\_\_\_

SUPERVISOR #1, NAME AND TELEPHONE: \_\_\_\_\_

SUPERVISOR #2, NAME AND TELEPHONE: \_\_\_\_\_

This checklist is intended to assist a supervisor in referring a person for drug and/or alcohol testing. Has the employee manifested any of the following behaviors? Indicate (X) if observation and/or documentation exists.

**A. QUALITY AND QUANTITY OF WORK**

YES	NO	
___	___	1. Clear refusal to do assigned tasks
___	___	2. Significant increase in errors
___	___	3. Repeated errors in spite of increased guidance
___	___	4. Reduced quantity of work
___	___	5. Inconsistent, "up and down" quantity/quality of work
___	___	6. Behavior that disrupts workflow
___	___	7. Procrastination on significant decisions or tasks
___	___	8. More than usual supervision necessary
___	___	9. Frequent, unsupported explanations for poor work performance
___	___	10. Noticeable change in written or verbal communication

**B. INTERPERSONAL WORK RELATIONSHIPS**

YES	NO	
___	___	1. Significant change in relations with co-workers, supervisors
___	___	2. Frequent or intense arguments
___	___	3. Verbal/Physical abusiveness
___	___	4. Persistently withdrawn or less involved with people
___	___	5. Intentional avoidance of supervisor
___	___	6. Expressions of frustration or discontent
___	___	7. Change in frequency or nature of complaints
___	___	8. Complaints by co-workers or subordinates
___	___	9. Cynical, "distrustful of human nature" comments
___	___	10. Unusual sensitivity to advice or critique of work
___	___	11. Unpredictable response to supervision
___	___	12. Passive-aggressive attitude or behavior, doing things "behind your back"

**C. GENERAL JOB PERFORMANCE**

YES	NO	
___	___	1. Excessive unauthorized absences-number in last 12 months
___	___	2. Excessive authorized absences-number in last 12 months
___	___	3. Excessive use of sick leave in last 12 months
___	___	4. Frequent Monday/Friday absence or other pattern
___	___	5. Frequent unexplained disappearances
___	___	6. Excessive "extension" of breaks or lunch
___	___	7. Frequently leaves work early-number of days per week or month
___	___	8. Increased concern about (actual incidents) safety offenses involving the employee
___	___	9. Experiences or causes job accidents

- |     |     |   |
|-----|-----|---|
| ___ | ___ | 10. Major change in duties or responsibilities                    |
| ___ | ___ | 11. Interferes with or ignores established procedures             |
| ___ | ___ | 12. Inability to follow through on job performance recommendation |

**D. PERSONAL MATTERS**

- | YES | NO  |  |
|-----|-----|--|
| ___ | ___ | 1. Changes in or unusual personal appearance (dress, hygiene)                      |
| ___ | ___ | 2. Changes in or unusual speech (incoherent, stuttering, loud)                     |
| ___ | ___ | 3. Changes in or unusual physical mannerisms (gesture, posture)                    |
| ___ | ___ | 4. Changes in or unusual facial expressions  |
| ___ | ___ | 5. Changes in or unusual level of activity-much reduced/increased                  |
| ___ | ___ | 6. Changes in or unusual topics of conversation                                    |
| ___ | ___ | 7. Engages in detailed discussions about death, suicide, harming others            |
| ___ | ___ | 8. Increasingly irritable or tearful   |
| ___ | ___ | 9. Persistently boisterous or rambunctious   |
| ___ | ___ | 10. Unpredictable or out-of-context displays of emotion                            |
| ___ | ___ | 11. Unusual fears or lacks appropriate caution.                                    |
| ___ | ___ | 12. Engages in detailed discussion about obtaining/using drugs/alcohol             |
| ___ | ___ | 13. Has personal relationship problems (spouse, girl/boyfriend, children, in-laws) |
| ___ | ___ | 14. Has received professional assistance for emotional or physical problems        |
| ___ | ___ | 15. Makes unfounded accusations toward others, i.e., has feelings of persecution   |
| ___ | ___ | 16. Secretive or furtive   |
| ___ | ___ | 17. Memory problems (difficulty recalling instructions, data, past behaviors)      |
| ___ | ___ | 18. Frequent colds, flu, excessive fatigue, or other illnesses                     |
| ___ | ___ | 19. Makes unreliable or false statements   |
| ___ | ___ | 20. Unrealistic self-appraisal or grandiose statements                             |
| ___ | ___ | 21. Temper tantrums or angry outbursts   |
| ___ | ___ | 22. Demanding, rigid, inflexible   |
| ___ | ___ | 23. Major change in physical health  |
| ___ | ___ | 24. Concerns about sexual behavior or sexual harassment                            |

**E. PHYSICAL INDICATORS**

- | YES | NO  |   |
|-----|-----|---|
| ___ | ___ | 1. Smell of alcohol on breath or person?  |
| ___ | ___ | 2. Speech:  |
|     |     | Sturred? _____  |
|     |     | Confused? _____   |
|     |     | Fragmented? _____   |
|     |     | Slow? _____   |
|     |     | Unusually soft? _____   |
|     |     | Unusually loud? _____   |
| ___ | ___ | 3. Disorientation: Is employee confused about;  |
|     |     | Where he or she is? _____   |
|     |     | What day it is? _____   |
|     |     | What time it is? _____  |
| ___ | ___ | 4. Apparent inability to focus on work?   |
| ___ | ___ | 5. Unusual or unexplained resistance to authority or refusal to follow reasonable directions? |
| ___ | ___ | 6. Lack of motor coordination   |
| ___ | ___ | 7. Mood: Belligerent? _____   |
|     |     | Moody? _____  |
|     |     | Ecstatic? _____   |
|     |     | More nervous than usual? _____  |
|     |     | Giddy? _____  |
|     |     | Talkative? _____  |
|     |     | Drowsy? _____   |
| ___ | ___ | 8. Skin color:  |
|     |     | Pale? _____   |
|     |     | Flushed? _____  |
| ___ | ___ | 9. Excessive perspiration?  |
| ___ | ___ | 10. Excessive trips to the restroom?  |
| ___ | ___ | 11. Bloodshot eyes?   |
| ___ | ___ | 12. Dilated pupils?   |
| ___ | ___ | 13. Pinpoint pupils?  |
| ___ | ___ | 14. Traces of alcohol in containers?  |
| ___ | ___ | 15. Confession by employee that he/she was drinking alcohol or ingesting drugs?               |



- 16. Confirmation by other employees?
- 17. Presence of substances with the appearance of drugs?
- 18. Presence of drug paraphernalia?
- 19. Smell of marijuana?
- 20. Congregation of employees in remote areas of the company's facilities or in areas not usually frequented by employees?
- 21. Weariness, fatigue, or exhaustion?
- 22. Deteriorating physical appearance?

**E. PHYSICAL INDICATORS (Con't)**

- | YES                      | NO                       |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 23. Yawning excessively?                                |
| <input type="checkbox"/> | <input type="checkbox"/> | 24. Blank stare or expression?                          |
| <input type="checkbox"/> | <input type="checkbox"/> | 25. Sudden and/or unpredictable change in energy level? |
| <input type="checkbox"/> | <input type="checkbox"/> | 26. Unusually energetic?                                |
| <input type="checkbox"/> | <input type="checkbox"/> | 27. Shaking or trembling of hands?                      |
| <input type="checkbox"/> | <input type="checkbox"/> | 28. Sunglasses worn at inappropriate times?             |
| <input type="checkbox"/> | <input type="checkbox"/> | 29. Changes in appearance after lunch break?            |
| <input type="checkbox"/> | <input type="checkbox"/> | 30. Breathing or swallowing difficulties?               |
| <input type="checkbox"/> | <input type="checkbox"/> | 31. Unusual sneezing/nasal congestion?                  |
| <input type="checkbox"/> | <input type="checkbox"/> | 32. Needle marks on arms?                               |
| <input type="checkbox"/> | <input type="checkbox"/> | 33. Prolonged lunch hours?                              |
| <input type="checkbox"/> | <input type="checkbox"/> | 34. Tardiness?  |

Other information/observations - (Please be specific & attach additional sheet as needed).

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\_\_\_\_\_  
SUPERVISOR #1 (print name)

\_\_\_\_\_  
SUPERVISOR #2 (print name)

\_\_\_\_\_  
SUPERVISOR #1 (signature/date)

\_\_\_\_\_  
SUPERVISOR #2 (signature/date)

July 2, 2024

City of South Bend, Indiana, Board of Public Works  
County/City Building, Room 1316  
227 West Jefferson Blvd  
South Bend, IN 46601

RE: **Premium Concrete Services, Inc.**  
Job: **2024 Curb and Sidewalk Program, Project No. 124-009**

To Whom It May Concern:

In compliance with the United States Department of Treasury's Listing of Certified Companies, this letter will serve to confirm that at this time the surety company **Old Republic Insurance Company** is listed with the United States Department of Treasury's Listing of Approved Sureties according to Department Circular 570.

OLD REPUBLIC INSURANCE COMPANY

  
Jennifer L. Kasznia  
Attorney in Fact



JK/



Premium Concrete Services, Inc.  
dba Premium Services  
712 Richmond Street  
Elkhart, IN 46516  
574-264-0196 fax 574-266-5392

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May 23, 2024

To Whom it May Concern,

Premium Concrete Services, Inc. has no federal, state, or local tax delinquencies owed to any of the fore mentioned taxing bodies, nor has owed any in the past three years.

Max Yeakey  
Vice-President

NIPSCO 2021 Restoration	South Bend, Mishawaka & Elkhart	NIPSCO	\$ 807,411.20	Various concrete and asphalt utility repair work
2021 Goshen Concrete Repair	Goshen	City of Goshen	\$ 657,021.80	Pavement removal and replacement, catch basin aprons, curb removal and replacement
2021 City of Elkhart - Misc. Work	Elkhart	City of Elkhart	\$ 118,397.40	Various concrete curb, sidewalk and asphalt work
2021 City of Mishawaka Curb & Sidewalk	Mishawaka	City of Mishawaka	\$ 131,821.95	Sidewalk, curb & gutter and approaches
South Bend Waterworks - 2021	South Bend	City of South Bend	\$ 142,394.05	Various concrete and asphalt utility repair work
Fairfield Jr/Sr High School	Goshen	Michiana Contracting	\$ 609,101.50	Sidewalk, pavement, curb, retaining walls, building foundations
NIPSCO 2021 Restoration	South Bend, Mishawaka & Elkhart	NIPSCO	\$ 848,378.00	Various concrete and asphalt utility repair work
2022 City of Elkhart - Misc. Work	Elkhart	City of Elkhart	\$ 164,520.75	Various concrete curb, sidewalk and asphalt work
COE Curb Ramp Project	Elkhart	City of Elkhart	\$ 197,531.00	ADA Sidewalk and Curb Ramps
Transpo Parking Lot Upgrades	South Bend	City of South Bend	\$ 225,691.00	Remove and replace concrete parking lots, replace curbs
City of South Bend Water Works - 2022	South Bend	City of South Bend	\$ 153,405.75	Various concrete and asphalt utility repair work
City of South Bend Sidewalk Project 2022	South Bend	City of South Bend	\$ 392,696.03	Sidewalk, curb & gutter, approaches
NIPSCO 2023 Restoration	South Bend, Mishawaka & Elkhart	NIPSCO	\$ 1,943,699.20	Various concrete and asphalt utility repair work
2023 City of Elkhart - Misc. Work	Elkhart	City of Elkhart	\$ 257,910.67	Various concrete curb, sidewalk and asphalt work
City of Elkhart Main Street Concrete Repairs	Elkhart	City of Elkhart	\$ 507,768.50	Sidewalk, ADA sidewalk and Curb Ramps, Colored Concrete
City of Elkhart - South Main Streetscape	Elkhart	City of Elkhart	\$ 549,339.50	Sidewalk, Approaches, Curb Ramp, Curb and Lighting
Mishawaka 2022 CDBG Improvements	Mishawaka	City of Mishawaka	\$ 386,750.56	ADA Sidewalk and Curb Ramps
City of South Bend 2023 Curb & Sidewalk Program	South Bend	City of South Bend	\$ 641,533.82	Sidewalk, curb & gutter and approaches

**BOARD OF PUBLIC WORKS  
AGENDA ITEM REVIEW REQUEST FORM**

Date: 9/17/2024  
 Name: Charlotte Brach Department of Public Works – Engineering Division  
 BPW Date: 9/24/2024 Phone Extension: 9246

**Required Prior to Submittal to Board**

BPW Attorney  Attorney Name \_\_\_\_\_  
 Dept. Attorney  Attorney Name \_\_\_\_\_  
 Purchasing  \_\_\_\_\_

**Check the Appropriate Item Type – Required for All Submissions**

<input type="checkbox"/> Professional Services Agreement	<input type="checkbox"/> Contract	<input type="checkbox"/> Proposal
<input type="checkbox"/> Open Market Contract	<input type="checkbox"/> Amendment/Addendum	<input type="checkbox"/> Special Purchase, QPA
<input checked="" type="checkbox"/> Bid Opening	<input type="checkbox"/> Bid Award	<input type="checkbox"/> Req. to Advertise <input type="checkbox"/> Title Sheet
<input type="checkbox"/> Quote Opening	<input type="checkbox"/> Quote Award	<input type="checkbox"/> Reject Bids/Quotes
<input type="checkbox"/> Proposal Opening	<input type="checkbox"/> C/O & PCA No. _____	<input type="checkbox"/> PCA
<input type="checkbox"/> Chg. Order, No. _____	<input type="checkbox"/> Traffic Control	<input type="checkbox"/> Resolution
<input type="checkbox"/> Other: _____		<input type="checkbox"/> Ease./Encroach

**Required Information**

Company or Vendor Name N/A  
 New Vendor  Yes  If Yes, Approved by Purchasing  
 No  
 MBE/WBE Contractor  MBE  Completed E-Verify Form Attached  Yes  
 WBE  No  
 Project Name 123-075 2024 Traffic Calming  
 Project Number PROJ527  
 Funding Source Local Roads & Streets (Fund 251)  
 Account No. PR # 00035440  
 Amount N/A  
 Terms of Contract Base Bid  
 Special Contract Provisions N/A  
 Purpose/Description Opening of Bids for the 2024 Traffic Calming project.

**For Change Orders Only**

Amount of  Increase \$ \_\_\_\_\_  
 Decrease (\$ \_\_\_\_\_ )  
 Previous Amount \$ \_\_\_\_\_  
 Increase \_\_\_\_\_ %  
 Current Percent of Change: Decrease ( \_\_\_\_\_ % )  
 New Amount \$ \_\_\_\_\_  
 Increase \_\_\_\_\_ %  
 Total Percent of Change: Decrease ( \_\_\_\_\_ % )  
 Time Extension Amount: \_\_\_\_\_  
 New Completion Date: \_\_\_\_\_