

**Drug and Alcohol Policy  
for U.S.-based Operations**

**of**

**Talisman Energy USA Inc.  
Talisman Energy Services Inc.**

**August 1, 2013**



**Talisman Energy USA Inc.  
Talisman Energy Services Inc.  
DRUG AND ALCOHOL POLICY**

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**Talisman Energy USA Inc.  
Talisman Energy Services Inc.**

**DRUG AND ALCOHOL POLICY**

**1. GENERAL PROVISIONS**

**1.1. Purpose**

Talisman Energy USA, Inc. and Talisman Energy Services, Inc. ("Company") intend to provide a safe and productive working environment for Employees, Contractors, customers, and business associates. The use of Illegal Drugs and the inappropriate use of Alcohol, Medications, and other substances can adversely affect a worker's health, safety and job performance. It can also affect or endanger other Employees, Contractors, customers or members of the public. The Company will take action, up to and including termination, against any individual determined to have violated this Policy, including a positive test or positive test result.

This Policy is intended to explain the standards and expectations associated with Alcohol and other Drug use, and confirm the Company's commitment to minimize risk throughout our operations consistent with the Talisman Energy *Global Health, Safety and Environment (HSE) Policy*.

This Policy is subject to ongoing review and evaluation, and modifications will be made as deemed necessary to respond to current circumstances and evolving needs.

**1.2. Scope and Application**

This Policy applies to all Employees and Individual Contractors while they are engaged in Company Business, working on Company Premises or worksites, and operating Company vehicles and equipment within the United States. As such, the Company is assuming a ZERO TOLERANCE position relative to alcohol and illegal or illicit drug use in the workplace.

The Company's implementation of this Policy will include drug and alcohol testing as part of pre-employment screening, reasonable cause and post-incident investigations, in addition to our regulatory-mandated Department of Transportation (DOT) drug and alcohol testing program for Pipeline and Hazardous Material Safety Administration (PHMSA) covered employees.

Currently, the Policy requires only random testing for PHMSA covered employees; however, the Company reserves the right to implement the random drug and alcohol testing policy to all employees after reasonable notice has been provided.

All Service Providers contracted by the Company will be advised of the applicable provisions of this Policy, and will be expected to enforce similar requirements for their employees, sub-contractors and agents. The Service Provider will allow the Company access to their property and records to monitor compliance with this Policy.

### 1.3. Key Definitions

**Alcohol** refers to beer, wine and distilled spirits, and includes the intoxicating agent found in medicines or other products.

**Blood Alcohol Content (BAC)** is the concentration of Alcohol in the blood as measured using a calibrated breath Alcohol testing machine.

**Company** means Talisman Energy USA, Inc. and Talisman Energy Services, Inc.

**Company Business** means all business activities undertaken in the course of the Company's operations, whether conducted on or off Company Premises and within the parameters of the *Social Events Policy* as defined by Human Resources.

**Company Premises** includes but is not necessarily restricted to all land, facilities, work sites, camps, and vehicles owned, leased or otherwise controlled by the Company for the purpose of conducting Company Business.

**Designated Employer Representative** is the Company representative charged with managing the technical aspects of the policy within the delivery unit.

**DOT** means the U.S. Department of Transportation. Within the DOT, two separate organizations exist, specifically the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline & Hazardous Materials Safety Administration (PHMSA).

**Drug** means

- (a) A substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by federal law (e.g., marijuana, cocaine, etc.); and
- (b) A substance which can be obtained legally, but was not properly obtained or, if properly obtained, was not being used in accordance with the prescribing doctor's instructions or prescription (e.g., Percocet, Vicodin and Oxycontin) obtained by means other than the Worker's prescription).

**Drug Paraphernalia** means any equipment, product or material primarily intended or designed for use in manufacturing, compounding, converting, concealing, processing, preparing, using or introducing a drug into the human body. This includes any product or device that may be used to tamper with or adulterate a test sample.

**Employee** means all regular full time, part time, temporary, casual and seasonal workers on the Company payroll.

**Employee and Family Assistance Program (EFAP)** means the program available to Employees which offers confidential, professional assistance to help Employees and their immediate family members resolve concerns that currently, or potentially, affect the quality of life at home or at work.

**Medical Review Officer (MRO)** is a licensed physician responsible for receiving laboratory results generated under this Policy, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's

Alcohol and Drug test result together with his/her medical history and any other relevant biomedical information.

**Negative Test or Negative Test Result** means a report from the Medical Review Officer that an individual who provided a specimen for Alcohol or Drug testing did not have an Alcohol or Drug concentration equal to or in excess of the limits set out in this Policy.

**Non-Negative Test Result** means a test that detected a drug and is hence “presumed” positive; however, a follow-on confirmatory test will rule out any non-illicit substances.

**Positive Test or Positive Test Result** means a report from the Medical Review Officer that an individual who provided a specimen for Alcohol or Drug testing had an Alcohol or Drug concentration equal to or in excess of the limits set out in this Policy.

**Service Provider** means an individual with whom the Company has contracted to obtain services on terms other than as an Employee.

**Supervisor** refers to the individual accountable for a particular area or shift, including managers, and others in supervisory positions who are directly responsible for the performance of any Workers.

**Substance Abuse Professional (SAP)** is an individual with knowledge of and clinical experience in the diagnosis and treatment of Alcohol and Drug related disorders. The SAP will assess if the individual has an Alcohol or Drug dependency, make recommendations regarding education and treatment, and recommend a return-to-duty monitoring program including unannounced testing.

**Worker(s)** means all Employees and Contractors (those contractors that the Company provides day-to-day direction to regarding their activities).

**Zero Tolerance** means a positive test result under this policy will result in the employee’s termination of employment. Any variance to this policy must be approved by two Officers of the Company under consultation with Legal, HSE, and HR.

#### **1.4. Roles and Responsibilities**

- (a) The **Human Resources Department** is responsible for ongoing management of this Policy (non-DOT regulated aspects), including:
  - (i) Providing a Designated Employer Representative (DER) within each Delivery Unit to serve as the technical manager of the program;
  - (ii) Updating the program based on company-specific directives;
  - (iii) Assisting in the implementation of the Alcohol and Controlled Substance training program within the Delivery Unit;
  - (iv) Collecting and maintaining non-MRO program documentation (i.e., Appendix 2);
  - (v) Coordinating and managing employee actions in the event a Policy violation is confirmed.

- (b) The **Health, Safety, and Environment Department** is responsible for the management of the Department of Transportation's Pipeline and Hazardous Materials Safety Administration's (PHMSA) Alcohol and Drug Program and coordination of all post-incident drug testing within the Delivery Unit, including:
- (i) Updating the program based on applicable regulatory changes;
  - (ii) The Delivery Unit's Safety Lead will coordinate post-incident alcohol and/or drug testing with the DER upon notification of an incident that meets the testing criteria as defined in Section 3.3;
  - (iii) Developing and implementing an Alcohol and Controlled Substance training program for U.S.-based employees;
  - (iv) Maintaining the PHMSA safety-sensitive employee listing;
  - (v) Updating the PHMSA 49 CFR PART 199 Anti-Drug and Alcohol Misuse Prevention Policy based on regulatory and company-specific directives.
- (c) The **Designated Employer Representative** is responsible for ongoing management of this Policy, including:
- (i) Receiving the report from the MRO as to whether an Alcohol and Drug Test is a Negative, Non-Negative, or Positive Test Result;
  - (ii) Advising the Supervisor that requested an Alcohol or Drug test as to the result of the test and whether the Worker can return to work;
  - (iii) Advising the applicable Human Resources Business Partner when a test results in a Positive Test Result;
  - (iv) Supporting Company's disciplinary action against Employees, where appropriate, for violations of this Policy;
  - (v) Advising Workers of the existence of and process to access the Talisman Employee Family Assistance Program counseling (EFAP);
  - (vi) Assisting Supervisors in determining options for removing a Worker from Company Premises and providing a safe means of travel to a medical facility, testing center or Worker's place of residence as required by this Policy;
  - (vii) Working with the delivery unit management team to make an alcohol and controlled substance training program available for Employees and Supervisors;
  - (viii) Providing technical assistance to the Human Resource Department regarding implementation of a Pre-employment drug testing program;
  - (ix) Working with the Human Resources, HSE, and Legal Departments to resolve any questions pertaining to interpretation of this Policy.
- (d) **Supervisors** are responsible for:
- (i) Ongoing performance management to ensure safe operations and effective implementation of the Policy;
  - (ii) Guiding Employees who voluntarily seek assistance for a personal problem to appropriate resources (e.g. the Employee and Family Assistance Program (EFAP) or other local resources) while maintaining confidentiality to the greatest extent possible under the circumstances;

- (iii) Making arrangements for an assessment through the DER if, in the course of any performance-related discussion, a Worker states they have a problem with Alcohol or Drugs;
- (iv) Attending and completing all required training programs provided to implement this Policy;
- (v) Taking appropriate steps to investigate any possible violation of this Policy; and
- (vi) Requesting and arranging for an Alcohol and Drug test in a post-incident or reasonable cause situation as and when required to do so under this Policy.

Failure of Supervisors to meet their responsibility for the implementation and enforcement of this Policy will be grounds for disciplinary action, up to and including termination.

(e) **Workers** must:

- (i) Read and understand this Policy, attend required training courses and comply with their responsibilities under it;
- (ii) Seek advice and follow appropriate treatment if they have a current or emerging Alcohol or Drug problem, and follow recommended monitoring programs after attending treatment;
- (iii) Co-operate with any physician-directed work modification related to safety concerns;
- (iv) Intervene as appropriate to encourage a co-worker to access assistance before an Alcohol or Drug problem impacts performance or safety;
- (v) Notify their Supervisor or manager if they believe a Worker is violating this Policy or a visitor is using Alcohol or Drugs while on Company Premises; and
- (vi) Cooperate with an investigation into a violation of this Policy, including any request to participate in the testing program as and when required to do so under this Policy.

## 2. STANDARDS

### 2.1. Drugs

- (a) The use, possession, distribution, offering or sale of Drugs or Drug Paraphernalia (including contraband/prohibited substances such as synthetic drugs/bath salts) is prohibited while on Company Business or Company Premises.
- (b) "use" means that any of the drugs, listed in the DOT testing regimen, are detectable in the Worker's system at or above the identified limits.
- (c) The Company has adopted the position, as stated by the U.S. Department of Transportation (*DOT Office of Drug and Alcohol Policy and Compliance Notice on October 22, 2009*) relative to the use of medical marijuana and considers any positive test result to be a violation of the Company's alcohol and drug policy.
- (d) Drug testing will consist of those constituents identified in the drug panel in Table 2-1.

**Table 2-1: Standard Drug Testing Panel**

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA <sup>1</sup>	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine <sup>2</sup>	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines <sup>3</sup>			
AMP/MAMP <sup>4</sup>	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine <sup>5</sup>	250 ng/mL
MDMA <sup>6</sup>	500 ng/mL	MDMA	250 ng/mL
		MDA <sup>7</sup>	250 ng/mL
		MDEA <sup>8</sup>	250 ng/mL
<sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)			
<sup>2</sup> Morphine is the target analyte for codeine/morphine testing			
<sup>3</sup> Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specific cutoff			
<sup>4</sup> Methamphetamine is the target analyte for amphetamine/methamphetamine testing			
<sup>5</sup> To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL			
<sup>6</sup> Methylenedioxymethamphetamine (MDMA)			
<sup>7</sup> Methylenedioxyamphetamine (MDA)			
<sup>8</sup> Methylenedioxyethylamphetamine (MDEA)			

**2.2. Alcohol**

- (a) Except as expressly permitted below, the use, possession, distribution, offering or sale of any Alcohol is prohibited when on Company Business or on Company Premises.
- (b) For purposes of this Section, "use" means the Worker has a BAC of .04 or greater.
- (c) In addition, Workers who hold Safety Sensitive Positions are subject to the following additional restrictions:
  - (i) They may not consume any alcohol within four (4) hours prior to reporting for work or, if the Worker is called to work on an emergency basis with less than four hours advance notice, after being notified to report for work;
  - (ii) They may not consume any Alcohol for at least eight (8) hours after an accident, or until after the Worker has been tested or advised by the Company that a test is not required; and
  - (iii) If they have a BAC of between .02 and .04, they may not perform any Safety Sensitive Position duties until after 24 hours following the administration of the Alcohol test).

### **2.3. Exemptions for Alcohol Use and Possession**

- (a) Alcohol is prohibited at all Company Premises where Workers reside (i.e. camp, office, etc.) except under the following specific circumstance:
  - (i) A worker, including those in Safety-Sensitive Positions, may use Alcohol after the workday (i.e., when on travel status, when at a training event or seminar, or in any other similar business-related situation), provided (1) *the formal business has been completed*, (2) *Alcohol is used responsibly (within the applicable legal limits)*, and (3) *the Employee is not on-call or expecting to return to work*.
  - (ii) Alcohol use is permitted at Company sponsored social functions with the prior approval of an Officer of the Company or the Delivery Unit's Lead Human Resources Business Partner provided Alcohol consumption is controlled to minimize the potential for inappropriate behavior at the function and impaired driving afterwards. Alternative transportation arrangements will be made available, when possible.
  - (iii) Workers in Safety-Sensitive Position who attend and consume Alcohol may commence or return to work only as provided for above in subsection 2.2 (c) and Appendix 3.

### **2.4. Special Rule for Medications**

- (a) Workers are expected to responsibly and properly use prescribed and over-the-counter Medications (including herbal preparations). A guideline on Medications is attached as Appendix 1.
- (b) The following are prohibited when on Company Business or Premises:
  - (i) The misuse of Medications (e.g., not using the Medication as directed by the prescribing doctor or pharmacy, using someone else's prescription Medication, and/or combining Medications and Alcohol use against direction); and
  - (ii) The unauthorized possession of prescribed Medications without a legally obtained prescription, and the unauthorized distribution, offering for sale of prescription Medications (i.e., trafficking).
- (c) Additionally, Workers must:
  - (i) Investigate (through their doctor or pharmacist) whether a Medication can affect safe operations;
  - (ii) Act responsibly and use a safe alternative Medication choice when available (e.g., non-drowsy);
  - (iii) Take appropriate action to minimize safety risk and advise their Supervisor of any need for modified duties if the Medication they are using will affect their ability to operate safely; and
  - (iv) Follow any recommended course of action, which could include temporary reassignment, if possible, or leave as appropriate to the situation.

- (d) The Company reserves the right to have the DER and/or the Safety Lead confirm the nature and duration of any required work modification with the worker's treating physician, without any breach of medical confidentiality or privacy laws. The DER and/or the Safety Lead will provide guidance to Supervisors on work modification and/or removal from the job, if necessary.

**2.5. Call in Situations**

- (a) If a Worker is requested to perform services while the Worker has Drugs or Alcohol in his or her system that would be detectable at or above the limits set forth in this Policy, the Worker must advise the requestor or their Supervisor that they are unable to report for work so that appropriate steps can be taken to find an alternate Worker.

**3. WHEN TESTING WILL BE REQUIRED**

**3.1. Pre-Employment Testing**

- (a) All applicants for employment (both Employees and Contractors) will be tested for Alcohol and Drugs before commencing work.

**3.2. Reasonable Cause Testing**

- (a) Alcohol and Drug testing will take place whenever the Company has reasonable cause to believe that the actions, appearance or conduct of a Worker while on duty are indicative of the use of Alcohol or Drugs in violation of the Policy. The decision to test will be made by two Supervisors, at least one of whom has been trained to recognize observed behavior that is unusual to the person's normal behavior or circumstance and is hence potentially indicative of drug or alcohol use (*the Supervisor documenting the observed behavior must be trained*). The basis for the decision will be documented as soon as possible after action has taken place. The referral for a test will be based on specific, personal observations resulting from, but not limited to such indicators as:
  - (i) Observed use or evidence of inappropriate use of Alcohol or Drugs (e.g. smell of Alcohol);
  - (ii) Erratic or atypical behavior or changes in behavior; and
  - (iii) Changes in the physical appearance or speech patterns; and any other observations that suggest the Worker may be under the influence of Alcohol or Drugs. In all situations when there is reasonable cause to believe a Worker is violating this Policy, the Worker will be escorted by a Supervisor to a safe place, interviewed, and given an opportunity to explain why he or she is not violating this Policy.
- (b) Testing for Drugs will occur as soon as possible but in no event later than thirty-two (32) hours after the observed behavior.
- (c) Testing for Alcohol will occur within two (2) hours if possible, but in no event more than eight (8) hours after the observed behavior. If the test is not conducted within two (2) hours after the observed behavior, the reason for the delay will be documented. If testing cannot be completed within eight (8) hours of the observed behavior, then the need for testing will discontinued.

- (d) Must be escorted to the collection site by supervisor or company representative.
- (e) The failure to report an incident which may require testing shall constitute a violation of this Policy.

### **3.3. Post-Incident Testing**

- (a) Alcohol and drug testing will be accomplished as a result of the following:
  - (i) Vehicle incident:
    - (A) An employee, while operating a vehicle in the course of company business, is involved in a vehicle incident that results in them receiving an at-fault citation; or
    - (B) An employee, while operating a vehicle in the course of company business, is involved in a vehicle incident that results in an estimated \$1,000 or more in damage to their vehicle (as assessed at the time of the incident); or
    - (C) Any third party, involved in the accident, receives medical attention prior to law enforcement releasing the involved parties from the accident location.
  - (ii) Receipt of Medical Treatment:
    - (A) An incident resulting in an employee receiving medical treatment as defined by Title 29, Code of Federal Regulations, Part 1904, Section 7, *General Recording Criteria*.
  - (iii) High Profile Incident:
    - (A) Any incident classified by the HSE Department as a High Profile Incident (HPI)
- (b) Testing for Drugs will occur as soon as possible but in no event later than thirty-two (32) hours after the event in question.
- (c) Testing for Alcohol will occur within two (2) hours if possible, but in no event more than eight (8) hours after the event (and the Company will keep a record of the reasons for the delay). If the test is not conducted within two (2) hours after the incident, the reason for the delay will be documented.
- (d) The failure to report an incident which may require testing will constitute a violation of this Policy.

## **4. DRUG AND ALCOHOL TEST EVALUATION AND REVIEW**

### **4.1. Procedures**

- (a) Sample collection, testing and reporting of results will be conducted in accordance with standards adopted by the U.S. Department of Transportation ("DOT") and set out in 49 CFR Part 40 in order to ensure the accuracy and integrity of results. Rigorous sample collection, storage and chain-of-custody procedures will be followed.

- (b) Collection specimens for Drug testing and administration of Alcohol tests will be performed by trained collection agents at Company-designated collection sites.
- (c) All Drug tests will be administered by urinalysis, or by collection of an oral fluid sample for analysis in the laboratory. In certain situations, a “point of collection” (quick test) urine Drug screening test may be administered with appropriate adulterant checks; any result that is not negative will be sent to the laboratory for confirmation analysis.
- (d) Urine samples for Drug testing will be analyzed by a fully qualified and accredited laboratory using a two-step process with initial screening by immunoassay and all confirmations being performed by gas chromatography/mass spectrometry (GC/MS). If a point of collection screening device is used, any non-negative result will be forwarded to a laboratory for confirmation analysis.
- (e) Workers being tested must sign and will be given a copy of the *Drug Testing Custody and Control Form* and/or the *Breath Alcohol Testing Form* for their records.
- (f) Alcohol tests will be administered by a calibrated breathalyzer with a printout of test results. All Drug tests will be administered by urinalysis. In certain situations, a “point of collection” (quick test) urine drug screening test may be administered with appropriate adulterant checks; any result that is not negative will be sent to the laboratory for confirmation analysis.
- (g) Specimens with positive, adulterated, substituted, or invalid results will be maintained by the laboratory for a minimum of one year in secure, long-term, frozen storage.

#### **4.2. The Medical Review Officer**

- (a) The MRO will receive the results directly from the laboratory.
- (b) The MRO will perform a quality assurance review on the *Chain or Custody Form* and identify any problems that may cause the test to be invalidated.
- (c) The MRO will review and interpret confirmed positive test results and follow appropriate procedures for positive results.
- (d) The MRO's primary function is to review and interpret test results.
- (e) The MRO will report all controlled substance and alcohol test results to the DER within twenty-four (24) hours of completion of his/her review.
- (f) Written notification will be sent to the DER within three (3) working days upon the completion of his/her review.
- (g) When the MRO receives a laboratory report that shows a specimen has been adulterated or substituted, he/she must treat that report in the same manner as a laboratory result of a confirmed positive drug test for a drug or drug metabolite.
- (h) The MRO report will clearly identify the following information:

- (i) That the controlled substance and/or alcohol tests being reports was in accordance with the applicable regulations;
- (ii) Name of the tested individual;
- (iii) Type of test indicated on the Chain of Custody Form;
- (iv) Date and location of the test;
- (v) The individual or Company performing the collection, analysis of the specimen and the MRO's name for that test; and
- (vi) The verified results (positive or negative) and if positive, the identity of the controlled substance(s) for which the test was verified positive.

**4.3. Drug and Alcohol Test Evaluation and Review: Worker Interaction**

(a) In the event that the laboratory reports a positive result to the MRO, the Worker will be provided an opportunity to discuss the test result with the MRO.

- (i) The MRO must attempt to contact the Worker at least three (3) times in a twenty-four (24) hour period and must document times and dates that the attempts were made.
- (ii) If the MRO is unable to contact the Worker, he/she informs the DER, who then is responsible for contacting the Worker and telling them to contact the MRO immediately.
- (iii) A Worker may request (within 72 hours) to have a split specimen tested by a second laboratory.
- (iv) The MRO may verify a result as a positive test without talking with the Worker if:
  - (A) The Worker expressly declines the opportunity;
  - (B) The DER has made and documented contact with the Worker and instructed the employee to contact the MRO, the DER has advise the MRO of the contact with the Workers, and more than 72 hours has passed since the time of contact; or
  - (C) Five (5) days has passed since the MRO received the results and nobody has been able to contact the Worker.
- (v) Upon discussing the positive results with the Worker, the MRO can determine if there is a legitimate medical explanation for the positive results. A legitimate medical explanation may be due to:
  - (A) A prescription medication that has been properly obtained and used; or
  - (B) Medicines obtained from a foreign country, if it is viewed as having a legitimate medical use and is being used in a manner consistent with its intended purpose.

**4.4. Drug and Alcohol Test Evaluation and Review: Company Actions**

(a) If a Drug or Alcohol test results in a Positive Test Result, the Company will:

- (i) The Company will implement its policy of ZERO Tolerance resulting in the employee's termination of employment.
  - (ii) The Company will give the Worker the name, address and telephone number of the SAP who can assist the Worker.
- (b) If a Worker is being tested for reasonable cause or as a result of a post-incident event, the Company will remove (stand down) the Worker pending the results of the test.
- (i) The Company may assign the Worker to other work or, at its discretion, continue the stand down until it receives a final report from the MRO.
  - (ii) If the MRO reports a Negative Test Result, the Company will reimburse the Worker for any lost time.

#### **4.5. Confidentiality**

- (a) The DER will receive all verified drug test results once they are verified by the MRO.
- (b) The Company will not release individual test results or medical information about a Worker to third parties without the Worker's specific written consent, except in lawsuits, grievances, administrative proceedings or as otherwise required by law.

### **5. CONSEQUENCES OF A POLICY VIOLATION**

#### **5.1. General**

- (a) Any violation of the provisions of this Policy may result in discipline up to and including termination of employment. Pending the outcome of any investigation, a Worker may be suspended with or without pay.

#### **5.2. Refusal to Test**

- (b) A Worker's failure to report directly for a test, refusal to submit to a test, refusal to agree to disclosure of a test result to the DER or MRO, a confirmed attempt to tamper with or adulterate a test sample, or any combination thereof shall each constitute a separate violation of this Policy and may be deemed the equivalent of a Positive Test Result for the purposes of Section 5.3 below.

#### **5.3. Definition of a Policy Violation**

- (a) Policy violations include:
  - (i) A Positive Test Result; or
  - (ii) A failure to report an incident that may require testing; or
  - (iii) A refusal to report directly for a test; or
  - (iv) A refusal to submit to a test; or
  - (v) A refusal to agree to disclose test results to the DER or MRO; or
  - (vi) A confirmed attempt to tamper with or adulterate a test sample; or
  - (vii) Failure to report an event, as defined in Section 8, immediately to your supervisor; or
  - (viii) Any combination of the foregoing events.

## **6. PREVENTION, ASSISTANCE, REHABILITATION, AND AFTERCARE**

### **6.1. Prevention**

- (a) This Policy stresses the importance of prevention and early identification of potential problem situations. The Company will make information available on health and safety hazards, recognizing related performance problems, and the process to access assistance.
- (b) Employees are encouraged to access assistance through the Company EFAP, their personal physician, their manager, or appropriate community services for help with any problem that may be affecting work performance, including an Alcohol or Drug problem.
- (c) Job performance monitoring will continue to be emphasized. Through this process, Employees with apparent performance problems should access assistance through the Company EFAP, their personal physician, or appropriate community services for help with any personal problem.

### **6.2. Assessment/Rehabilitation**

- (a) The Company recognizes that Alcohol and Drug dependency are treatable illnesses and early intervention greatly improves the probability of a lasting recovery. Individuals who suspect they have a substance dependency or emerging Alcohol or Drug problem are expected to seek advice and to follow appropriate treatment promptly before job performance is affected or violations of this Policy occur.

### **6.3. Request for Assistance**

- (a) Employees who voluntarily come forward for help with an Alcohol or Drug problem will be referred for an assessment by a Substance Abuse Professional and supported through a treatment and aftercare program consistent with the SAP's recommendations and the applicable benefit coverage.

### **6.4. Responsibilities**

- (a) Arrangements for the assessment will be made through Human Resources and the DER. Employees should understand that accessing assistance or declaring a problem does not eliminate the requirement for maintenance of satisfactory performance levels. Corrective action or testing cannot be avoided by a request for assistance with a problem or by disclosure that the individual is already involved in a treatment program.

### **6.5. Confidentiality**

- (a) Confidentiality will be maintained to the greatest extent possible except where limited disclosure is necessary for related health and safety concerns, (e.g., there is deemed to be a potential for risk to self, others or the Company), or where required or permitted by law (e.g., in the case of litigation or government investigation). That is, only the information strictly limited to the level of functionality (e.g., fitness for work and any restrictions that may apply) may be shared with management for purposes of determining fitness for work, appropriate work accommodation, and/or work re-entry initiatives.

## **7. SEARCH OF COMPANY PREMISES**

- (a) Company security may search for Alcohol and Drugs on Company Premises where, based on a combination of indicators which could include behavior, odor, or presence of paraphernalia, there is reason to suspect that Alcohol or Drugs are present in violation of the Policy. Such searches may include offices, lockers, company vehicles, luggage and personal effects.
- (b) Supervisors are responsible for notifying HR, Legal or the DER when they suspect that this Policy is being violated. Human Resources will determine whether to conduct a search.
- (c) Any Illegal Drugs or Drug Paraphernalia found during a search will be turned over to the Police. Confiscated Alcohol will be secured by the Company and either disposed of or returned to the owner as deemed appropriate by the Company.

## **8. LOSS OF LICENSE/IMPAIRED DRIVING CHARGE**

- (a) All Workers who regularly or periodically operate any motorized vehicle on behalf of the Company must advise the Company of any loss of their driver's license. In addition, Workers must inform their Supervisor immediately if they have been charged with an impaired driving offence when operating a Company vehicle or driving on behalf of the Company. Impaired driving would include but not be restricted to:
  - (i) Testing over the legal BAC in any jurisdiction; or
  - (ii) Driving while impaired due to alcohol or illegal/illicit drugs; or
  - (iii) Refusing to provide a sample for testing at the request of a law enforcement officer.

### **8.1. Reporting a Criminal Conviction**

- (a) Any Worker convicted of violating a criminal drug statute must notify the Company no later than five (5) days after the conviction. Under this rule, a conviction includes:
  - (i) A finding of guilt; or
  - (ii) A plea of guilty or *nolo contendere*; and/or
  - (iii) The imposition of a sentence by any judicial body responsible for determining violations of federal or state criminal drug statutes.

## **9. RECORDKEEPING REQUIREMENTS**

### **9.1. Records Retention Timelines**

- (a) The MRO will maintain and/or have access to the following records for the following periods:
  - (i) One (1) Year: Records of negative or cancelled drug test results and alcohol results below 0.02.
  - (ii) Two (2) Years: Records of the inspection, maintenance and calibration of Evidential Breath Testing devices.

- (iii) Five (5) Years:
  - (A) Alcohol test results 0.02 or greater;
  - (B) Verified positive drug test results and documentation of refusals to test (including adulterated or substituted);
  - (C) Substance Abuse Professional reports;
  - (D) Follow up tests and schedules.
- (b) Talisman will maintain the below records for the following periods:
  - (i) Three (3) Years:
    - (i) Information obtained from previous employers concerning drug and alcohol test results of employees (background check requirement); and
    - (ii) Supervisor and employee training records

## **10. MISCELLANEOUS**

### **10.1. Employee Awareness Training**

- (a) This training will enable employees to be familiar with the Company's Drug & Alcohol Policy as well as the dangers of alcohol and drug abuse.

### **10.2. Reasonable Cause Training**

- (a) Those designated Supervisory-level employees of the Company will receive a minimum of Two (2) hours of training related to:
  - (i) the Company's Drug & Alcohol Policy;
  - (ii) the supervisor's specific responsibilities in implementing the policy;
  - (iii) ways to recognize and deal with employees who have job performance problems that could be related to alcohol and other drugs; and
  - (iv) Process of identifying potential drug and alcohol users by spotting the indicators of substance abuse.

## **APPENDIX 1**

### **GUIDELINES ON MEDICATIONS**

## GUIDELINE ON MEDICATIONS

All Workers are expected to manage the legitimate use of Medications to avoid potential performance impairment during working hours.

Workers are expected to consult with their personal or treating physician, a pharmacist, or the Designated Employer Representative or Safety Lead to determine if use of a Medication will have any potential negative impact on job performance. If the Medication will affect their ability to operate safely, Workers must take appropriate action to minimize safety risk by advising management of any need for modified duties.

The Company reserves the right through the Designated Employer Representative or Safety Lead to confirm the nature and duration of any treating physician-required work modification.

The following Drug categories have been associated with performance impairment and are provided as a guideline to Workers in assessing their own situation. The list is not exhaustive; there are numerous other over-the-counter and prescription drugs which when taken may negatively impact performance.

- (a) Antihistamines: are widely prescribed for hay fever and other allergies (e.g., Allegra, Dimetane). They are also found in many cold Medications. These Medications may cause drowsiness.
- (b) Motion Sickness Drugs: are used to prevent motion sickness and nausea (e.g., Gravol, Antivert). Side effects may include drowsiness.
- (c) Barbiturates, Sedatives, Hypnotics, Tranquilizers, and Antidepressants: are used to treat sleep disorders and depression (e.g., Ativan, Imovane, or Paxil). Potential side effects may include mild sedation, hypnotic state, dizziness or drowsiness.
- (d) Narcotics (e.g., Demerol, Codeine, Oxycontin and Percocet): Codeine is often found in combination drugs such as 222s or 292s or Tylenol 1,2,3s. Potential side effects may include mild sedation, hypnotic state, dizziness or drowsiness.
- (e) Stimulants: Medication used for central nervous system stimulation and for appetite suppression can produce sensations of well-being which may have an adverse effect on judgment, mood and behavior (e.g., amphetamines or Medications sold as "diet pills").
- (f) Anticonvulsants: are used to control epileptic seizures and can cause drowsiness in some patients (e.g., Dilantin).
- (g) Muscle Relaxants: are used to treat musculoskeletal pain. Most common side effects are sedation and drowsiness (e.g., Flexeril and Robaxisal).
- (h) Cold Tablets/Cough mixtures: in particular, nighttime remedies can cause drowsiness (e.g., Sinutab, Contac, Triaminic, Tussonex and preparations containing dextromethorphan (DM) or codeine).

## **APPENDIX 2**

### **ACKNOWLEDGEMENT AND RECEIPT NOTIFICATION**

**TALISMAN ENERGY USA INC.  
TALISMAN ENERGY SERVICES INC.**

**ACKNOWLEDGMENT  
AND RECEIPT NOTIFICATION**

I hereby acknowledge that I have received a copy of the Company's Drug and Alcohol Policy ("Policy"). I am aware that the Policy outlines the procedures concerning illegal or illicit drug and alcohol testing. I am also aware that the Company has an Employee and Family Assistance Program for resolving problems associated with substance abuse that any employee can access in their local area in total confidentiality.

I have read and understand the provisions outlined in the Policy, and agree to all the requirements contained therein. I understand that compliance with the Policy is a condition of employment with the Company. I understand that disciplinary action, up to and including termination, will result if I am in violation of the procedures.

\_\_\_\_\_  
App/Employee Name (Print)

\_\_\_\_\_  
Employee Number

\_\_\_\_\_  
App/Employee Signature

\_\_\_\_\_  
Date

## **APPENDIX 3**

# **PHMSA 49 CFR PART 199 ANTI-DRUG AND ALCOHOL MISUSE POLICY**

**U. S. DEPARTMENT OF TRANSPORTATION  
(DOT)**

**PIPELINE & HAZARDOUS MATERIALS SAFETY  
ADMINISTRATION  
(PHMSA)**

**49 CFR PART 199  
ANTI-DRUG and ALCOHOL MISUSE PREVENTION  
POLICY**

for

**Talisman Energy USA Inc.  
Talisman Energy Services Inc.**

aka

“This Employer” or “This Company”

Implementation Date: December 10, 2012

Effective Date: August 1, 2013

DEPARTMENT OF TRANSPORTATION (DOT)  
PIPELINE & HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

SUBCHAPTER D -- PIPELINE SAFETY

49 CFR PART 199  
ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY

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## **Subpart A -- General**

**49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs**, is an important part of the testing regulations. Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40. Part 40 is included in its entirety in Appendix 3-N of this policy and is an integral part of this ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY.

### **Scope – (§199.1)**

Talisman Energy USA Inc. and Talisman Energy Services, Inc. (collectively referred to as the “Company” or “Employer”) have a long-standing commitment to maintain the highest standards for the safety and health of employees and the public. This Company has adopted this ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY to help prevent accidents and injuries resulting from the use of controlled substances and the misuse of alcohol by employees who perform covered functions. This Company has also adopted this policy to be in compliance with applicable Federal Regulations.

Operators of pipeline facilities subject to 49 CFR Parts 192, 193, and/or 195 are required to test covered employees for the presence of prohibited drugs and alcohol. Pipeline operators are also required to ensure that contractors are in compliance with Part 199. This policy has been designed to bring contractor companies into compliance with that requirement.

### **Applicability – (§199.2)**

- (a) This part applies to pipeline operators and their contractors only with respect to employees located within the territory of the United States, including those employees located within the limits of the "Outer Continental Shelf " as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331)
- (b) This part does not apply to any person for whom compliance with this part would violate the domestic laws or policies of another country.
- (c) This part does not apply to covered functions performed on --
  - (1) Master meter systems, as defined in 191.3 of this chapter; or
  - (2) Pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.

### **Definitions – (§199.3) (Definitions related to Part 40 are in Appendix 3-M)**

Definitions found in Parts 192, 193 and 195 are also applicable to this policy.

As used in this part --

Accident means an incident reportable under Part 191 of this chapter involving gas pipeline facilities or LNG facilities, or an accident reportable under Part 195 of this chapter involving hazardous liquid pipeline facilities.

§191.3 - Definitions.

Incident means any of the following events:

- (1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and

- (i) A death, or personal injury necessitating in-patient hospitalization; or
- (ii) Estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more.

(2) An event that results in an emergency shutdown of an LNG facility.

(3) An event that is significant, in the judgment of the operator (*or contractor*), even though it did not meet the criteria of paragraphs (1) or (2).

§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 means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

Covered employee, employee, or individual to be tested (or applicant) means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

Covered function means an operations, maintenance, or emergency-response function regulated by Parts 192, 193, or 195 that is performed on a pipeline or on an LNG facility.

DOT Procedures means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in 49 CFR Part 40.

Fail a drug test means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

Operator means a person who owns or operates pipeline facilities subject to Parts 192, 193, or 195.

Pass a drug test means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

Performs a covered function includes actually performing, ready to perform, or immediately available to perform a covered function.

Pipeline or pipeline system means all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline facility means new and existing piping, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this policy plus the number of refusals of random drug tests required by this policy, divided by the total number of random drug tests results (*i.e.*, positives, negatives, and refusals) required by this policy.

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

Refuse to submit, refuse, or refuse to take means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.

State agency means 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).

### **Designated Employer Representative (DER)**

Appendix 3-A contains the name, address, and phone number of the responsible individual(s). The DER shall be responsible for the preparation of an ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.); maintaining a locked file system on all test results; and overseeing the referral of employees for evaluation and treatment. This Company shall ensure that all covered employees are aware of the provisions and coverage of This Company's ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY and that all employees are notified prior to testing that such a test is required by Part 199.

### **DOT Procedures – (§199.5)**

The anti-drug and alcohol programs required by this policy must be conducted according to the requirements of 49 CFR Part 199 and DOT Procedures. Terms and concepts used in this policy have the same meaning as in DOT Procedures. Violations of DOT Procedures with respect to anti-drug and alcohol programs required by this policy are violations of this policy.

### **Stand-down waivers – (§199.7)**

(a) Each operator who seeks a waiver under 40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, Pipeline & Hazardous Materials Safety Administration, Department of Transportation, Washington, DC 20590.

(b) Each application must --

- (1) Identify 40.21 of this title as the rule from which the waiver is sought;
- (2) Explain why the waiver is requested and describe the employees to be covered by the waiver;
- (3) Contain the information required by 40.21 of this title and any other information or arguments available to support the waiver requested; and
- (4) Unless good cause is shown in the application, be submitted at least 60 days before the proposed effective date of the waiver.

(c) No public hearing or other proceeding is held directly on an application before its disposition under this section. If the Associate Administrator determines that the application contains adequate justification, he or she grants the waiver. If the Associate Administrator determines that the application does not justify granting the waiver, he or she denies the application. The Associate Administrator notifies each applicant of the decision to grant or deny an application.

### **Preemption of State and local laws – (§199.9)**

(a) Except as provided in paragraph (b) of this section, Part 199 preempts any State or local law, rule, regulation, or order to the extent that:

- (1) Compliance with both the State or local requirement and Part 199 is not possible;
- (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 199; or
- (3) The State or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.

(b) Part 199 shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or This Employer or to the general public.

### **Contractor Monitoring**

This Company shall prepare and submit to the appropriate pipeline operator and/or designated agent for contractor monitoring requested information and the proper statistical data report (as directed by the pipeline operator) twice a year. The first report shall cover the 1<sup>st</sup> and 2<sup>nd</sup> quarters of This Company's testing program for the current calendar year and shall be due no later than 30-days after the end of the 2<sup>nd</sup> quarter (quarter ends June 30<sup>th</sup>, report due no later than July 30<sup>th</sup>). The second report shall cover the 3<sup>rd</sup> and 4<sup>th</sup> quarters of This Company's testing program and shall be due no later than 30-days after the end of the 4<sup>th</sup> quarter (quarter ends December 31<sup>st</sup>, report due no later than January 30<sup>th</sup>) of the preceding calendar year.

### **This Company's Independent Authority**

**This ANTI-DRUG and ALCOHOL MISUSE PREVENTION POLICY sets forth the requirements of 49 CFR Parts 199 and 40. Those areas of the policy that appear in bold and underline print reflect This Company's independent authority to require additional provisions with regard to drug and alcohol testing procedures.**

## Subpart B -- Drug Testing

### **Purpose – (§199.100)**

The purpose of this policy is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to Parts 192, 193, or 195.

### **Anti-drug plan – (§199.101)**

(a) This Employer shall maintain and follow a written anti-drug plan that conforms to the requirements of Part 199 and the DOT Procedures. The plan must contain --

- (1) Methods and procedures for compliance with all the requirements of Part 199, including the employee assistance program;
- (2) The name and address of each laboratory that analyzes the specimens collected for drug testing;
- (3) The name and address of This Company's Medical Review Officer, and Substance Abuse Professional; and
- (4) Procedures for notifying employees of the coverage and provisions of the plan.

(b) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

### **Use of persons who fail or refuse a drug test – (§199.103)**

(a) This Employer may not knowingly use as an employee any person who --

- (1) Fails a drug test required by this policy and the medical review officer makes a determination under DOT Procedures; or
- (2) Refuses to take a drug test required by this policy.

(b) Paragraph (a)(1) of this section does not apply to a person who has --

- (1) Passed a drug test under DOT Procedures;
- (2) Been considered by the medical review officer in accordance with DOT Procedures and been determined by a substance abuse professional to have successfully completed required education or treatment; and
- (3) Not failed a drug test required by this policy after returning to duty.

### **Drug tests required – (§199.105)**

This Company shall conduct the following drug tests for the presence of a prohibited drug:

(a) Pre-employment testing.

This Employer may not hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this policy. This Employer shall conduct a pre-employment drug test before the first performance of covered functions by every covered employee, whether a new employee or someone who has transferred to a position involving the performance of covered functions.

(b) Post-accident testing.

As soon as possible but no later than 32 hours after an accident, This Employer shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. This Employer may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

See **APPENDIX 3-J: POST-ACCIDENT GUIDELINES FOR SUPERVISORS and Decision Tree**

(c) Random testing.

(1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

(2) The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by Part 199. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the Administrator will publish in the FEDERAL REGISTER the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication. For the current year's random percentage rate, go to <http://www.dot.gov/ost/dapc/rates.html>.

(3) When the minimum annual percentage rate for random drug testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of 199.119 for two consecutive calendar years indicate that the reported positive rate is less than 1.0 percent.

(4) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of 199.119 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.

(5) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(6) This Employer shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the Administrator. If This Employer conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual employer or may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under Part 199 or any DOT drug testing rule.

(7) This Company shall ensure that random drug tests conducted under this policy are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted quarterly.

(8) If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for This Employer, the employee shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

(9) If This Company is required to conduct random drug testing under the drug testing rules of more than one DOT agency, This Company may --

- (i) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or
- (ii) Randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which This Company is subject.

(10) Following are the key aspects of the random testing selection process.

- (i) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- (ii) Employees will be selected for random testing based on the number of covered employees in the random pool at the time and the current PHMSA random testing rate.
- (iii) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.
- (iv) The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.
- (v) Specimen collection will be conducted on different days of the week throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection.
- (vi) The list of employees that have been selected for random drug testing will be retained by the DER or his/her designee in a secure location.
- (vii) Employees shall report immediately to the collection site once notified by the appropriate official of This Company.

(d) Reasonable cause.

This Company shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. However, in the case of employer with 50 or fewer employees subject to testing under This part, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

See **APPENDIX 3-K: REASONABLE SUSPICION GUIDELINES FOR SUPERVISORS** and **APPENDIX 3-L: REASONABLE CAUSE OBSERVATION CHECKLIST**

**Return-to-duty and follow-up testing may not be applicable – see COVERED EMPLOYEE CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT.**

(e) Return-to-duty testing.

A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has complied with applicable provisions of DOT Procedures concerning substance abuse professionals and the return-to-duty process.

Per 49 CFR Part 40.67, the DER must direct the drug collection of the employee for a return-to-duty test be performed as a direct observation.

(f) Follow-up testing.

A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by This Company following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

Per 49 CFR part 40.67 the DER must direct the drug collection of the employee for a follow-up test be performed as a direct observation.

#### **Drug testing laboratory – (§199.107)**

(a) This Company shall use for the drug testing required by This part 199 only drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures. **See Appendix 3-G for the laboratory this Company utilizes.**

(b) The drug testing laboratory must permit --

- (1) Inspections by the operator before the laboratory is awarded a testing contract; and
- (2) Unannounced inspections, including examination of records, at any time, by This Company, the Administrator, and if This Company is subject to state agency jurisdiction, a representative of that state agency.

### **Review of drug testing results – (§199.109)**

(a) MRO appointment. This Company shall designate or appoint a medical review officer (MRO). If This Company does not have a qualified individual on staff to serve as MRO, This Company may contract for the provision of MRO services as part of its anti-drug program. **See Appendix 3-E for the MRO this Company utilizes.**

(b) MRO qualifications. Each MRO must be a licensed physician who has the qualifications required by DOT Procedures.

(c) MRO duties. The MRO must perform functions for This Company as required by DOT Procedures.

(d) If the MRO reports a negative dilute test that is has a creatinine concentration greater than 5 mg/dL per 49 CFR Part 40.197 (b)(2), the Company has the opportunity to have an immediate recollection of the employee. This test will **not** be conducted under direct observation per the regulations unless the MRO directs you to do so. All employees with a negative dilute test reported will be asked to proceed to the collection facility for the recollection under the original reason for test. The regulation states if the Company conducts negative dilute tests they must be performed for every employee or perspective employee for all reasons for test the Company dictates in this policy. The employee must be treated the same. This Company requires a recollection for negative dilutes on every **pre-employment tests.**

If the second test result is also negative dilute, the second test result is the result of record. If the employee declines to take the test as directed, the employee will be considered to have refused to test which will result in disposition the Company has stipulated in this policy.

(e) Evaluation and rehabilitation may be provided by This Company, by a substance abuse professional under contract with This Company, or by a substance abuse professional not affiliated with This Company. The choice of substance abuse professional and assignment of costs shall be made in accordance with employer/employee agreements and employer/employee policies.

(f) This Company shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

- (1) A public agency, such as a State, county, or municipality;
- (2) This Company or a person under contract to provide treatment for drug problems on behalf of This Company;
- (3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
- (4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

### **Retention of samples and additional testing – (§199.111)**

(a) Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, This Company, the Administrator, or, if This Company is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

(b) If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, and if timely additional testing is requested by the employee according to DOT Procedures, the split specimen must be tested. The employee may specify testing by the original laboratory or by a second laboratory that is certified by the Department of Health and Human Services. This Company may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the additional test is negative.

(c) If the employee specifies testing by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.

(d) Since some analytes may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results.

### **Employee assistance program – (§199.113)**

(a) This Employer shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. This Company may establish the EAP as a part of its internal personnel services or This Company may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of This Company, the EAP may include an opportunity for employee rehabilitation.

(b) Education under each EAP must 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 This Company's policy regarding the use of prohibited drugs.

(c) Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

### **Contractor employees – (§199.115)**

With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by Part 199 be carried out by the contractor provided:

(a) The operator remains responsible for ensuring that the requirements of Part 199 are complied with; and

(b) The contractor allows 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 This Company's compliance with the requirements of Part 199.115.

## **Recordkeeping – (§199.117)**

(a) This Employer shall keep the following records for the periods specified and permit access to the records as provided by paragraph (b) of this section:

(1) Records that demonstrate the collection process conforms to Parts 199 and 40 must be kept for at least 3 years.

(2) Records of employee drug test that indicate a verified positive result, records that demonstrate compliance with the recommendations of a substance abuse professional, and MIS annual report data shall be maintained for a minimum of five years.

(3) Records of employee drug test results that show employees passed a drug test must be kept for at least 1 year.

(4) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.

(b) Information regarding an individual's drug testing results or rehabilitation must be released upon the written consent of the individual and as provided by DOT Procedures. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of a state agency upon request.

## **Reporting of anti-drug testing results – (§199.119)**

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at §40.25 and Appendix 3-H to Part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA.

(b) Each report, required under this section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Pipeline & Hazardous Materials Safety Administration, Department of Transportation, room 2335, 400 Seventh Street, SW., Washington, DC 20590.

(c) Each report shall be submitted in the form and manner prescribed by the Administrator. No other form, including another DOT Operating Administration's MIS form, is acceptable for submission to PHMSA.

(d) Each report shall be signed by the Operator's anti-drug manager or designated representative. PHMSA will allow the operator the option of sending the report on the computer disk provided by PHMSA. If this option is used, a signature page attesting to the validity of the information on the computer disk must be sent to the address in paragraph (b) of this section.

(e) Each operator's report with verified positive test results or refusals to test shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of positive test results, verified by a Medical Review Officer (MRO), by type of test and

type of drug.

(5) Number of employee action(s) taken following verified positive(s), by type of action(s).

(6) Number of negative tests reported by an MRO by type of test.

(7) Number of persons denied a position as a covered employee following a verified positive drug test.

(8) Number of covered employees, returned to duty during this reporting period after having failed or refused a drug test required under the PHMSA rule.

(9) Number of covered employees with tests verified positive by an MRO for multiple drugs.

(10) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal.

(11) Number of supervisors who have received required initial training during the reporting period.

(f) Each operator's report with only negative test results shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of negative tests reported by an MRO by type of test.

(5) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal.

(6) Number of supervisors who have received required initial training during the reporting period.

## **Subpart C -- Alcohol Misuse Prevention Program**

### **Purpose – (§199.200)**

The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities subject to Parts 192, 193, or 195.

### **Alcohol misuse plan – (§199.202)**

This Employer must maintain and follow a written alcohol misuse plan that conforms to the requirements of Part 199 and DOT Procedures concerning alcohol testing programs. The plan shall contain methods and procedures for compliance with all the requirements of Part 199, including required testing, recordkeeping, reporting, education, and training elements.

### **Other requirements imposed by This Employer – (§199.209)**

- (a) Except as expressly provided in Part 199, nothing in Part 199 shall be construed to affect the authority of This Employer, or the rights of employees, with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation.
- (b) This Employer may, but are not required to, conduct pre-employment alcohol testing under Part 199. If This Employer conducts pre-employment alcohol testing This Employer must –
  - (1) Conduct a pre-employment alcohol test before the first performance of covered functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions);
  - (2) Treat all covered employees the same for the purpose of pre-employment alcohol testing (i.e., This Company must not test some covered employees and not others);
  - (3) Conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test;
  - (4) Conduct all pre-employment alcohol tests using the alcohol testing procedures in DOT Procedures; and
  - (5) Not allow any covered employee to begin performing covered functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

**The use or possession of alcoholic beverages while on This Company's property, or in any of This Company's vehicle, or on This Company's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.**

### **Requirement for notice – (§199.211)**

Before performing an alcohol test under Part 199, This Company shall notify a covered employee that the alcohol test is required by Part 199. This Employer shall not falsely represent that a test is administered under Part 199.

### **Alcohol concentration – (§199.215)**

This Employer shall prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. This Employer, having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, shall not permit the employee to perform or continue to perform covered functions.

### **On-duty use (§199.217)**

This Employer shall prohibit a covered employee from using alcohol while performing covered functions. This Employer, having actual knowledge that a covered employee is using alcohol while performing covered functions, shall not permit the employee to perform or continue to perform covered functions.

### **Pre-duty use – (§199.219)**

This Employer shall prohibit a covered employee from using alcohol within four 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. This Employer, having actual knowledge that a covered employee has used alcohol within four hours prior to performing covered functions or within the time period after the employee has been notified to report for duty, shall not permit that covered employee to perform or continue to perform covered functions.

### **Use following an accident – (§199.221)**

This Employer, having actual knowledge of an accident in which the employee's performance of covered functions has not been discounted by This Company as a contributing factor to the accident, shall prohibit the employee from using alcohol for eight hours following the accident, unless the employee has been given a post-accident test under 199.225(a), or This Company has determined that the employee's performance could not have contributed to the accident.

### **Refusal to submit to a required alcohol test – (§199.223)**

This Employer shall require 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). This Employer shall not permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.

### **Alcohol tests required – (§199.225)**

This Employer shall conduct the following types of alcohol tests for the presence of alcohol:

(a) Post-accident.

(1) As soon as practicable following an accident, This Employer shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section shall be based on This Company's determination, using the best available information at the time of the determination that the covered employee's performance could not have contributed to the accident.

(2) If a test required by this section is not administered within 2 hours following the accident, This Company shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by paragraph (a) is not administered within 8 hours following the accident, This Company shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(3) A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying This Company's or This Employer's representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by This Company to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

See **APPENDIX 3-J: POST-ACCIDENT GUIDELINES FOR SUPERVISORS**

(b) Reasonable suspicion testing.

(1) This Employer shall require a covered employee to submit to an alcohol test when This Company has reasonable suspicion to believe that the employee has violated the prohibitions in this policy.

(2) This Company's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

(3) Alcohol testing is authorized by this section only if the observations required by paragraph (b)(2) of this section are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with Part 199 and this policy. A covered employee may be directed by This Company 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.

(4) (i) If a test required by this section is not administered within 2 hours following the determination under paragraph (b)(2) of this section, This Company shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within 8 hours following the determination under paragraph (b)(2) of this section, This Company shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to PHMSA upon request of the Administrator.

(ii) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, This Employer shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall This Employer permit the covered employee to perform or continue to perform covered functions, until:

(A) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

(B) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination under paragraph (b)(2) of this section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this policy.

(iii) Except as provided in paragraph (b)(4)(ii), This Employer shall not take any action under Part 199 against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit This Employer with the authority independent of Part 199 from taking any action otherwise consistent with law.

See **APPENDIX 3-K: REASONABLE SUSPICION GUIDELINES FOR SUPERVISORS** and **APPENDIX 3-L: REASONABLE CAUSE OBSERVATION CHECKLIST**

**Return-to-duty and follow-up testing may not be applicable – see COVERED EMPLOYEE CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT.**

(c) Return-to-duty testing. This Employer shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by 199.215 through 199.223, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

(d) Follow-up testing.

(1) Following a determination under 199.243(b) that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, This Employer shall ensure that the employee is subject to unannounced follow-up alcohol testing as directed by a substance abuse professional in accordance with the provisions of 199.243(c)(2)(ii).

(2) Follow-up testing shall be 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.

(e) Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04. This Employer shall retest a covered employee to ensure compliance with the provisions of 199.237, if This Employer chooses to permit the employee to perform a covered function within 8 hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

#### **Retention of records – (§199.227)**

(a) General requirement. This Employer shall maintain records of its alcohol misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. This Employer shall maintain the records in accordance with the following schedule:

(1) Five years. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of five years.

(2) Two years. Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of two years.

(3) One year. Records of all test results below 0.02 (as defined in 49 CFR Part 40) shall be maintained for a minimum of one year.

(c) Types of records. The following specific records shall be maintained:

(1) Records related to the collection process:

(i) Collection log books, if used.

(ii) Calibration documentation for evidential breath testing devices.

(iii) Documentation of breath alcohol technician training.

(iv) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.

(v) Documents generated in connection with decisions on post- accident tests.

(vi) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.

(2) Records related to test results:

(i) This Company's copy of the alcohol test form, including the results of the test.

(ii) Documents related to the refusal of any covered employee to submit to an alcohol test required by this subpart.

(iii) Documents presented by a covered employee to dispute the result of an alcohol test administered under this subpart.

(3) Records related to other violations of this subpart.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.

(ii) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

(5) Record(s) related to This Company's MIS annual testing data.

(6) Records related to education and training:

(i) Materials on alcohol misuse awareness, including a copy of This Company's policy on alcohol misuse.

(ii) Documentation of compliance with the requirements of 199.231.

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this subpart complies with the requirements for such training.

**Reporting of alcohol testing results – (§199.229)** *(This requirement applies only to operators and not contractor employers)*

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its alcohol testing results using the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at §40.25 and Appendix 3-H to part 40), not later than March 15 of each year for the previous calendar year (January 1 through December 31). The Administrator may require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA.

(b) Each operator that has a covered employee who performs multi-DOT agency functions (e.g., an employee performs pipeline maintenance duties and drives a commercial motor vehicle), count the employee only on the MIS report for the DOT agency under which he or she is tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. Operators may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(c) Each report required under this section shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington, DC 20590.

(d) A service agent (e.g., Consortia/Third Party Administrator as defined in part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's anti-drug manager or designated representative for accuracy and completeness.

**Access to facilities and records – (§199.231)**

(a) Except as required by law or expressly authorized or required in Part 199, This Employer shall not release covered employee information that is contained in records required to be maintained in 199.227.

(b) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. This Company shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

(c) This Employer shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation, any DOT agency, or a representative of a state agency with regulatory authority over This Company.

(d) This Employer shall make available copies of all results for alcohol testing conducted under this policy and any other information pertaining to This Company's alcohol misuse prevention program, when requested by the Secretary of Transportation, any DOT agency with regulatory authority over This Company, or a representative of a state agency with regulatory authority over This Company. The information shall include name-specific alcohol test results, records, and reports.

(e) When requested by the National Transportation Safety Board as part of an accident

investigation, This Employer shall disclose information related to This Company's administration of any post- accident alcohol tests administered following the accident under investigation.

(f) This Employer shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.

(g) This Employer may disclose information without employee consent as provided by DOT Procedures concerning certain legal proceedings.

(h) This Employer shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

### **Removal from covered function – (§199.233)**

Except as provided in 199.239 through 199.243, This Employer shall not permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by 199.215 through 199.223 or an alcohol misuse rule of another DOT agency.

### **Required evaluation and testing – (§199.235)**

This Employer shall not permit a covered employee who has engaged in conduct prohibited by 199.215 through 199.223 to perform covered functions unless the employee has met the requirements of 199.243.

### **Other alcohol-related conduct – (§199.237)**

(a) This Employer shall not permit a covered employee tested under the provisions of 199.225, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until:

(1) The employee's alcohol concentration measures less than 0.02 in accordance with a test administered under 199.225(e); or

(2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, This Employer shall not take any action under Part 199 against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit This Employer with authority independent of Part 199 from taking any action otherwise consistent with law.

### **On-Call Employees**

1. Employees who are not at work, but who could be called at any time to perform covered functions is subject to the pre-duty alcohol prohibition. An employee, who has been notified to report for duty to respond to an emergency, may not use alcohol after being notified to report. If This Company's personnel determine that an employee has used alcohol within the time period after the employee has been notified to report for duty, This Company shall not permit the covered employee to perform or continue to perform covered functions.
2. **Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the**

**employee must notify This Company's personnel when contacted. Failure to advise This Company of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employees supervisor must be notified.**

3. **The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the alcohol program manager is contacted. An alcohol test site location is identified to conduct the test. The supervisor will accompany the individual to the test site and remain at the location for results of the test. If the results are positive, the individual is removed from safety-sensitive duties and may be subject to disciplinary action up to and including termination.**

### **This Employer's obligation to promulgate a policy on the misuse of alcohol – (§199.239)**

(a) General requirements. This Employer shall provide educational materials that explain these alcohol misuse requirements and This Company's policies and procedures with respect to meeting those requirements.

(1) This Company shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under Part 199, and to each person subsequently hired for or transferred to a covered position.

(2) This Employer shall provide written notice to representatives of employee organizations of the availability of this information.

(b) Required content. The materials to be made available to covered employees shall include detailed discussion of at least the following:

(1) The identity of the person designated by This Company to answer covered employee questions about the materials.

(2) The categories of employees who are subject to the provisions of this subpart.

(3) 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 this subpart.

(4) Specific information concerning covered employee conduct that is prohibited by this subpart.

(5) The circumstances under which a covered employee will be tested for alcohol under this subpart.

(6) 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.

(7) The requirement that a covered employee submit to alcohol tests administered in accordance with Part 199 and this policy.

(8) An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.

(9) The consequences for covered employees found to have violated the prohibitions under Part 199 and this policy, including the requirement that the employee be removed immediately from covered functions, and the procedures under 199.243.

(10) The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

(11) 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.

(c) Optional provisions. The materials supplied to covered employees may also include information on This Employer's additional policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on This Company's authority independent of this subpart. Any such additional policies or consequences shall be clearly described as being based on independent authority.

#### **Training for supervisors – (§199.241)**

This Employer shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under 199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **Referral, evaluation, and treatment – (§199.243)**

(a) Each covered employee who has engaged in conduct prohibited by Parts 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, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

(b) Each covered employee who engages in conduct prohibited under Parts 199.215 through 199.223 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.

#### **Return-to-duty and follow-up testing may not be applicable – see COVERED EMPLOYEE CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT.**

(c) (1) Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by Parts 199.215 through 199.223, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

(2) In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse --

(i) Shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under paragraph (b) of this section, and

(ii) Shall be subject to unannounced follow-up alcohol tests administered by This Company following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

(d) Evaluation and rehabilitation may be provided by This Company, by a substance abuse professional under contract with This Company, or by a substance abuse professional not affiliated with This Company. The choice of substance abuse professional and assignment of costs shall be made in accordance with employer/employee agreements and employer/employee policies.

(e) This Company shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring an employee for assistance provided through --

(1) A public agency, such as a State, county, or municipality;

(2) This Company or a person under contract to provide treatment for alcohol problems on behalf of This Company;

(3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or

(4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

#### **Contractor employees – (§199.245)**

(a) With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this subpart be carried out by the contractor provided:

(b) The operator remains responsible for ensuring that the requirements of Parts 199 and of PHMSA and DOT regulations are complied with; and

(c) The contractor allows access to property and records by the operator, the Administrator, any DOT agency with regulatory authority over the operator or covered 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 Parts 199 and 40.

## ALCOHOL SUPPLEMENT

For many people, the facts about alcoholism are not clear. What is alcoholism, exactly? How does it differ from alcohol abuse? When should a person seek help for a problem related to his or her drinking? The National Institute on Alcohol Abuse and Alcoholism (NIAAA) has prepared this booklet to help individuals and families answer these and other common questions about alcohol problems. The following information explains both alcoholism and alcohol abuse, the symptoms of each, when and where to seek help, treatment choices, and additional helpful resources.

### ***A Widespread Problem***

For most people who drink, alcohol is a pleasant accompaniment to social activities. Moderate alcohol use—up to two drinks per day for men and one drink per day for women and older people—is not harmful for most adults. (A standard drink is one 12-ounce bottle or can of either beer or wine cooler, one 5-ounce glass of wine, or 1.5 ounces of 80-proof distilled spirits.) Nonetheless, a large number of people get into serious trouble because of their drinking. Currently, nearly 14 million Americans—1 in every 13 adults—abuse alcohol or are alcoholic. Several million more adults engage in risky drinking that could lead to alcohol problems. These patterns include binge drinking and heavy drinking on a regular basis. In addition, 53 percent of men and women in the United States report that one or more of their close relatives have a drinking problem.

The consequences of alcohol misuse are serious—in many cases, life threatening. Heavy drinking can increase the risk for certain cancers, especially those of the liver, esophagus, throat, and larynx (voice box). Heavy drinking can also cause liver cirrhosis, immune system problems, brain damage, and harm to the fetus during pregnancy. In addition, drinking increases the risk of death from automobile crashes as well as recreational and on-the-job injuries. Furthermore, both homicides and suicides are more likely to be committed by persons who have been drinking. In purely economic terms, alcohol-related problems cost society approximately \$185 billion per year. In human terms, the costs cannot be calculated.

### ***What Is Alcoholism?***

Alcoholism, also known as “alcohol dependence,” is a disease that includes four symptoms:

- **Craving:** A strong need, or compulsion, to drink.
- **Loss of control:** The inability to limit one’s drinking on any given occasion.
- **Physical dependence:** Withdrawal symptoms, such as nausea, sweating, shakiness, and anxiety, occur when alcohol use is stopped after a period of heavy drinking.
- **Tolerance:** The need to drink greater amounts of alcohol in order to “get high.”

People who are not alcoholic sometimes do not understand why an alcoholic can’t just “use a little willpower” to stop drinking. However, alcoholism has little to do with willpower. Alcoholics are in the grip of a powerful “craving,” or uncontrollable need, for alcohol that overrides their ability to stop drinking. This need can be as strong as the need for food or water.

Although some people are able to recover from alcoholism without help, the majority of alcoholics need assistance. With treatment and support, many individuals are able to stop drinking and rebuild their lives.

Many people wonder why some individuals can use alcohol without problems but others cannot. One important reason has to do with genetics. Scientists have found that having an alcoholic family member makes it more likely that if you choose to drink you too may develop alcoholism. Genes, however, are not the whole story. In fact, scientists now believe that certain factors in a person’s environment influence whether a person with a genetic risk for alcoholism ever develops the disease. A person’s risk for developing alcoholism can increase based on the person’s environment, including where and how he or she lives; family, friends, and culture; peer pressure; and even how easy it is to get alcohol.

## ***What Is Alcohol Abuse?***

Alcohol abuse differs from alcoholism in that it does not include an extremely strong craving for alcohol, loss of control over drinking, or physical dependence. Alcohol abuse is defined as a pattern of drinking that results in one or more of the following situations within a 12-month period:

- Failure to fulfill major work, school, or home responsibilities;
- Drinking in situations that are physically dangerous, such as while driving a car or operating machinery;
- Having recurring alcohol-related legal problems, such as being arrested for driving under the influence of alcohol or for physically hurting someone while drunk; and
- Continued drinking despite having ongoing relationship problems that are caused or worsened by the drinking.

Although alcohol abuse is basically different from alcoholism, many effects of alcohol abuse are also experienced by alcoholics.

Absenteeism among problem drinkers or alcoholics is 3.8 to 8.3 times greater than normal. If your fellow workers don't come to work, you may have to do their jobs in addition to your own. Workers who misuse alcohol don't function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of hazardous liquid (or natural gas), alcohol misuse is an especially serious issue.

## ***Where To Get Help***

Outpatient programs exist in a variety of settings:

- Community mental health centers.
- Full service agencies
- Private physicians' and therapists' offices
- Occupational settings
- Specialized alcoholism treatment facilities

Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.

Your local phone directory will list helpful referral organizations such as:

- Local council on alcoholism
- Alcoholics Anonymous
- Community alcoholism or mental health clinic
- Social services or human resources department
- County medical society

**APPENDIX 3-A**

**DESIGNATED EMPLOYER REPRESENTATIVE (DER)**

DELIVERY UNIT: Eagle Ford

NAME: Nevine Nagji

TITLE: Human Resources Business Partner

EMPLOYER: Talisman Energy USA Inc.

ADDRESS: 4 Waterway Square Place, Suite 600, The Woodlands, TX 77380

PHONE: (281) 210-2160; (832) 948-0861 (outside normal business hours-emergency)

HOURS WHEN AVAILABLE: M-F 8:00 am to 5:00 pm; outside normal business hours - emergency

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DELIVERY UNIT: Marcellus

NAME: Jacki Williams

TITLE: Human Resources Business Partner

EMPLOYER: Talisman Energy USA Inc.

ADDRESS: 337 Daniel Zenker Drive, Horseheads, NY 14845

PHONE: (607) 562-4091; (607) 368-4696 (outside normal business hours-emergency)

HOURS WHEN AVAILABLE: M-F 8:00 am to 5:00 pm; outside normal business hours - emergency

**APPENDIX 3-B**

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

NAME: DISA Global Solutions, Inc.

ADDRESS: 12600 Northborough Dr., Ste. 300, Houston, TX 77067

PHONE: 281-673-2400

## **APPENDIX 3-C**

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

NAME: National SAP Network

ADDRESS: 1615 Orange Tree Lane, Suite 101, Redlands, CA 92374

PHONE: (800) 879-6428

### **EMPLOYEE ASSISTANCE PROGRAM**

NAME: Talisman Energy's Employee and Family Assistance Program (EFAP)

ADDRESS: PPC Worldwide (PPC) is the provider for Talisman worldwide

PHONE: (800) 663-9099

## APPENDIX 3-D

### ALCOHOL TESTING SITE(S) & SPECIMEN COLLECTION SITE(S)

LIST ALL SITES USED FOR ALCOHOL TESTING AND SPECIMEN COLLECTIONS. GIVE COMPLETE PHYSICAL ADDRESS AND PHONE NUMBER.

For those sites which do alcohol testing, list the approved evidential breath testing devices (EBTs) used.

<b>Eagle Ford Delivery Unit</b>			
<b>Collection Vendor Name</b>	<b>Physical Address</b>	<b>Telephone Number</b>	<b>EBT(s)</b>
ArcPoint Labs of Pleasanton	208 N. Smith St., Pleasanton, TX 78064	830-569-2675	Jupiter Alcovisor
A-Dependable Drug Testing	106 W. Tips, Three Rivers, TX 78071	361-784-2110	Alco Sensor 4 Intoxometer
Wet Tech Safety & Rentals	204 S. Main St., Cotulla, TX 78014	830-879-3400	Acutest Intoxilyzer 400
Express Test & Compliance	2200 IH-35 Business E, Pearsall, TX 78061	830-334-8400	Lifeloc Phoenix 6.0 Breathalyzer
Compliance Testing Solutions	1011 Medical Plaza Dr., Suite 180, The Woodlands, TX 77380	281-362-9400	Alcopro Alco-Sensor IV
Any-time Analysis	264 Reynolds Street, La Grange, TX 78945	979-968-3239	Lifeloc Phoenix 6.0 Breathalyzer
Guadalupe Regional Medical Center	1215 E. Court Street, Sequin, TX 78155	830-401-7654	CMI Intoxilizer 400 PA
Kelsey-Seybold	21600 Kingsland Blvd., Katy, TX 77450	713-442-4100	Alco Sensor 4 – Blue Dot
Occucare Occupational & Mobile Medicine	5151 Katy Frwy., Suite 170, Houston, TX 77007	713-802-0801	Jupiter Alcovisor
Lonestar Lab	2915 E. Juan Linn, Victoria, TX 77901	361-596-3651	Jupiter Alcovisor

<b>Marcellus Delivery Unit</b>			
<b>Collection Vendor Name</b>	<b>Physical Address</b>	<b>Telephone Number</b>	<b>EBT(s)</b>
Guthrie Medical Group, PC	31 Arnot Road, Suite A, Horseheads, NY 14845	607-739-3874	Drager Breathalyzer 7410/7410+
Guthrie Medical Group, PC	130 Centerway, Corning, NY 14830	607-973-8039	Drager Breathalyzer 7410/7410+
Guthrie Medical Group, PC	One First Street, Watkins Glen, NY 14891	607-535-2403	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	One Guthrie Square, Sayre, PA 18840	570-887-2493	Drager Breathalyzer 7410+
Guthrie Medical Group, PC	1780 Hanshaw Rd., Ithaca, NY 14850	607-257-5858	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	68 Fenner Ave., Troy, PA 16947	570-297-4104	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	63 S. Main Street, Mansfield, PA 16933	570-662-7766	Drager Breathalyzer 7410/7410+
Guthrie Medical Group, PC	1246 State Route 38, Owego, NY 13827	607-687-6101	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	124 Colonia Drive, Towanda, PA 18848	570-265-6165	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	127 Sullivan Street, Canton, PA 17724	570-673-3197	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	110 Plaza Road, Wellsboro, PA 16901	570-724-4141	Drager Breathalyzer 7410/7410+
Guthrie Medical Group, PC	2517 Vestal Pkwy East, Vestal, NY 13850	607-798-1452	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	Farm and Home Plaza, Wyalusing, PA 18853	570-746-3500	Drager Breathalyzer 7410/7410+
Guthrie Clinic, Ltd.	Town Plaza, Suite 11, Tunkhannock, PA 18657	570-836-4294	Drager Breathalyzer 7410/7410+



**APPENDIX 3-E**

**MEDICAL REVIEW OFFICER (MRO)**

Note: This information appears on the Custody and Control form

NAME: Barry Sachs

ADDRESS: 12600 Northborough Drive, Suite 300  
Houston, TX 77067

PHONE: (281) 673-2400

**APPENDIX 3-F**

**EMPLOYEE/SUPERVISORY POSITIONS  
SUBJECT TO DRUG/ALCOHOL TESTING**

**(JOB CLASSIFICATIONS/TITLES)**

Place an asterisk (\*) beside those supervisory positions subject to 60 minutes of training in the indicators of drug use and 60 minutes of training in the indicators of alcohol misuse.

<b>Employee Titles</b>	<b>Supervisory Titles</b>	<b>Subject to 60 min of training</b>
Pipeline Coordinator	Pipeline Coordinator*	<input checked="" type="checkbox"/>
Pipeline Foreman	Production/Maintenance Foreman*	<input checked="" type="checkbox"/>
Pipeline Engineer	Production Coordinator*	<input checked="" type="checkbox"/>
Production/Maintenance Foreman	Commissioning Coordinator*	<input checked="" type="checkbox"/>
Production Coordinator	Maintenance Coordinator*	<input checked="" type="checkbox"/>
Commissioning Coordinator	Instrument Coordinator*	<input checked="" type="checkbox"/>
Maintenance Coordinator	Measurements Coordinator*	<input checked="" type="checkbox"/>
Instrument Coordinator	Electrical Coordinator*	<input checked="" type="checkbox"/>
Measurements Coordinator		<input type="checkbox"/>
Electrical Coordinator		<input type="checkbox"/>
Instrument Technician		<input type="checkbox"/>
Measurements Technician		<input type="checkbox"/>
Mechanic		<input type="checkbox"/>
Electrician		<input type="checkbox"/>
Operator (pipeline)		<input type="checkbox"/>
Automation Coordinator		<input type="checkbox"/>
Compression Coordinator		<input type="checkbox"/>

## APPENDIX 3-G

### DEPARTMENT OF HEALTH & HUMAN SERVICES (DHHS) LABORATORIES

**Quest** Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770-452-1590/800-729-6432.

**Quest** Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610-631-4600/877-642-2216.

**Quest** Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866-370-6699/818-989-2521.

**LabOne, Inc. d/b/a Quest Diagnostics**, 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-873-8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

## APPENDIX 3-H

### DRUG PANEL

The following table lists the drugs tested for. Initial and confirmation cutoff concentrations are expressed in nanograms per milliliter (ng/mL).

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA <sup>1</sup>	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine <sup>2</sup>	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines <sup>3</sup>			
AMP/MAMP <sup>4</sup>	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine <sup>5</sup>	250 ng/mL
MDMA <sup>6</sup>	500 ng/mL	MDMA	250 ng/mL
		MDA <sup>7</sup>	250 ng/mL
		MDEA <sup>8</sup>	250 ng/mL
<sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)			
<sup>2</sup> Morphine is the target analyte for codeine/morphine testing			
<sup>3</sup> Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specific cutoff			
<sup>4</sup> Methamphetamine is the target analyte for amphetamine/methamphetamine testing			
<sup>5</sup> To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL			
<sup>6</sup> Methylenedioxyamphetamine (MDMA)			
<sup>7</sup> Methylenedioxyamphetamine (MDA)			
<sup>8</sup> Methylenedioxyethylamphetamine (MDEA)			

On an initial drug test, a result below the cutoff concentration is a negative. If the result is at or above the cutoff concentration the lab must conduct a confirmation test.

On a confirmation drug test, a result below the cutoff concentration is a negative. If the result is at or above the cutoff concentration it is a "lab report" confirmed positive requiring an MRO review.

All specimens will undergo a validity test to determine if the specimen is consistent with normal human urine. The purpose of validity testing is to determine whether adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

## APPENDIX 3-I

### REQUEST FOR DOT DRUG AND ALCOHOL TESTING INFORMATION FROM PREVIOUS EMPLOYER

**EFFECTIVE AUGUST 1, 2001**, 49 CFR Part 40, U.S. Department of Transportation, Procedures for Transportation Workplace Drug and Alcohol Testing Programs requires employers to do a background check of all new employees hired (or current employees transferred) to perform safety sensitive covered functions. Enclosed with this document is a suggested form for requesting that information. The following is the regulation.

**§49 CFR Part 40.25 Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?**

- (a) Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.
- (b) You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years (three years for FMCSA) before the date of the employee's application or transfer:
- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
  - (2) Verified positive drug tests;
  - (3) Refusals to be tested (including verified adulterated or substituted drug test results);
  - (4) Other violations of DOT agency drug and alcohol testing regulations; and
  - (5) 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 requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.
- (c) The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.
- (d) If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.
- (e) If you obtain information that the employee has violated a DOT agency drug and alcohol regulation, you must not use the employee to perform safety-sensitive functions unless you also obtain information that the employee has subsequently complied with the return-to-duty requirements of Subpart O of This part and DOT agency drug and alcohol regulations.
- (f) You must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.
- (g) The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. As the previous employer, you must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.
- (h) If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.
- (i) As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.
- (j) As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section).

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Sec. 390.5 Definitions.

Previous employer means any DOT regulated person who employed the driver in the preceding 3 years, including any possible current employer.

**REQUEST FOR DOT DRUG AND ALCOHOL TESTING INFORMATION**  
**FROM PREVIOUS EMPLOYER**

**PLEASE RETURN TO:**

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, ST. ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

ATTENTION: \_\_\_\_\_ FAX: \_\_\_\_\_  
*(Name of individual requesting information)*

APPLICANT NAME: \_\_\_\_\_ SSN: \_\_\_\_\_

I hereby authorize \_\_\_\_\_  
*(Previous employer's name)*  
to release information from my Department of Transportation regulated drug and alcohol testing records to the individual and company listed at the top of this form. This is limited to the following DOT-regulated testing items: (1) Alcohol tests with a result of 0.04 or higher; (2) Verified positive drug tests; (3) Refusals to be tested; (4) Other violations of DOT agency drug and alcohol testing regulations; (5) Information obtained from previous employers of a DOT drug and alcohol rule violation; and (6) Documentation, if any, of completion of the return-to-duty process following a rule violation.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
*(Signature of employee)*

WITNESS: \_\_\_\_\_ DATE: \_\_\_\_\_

Previous employer must supply the following information regarding the above named individual during the past two years while employed to perform DOT covered safety sensitive functions: (3 years for FMCSA)

	<u>YES</u>	<u>NO</u>
1. Alcohol tests with a result of 0.04 or higher alcohol concentration?	( )	( )
2. Verified positive drug tests?	( )	( )
3. Refusals to be tested (including verified adulterated or substituted drug test results)?	( )	( )
4. Other violations of DOT agency drug and alcohol testing regulations?	( )	( )
5. Did a previous employer report a drug or alcohol rule violation to you?	( )	( )
6. If the answer is "yes" to any of the above items, did the employee complete the return-to-duty process?	( )	( )

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
*(Signature of individual supplying information)*

If the answer to item #5 is "yes", then you must provide the previous employer's report even though it may be outside the two **(three for FMCSA)** year time period. If you answered "yes" to item #6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing records, etc.). If you referred the individual to a Substance Abuse Professional please supply the following information.

NAME of SAP: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, ST. ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

## APPENDIX 3-J

### POST-ACCIDENT GUIDELINES FOR SUPERVISORS

1. The appropriate official of This Company must take all reasonable steps to obtain both an alcohol test and a urine sample from an employee after an accident, as defined in this policy, but any injury should be treated first. This Employer shall alcohol and drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. This Employer may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that an alcohol and/or drug test would reveal whether the performance was affected by alcohol and/or drug use.
2. Each employee shall be required to submit to an alcohol test within 2 hours of the accident. If a test is not administered within two hours following the accident This Company shall prepare and maintain on file a record stating the reasons why the test was not administered. If a test is not administered within 8 hours following the accident This Company shall cease all attempts to conduct an alcohol test and shall prepare and maintain on file written documentation indicating why the alcohol test was not conducted.
3. Each employee shall be required to submit to a drug test no later than 32 hours after an accident. If a test is not administered within 32 hours following the accident This Company shall cease all attempts to conduct a drug test and shall prepare and maintain on file written documentation indicating why the drug test was not conducted.
4. In the event the employee is injured, treatment comes first however; the following guidelines will be followed for alcohol/drug testing:
  - a. In the case of a conscious but hospitalized employee, management should request that the hospital or medical facility obtain the breath and urine samples from the employee under DOT drug testing requirements as set forth in 49 CFR Part 40.
  - b. If an employee is injured, unconscious (employee is unable to communicate), or otherwise unable to evidence consent (employee is unable to sign custody and control form) to the alcohol/drug test, a test should not be attempted.
  - c. If an employee is conscious (employee can communicate) and he/she is able to evidence consent (employee able to sign custody and control form) to the alcohol/drug test and is able to provide an adequate breath and void normally (without aid of catheters) the specimens shall be collected.
  - d. If an employee who is subject to post-accident testing is conscious, able to breath and urinates normally (in the opinion of a medical professional), and refuses to be tested, that employee will be removed from duty and will be subject to disciplinary action up to and including termination.
2. The following procedure should be followed to ensure a proper post-accident procedure.
  - a. Validate the post-accident decision by making sure the definition of an accident applies to the current event. If necessary, obtain approval from a supervisor or designee to proceed with post-accident testing.
  - b. Remove the employee from the work place and explain that you have reason to believe his/her performance contributed to the accident or cannot be completely discounted as a contributing

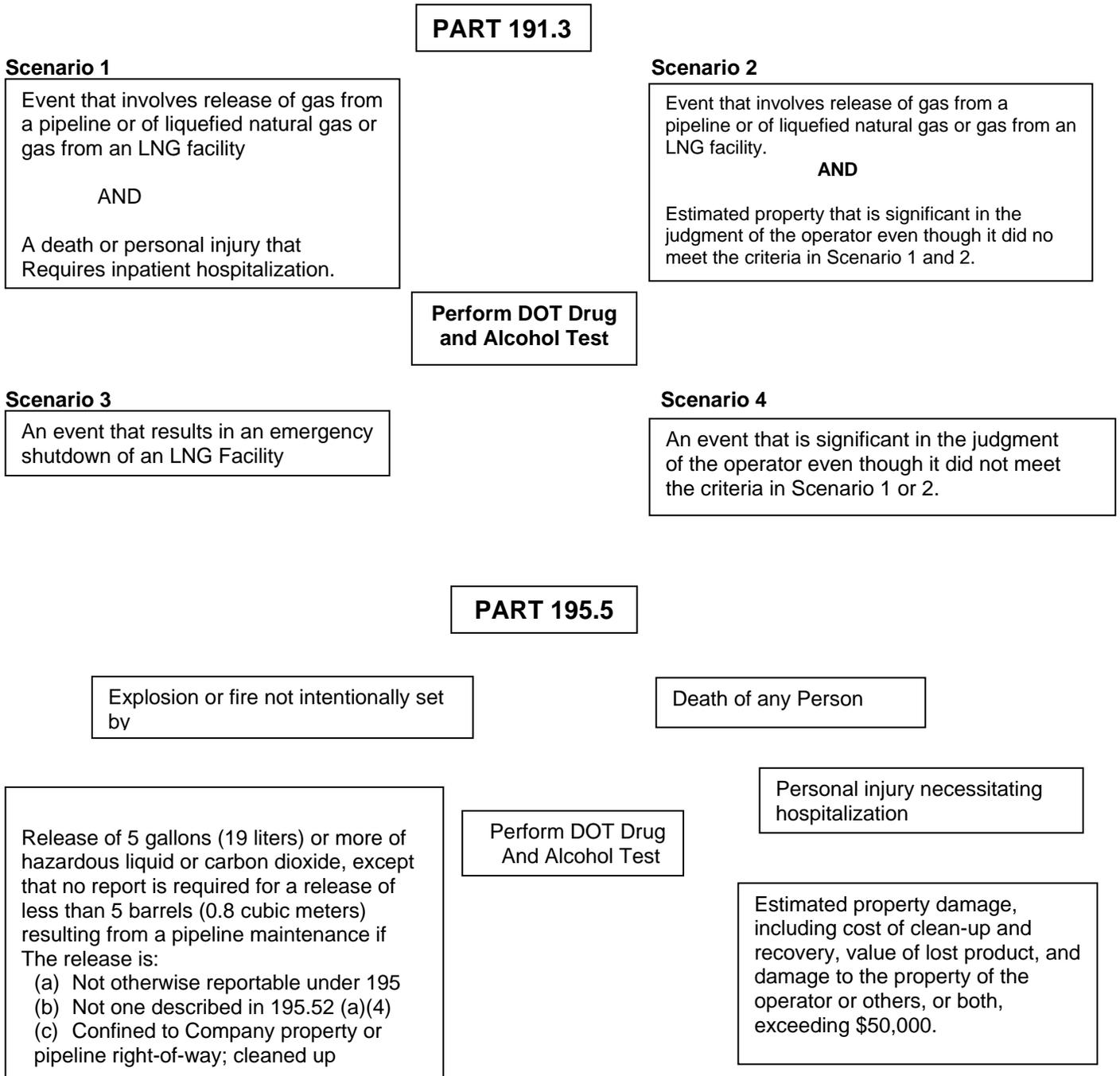
factor to the accident and therefore, they will be required to submit to an alcohol & drug test.

- c. For reasons of safety and to assure that there is no opportunity enroute to the collection site for the employee to ingest anything that could affect the outcome of the tests, transport the employee to the collection/testing site.
- d. Document the reason to test or not to test and all other actives that take place surrounding the accident event.
- e. Denial should be an expected reaction, even if they are not using drugs or misusing alcohol. Explain to the employee that even though it may feel like an accusation, stress that this is an attempt to gather additional data to determine why the accident happen.
- f. After returning from the collection site, the employee should not be allowed to return to performing any covered functions pending the results of the alcohol and drug test and any discussion of disciplinary action that may occur.
- g. Employee Responsibility. As soon as practicable following an accident as defined in this plan, the employee shall make every attempt to contact his/her supervisor and the DER. An employee who is subject to post-accident testing must remain available for testing, or This Company may consider the employee to have refused to submit to an alcohol & drug test.

The employee subject to post-accident testing must refrain from consuming alcohol for eight hours following the accident, or until he or she submits to an alcohol test, whichever comes first.

**Part 199.3 Defines accident as: incident reportable under Part 191 involving gas pipeline facilities or LNG facilities or an accident reportable under Part 195 involving hazardous liquid pipeline facilities.**

**When to perform a PHMSA DOT Drug and alcohol test is depicted in the decision tree below:**



**Note: All other post-accident/injury tests should be performed on a NonDOT Forensic CCF.**

## APPENDIX 3-K

### REASONABLE SUSPICION GUIDELINES FOR SUPERVISORS

1. In making a determination of reasonable cause, the factors to be considered include, but are not limited to the following:
  - a. Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of alcohol misuse or drug related behavior on or off the work site.
  - b. Physical signs and symptoms consistent with alcohol misuse or controlled substance use.
  - c. Evidence of illegal substance use, possession, sale, or delivery while on duty.
  - d. Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.
  - e. Use the checklist in APPENDIX 3-L, REASONABLE CAUSE OBSERVATION CHECKLIST to assist in making the reasonable suspicion determination.
2. The following are recommended actions a supervisor should take when confronted with a possible drug or alcohol use situation:
  - Ask the employee to come to private area with another supervisor and/or security personnel
  - Inquire about the behavior, rumor or report
  - Inform the employee of your concerns
  - Get his or her explanation of what is going on
  - If you feel there is a problem, notify your superior
  - If there is evidence or suspicion of recent use and based upon the employee's response the supervisor should:
    - Transport the employee to the collection/testing site
    - Refer the employee to the EFAP, if applicable
    - Place the employee on suspension until a formal investigation takes place
    - Arrange for the employee to be escorted home
    - If you make observations regarding the illegal distribution, possession, sale, transportation or manufacturing of controlled and dangerous substances on work property, contact local law enforcement. These situations usually result in a uniformed officer responding to conduct an investigation, make an arrest (if appropriate) and prepare a report

APPENDIX 3-L

REASONABLE CAUSE OBSERVATION CHECKLIST

Employee: \_\_\_\_\_

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

Location: \_\_\_\_\_

Time: \_\_\_\_\_

OBSERVATIONS

Breath (Odor of Alcoholic Beverage): ( ) Strong ( ) Faint ( ) Moderate ( ) None

Eyes ( ) Bloodshot ( ) Glassy ( ) Normal ( ) Watery ( ) Clear
( ) Heavy Eyelids ( ) Fixed Pupils ( ) Dilated Pupils ( ) Normal

Speech ( ) Confused ( ) Stuttered ( ) Thick-Tongued ( ) Accent ( ) Mumbled
( ) Fair ( ) Slurred ( ) Mush Mouthed ( ) Good ( ) unintelligible
( ) Cotton Mouthed ( ) Other \_\_\_\_\_

Attitude ( ) Excited ( ) Combative ( ) Hilarious ( ) Indifferent ( ) Talkative
( ) Insulting ( ) Care-Free ( ) Cocky ( ) Sleepy ( ) Cooperative
( ) Profane ( ) Polite ( ) Other \_\_\_\_\_

Unusual Action ( ) Hiccoughing ( ) Belching ( ) Vomiting ( ) Fighting ( ) Crying
( ) Laughing ( ) Other \_\_\_\_\_

Balance ( ) Needs Support ( ) Falling ( ) Wobbling ( ) Swaying
( ) Other \_\_\_\_\_

Walking ( ) Falling ( ) Staggering ( ) Stumbling ( ) Swaying
( ) Other \_\_\_\_\_

Turning ( ) Falling ( ) Staggering ( ) Stumbling ( ) Swaying ( ) Hesitant
( ) Other \_\_\_\_\_

Indicate any other unusual actions, statements or observations:

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

Signs of complaints of illness or injury:

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

Performing Safety-sensitive function: ( ) Yes ( ) No

Describe: \_\_\_\_\_  
\_\_\_\_\_

Apparent effects of alcohol/drug use: ( ) None ( ) Slight ( ) Obvious ( ) Extreme

Additional Comments:

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

Supervisor: \_\_\_\_\_

Witness (Second Supervisor) \_\_\_\_\_

Signature: \_\_\_\_\_

Signature \_\_\_\_\_

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

Date \_\_\_\_\_

Time: \_\_\_\_\_

Time: \_\_\_\_\_

**APPENDIX 3-M**

**EMPLOYEE ACKNOWLEDGEMENT**  
**OF RECEIVING SAP INFORMATION**

U.S. Department of Transportation (DOT) 49 CFR § 40.287 requires an employer provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of Substance Abuse Professional's (SAPs) readily available to the employee and acceptable to the employer, with names, addresses, and telephone numbers. A list of resources in Appendix 3-C are available to you.

The requirements in order to return to a safety sensitive job are:

1. Be evaluated by a SAP
2. Be in Compliance with prescribed education and /or treatment plan
3. Have a negative return to duty test result and/ or an alcohol concentration of less than 0.02
4. Be subject to at least 6 follow up test during the next 12 months
5. Follow up testing may occur up to 60 months
6. All return to duty and follow up tests must be conducted using direct observation collection procedures.

---

By virtue of signing this form, I acknowledge that I have received a list of Substance Abuse Professionals available to me for achieving an assessment as required by the regulation.

\_\_\_\_\_  
NAME OF EMPLOYEE (PRINT)

\_\_\_\_\_  
SOCIAL SECURITY NUMBER

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SUPERVISOR

\_\_\_\_\_  
DATE

If the employee should refuse to sign this form, two supervisors should sign and note that an attempt was made to give the employee the information but that the employee refused to sign.

**APPENDIX 3-N:**

**49 CFR PART 40**

**[Link to 49 CFR Part 40](#)**