

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

REPLACES Series 147A, issued June 7, 2004, revised July 20, 2010, May 13, 2014.

## 1.0 STATEMENT OF PURPOSE AND SCOPE OF POLICY

- 1.1 The Delaware River Port Authority (“DRPA”) and the Port Authority Transit Corporation (“PATCO”) (collectively, “the Authority”) is firmly committed to ensuring a safe, healthy, productive and efficient work environment for our employees, customers and the public in general. The Authority has a vital interest in ensuring a safe, healthy and efficient working environment and the prevention of accidents and injuries which can result from the misuse of alcohol or drugs by covered employees of the Authority’s commercial motor vehicles. For these reasons, and as required by the drug and alcohol testing regulations of the Federal Transit Administration (“FTA”, 49 CFR Part 655), the Authority has established this Drug and Alcohol Abuse Testing Policy (“the Policy”) for employees performing safety-sensitive functions under FTA regulations. Drug and alcohol testing is an integral part of our Policy. Compliance with this Policy is required by applicants as a condition of employment and by covered employees as a condition of continued employment.
- 1.2 This Policy applies to any “covered employee” (as defined in the definition section of this Policy; hereinafter “*as defined*”) who performs “safety-sensitive functions” (*as defined*) for or on behalf of the Authority. The Policy also applies to all applicants who seek employment for such covered employee positions. *(Refer to attached Appendix B for a non-exhaustive list of FTA covered positions at the Authority.)*
- 1.3 This Policy explains the FTA drug and alcohol regulations and the Authority’s own policies with respect to the use of drugs or the misuse of alcohol. Provisions of this Policy which are included under the Authority’s independent authority are specifically identified by text which has been underlined.
- 1.4 This Policy is not a contract of employment. All Authority employees are employees-at-will. This means that employment can be terminated at any time either by the employee or Authority with or without cause and with or without notice. Where any provision of this Policy issued under the Authority’s own authority conflicts with the provisions of a collective bargaining agreement between the Authority and a union representing its employees, the provisions of the collective bargaining agreement will control. However, failure to comply with this Policy as so interpreted shall constitute just cause for discipline, up to and including discharge. If an applicant fails to comply with this Policy, the applicant will be ineligible for employment with the Authority.
- 1.5 The Authority maintains a policy of non-discrimination and will endeavor to make reasonable accommodations to assist recovering addicts or alcoholics and those having a medical history reflecting treatment for substance abuse

|                                 |                 |                       |
|---------------------------------|-----------------|-----------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 1 of 28 |
|---------------------------------|-----------------|-----------------------|

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

conditions. We encourage employees to seek assistance before drug and alcohol use renders them unable to perform their essential job functions or jeopardizes the health and safety of themselves or others.

- 1.6 Any questions regarding the meaning or application of this Policy should be directed to the Authority’s Designated Employer Representative (“DER”). A list of the DERs for the Authority is attached as Appendix A.

## 2.0 DEFINITIONS

2.1 “Covered Employee” means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to FTA regulations. (Refer to attached Appendix B for a non-exhaustive list of FTA Covered Employees.)

2.2 “Drugs” for purposes of testing under this Series 147A: Employers are required to test their FTA-regulated, safety sensitive employees for the following five controlled substances: marijuana; opiates (opium and codeine derivatives); amphetamines and methamphetamines; cocaine; and phencyclidine (“PCP”) and their metabolites.

2.2.1 “Drugs” for purposes other than testing, include a medicine or other substance, other than food, which has a physiological effect when ingested or otherwise introduced into the body. Drugs include, but are not limited to, controlled substances.

2.2.1.1. **Controlled Substance:** A drug or other substance which is defined or listed as a controlled substance by any law of the United States or any regulation of any U.S. department, subdivision, or agency, or by any applicable state or local law or regulation. The term “controlled substance” specifically includes, but is not limited to, any drugs, substances, or items which are defined or listed as controlled substances in the Controlled Substances Act, 21 U.S.C. § 812, Schedules I through V, as they may be revised from time to time.

2.3 “Federal Transit Administration” (FTA): an agency of the U.S. Department of Transportation (DOT) that regulates public transportation systems.

2.4 **Medical Review Officer (“MRO”):** A licensed physician (medical doctor or doctor of osteopathy) with the requisite knowledge, experience, qualifications, training and continuing education, who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

|                                 |                 |                       |
|---------------------------------|-----------------|-----------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 2 of 28 |
|---------------------------------|-----------------|-----------------------|

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

2.5 “Safety-Sensitive Function” means any of the following duties, when performed by employees of the Authority:

- a) Operating a revenue service vehicle, including when not in revenue service;
- b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License;
- c) Controlling dispatch or movement of a revenue service vehicle;
- d) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and,
- e) Carrying a firearm for security purposes.

*See also, the separate Definitions section for Series 146 and 147.*

### 3.0 PROHIBITED CONDUCT

3.1 Prohibited Conduct Concerning Covered Employees’ Use of Drugs and Alcohol:

- a) Covered employees are prohibited from reporting for duty or remaining on duty when using drugs (as defined in Section 2.2), except when the use is pursuant to the instructions of a medical doctor who has advised the covered employee that the substance will not adversely affect the covered employee’s ability to safely perform safety-sensitive functions (*as defined.*) (*For details concerning the lawful use of prescription drugs, refer to Section 3.5*)
- b) Covered employees are prohibited from reporting for duty or remaining on duty with an alcohol concentration of 0.02 or greater.
- c) Covered employees are prohibited from using alcohol in any form (*including medications containing alcohol*) while performing safety-sensitive functions.
- d) Covered employees are prohibited from performing safety-sensitive functions within four (4) hours of using alcohol. On-call employees who are not at work, but could be called to perform safety-sensitive function, are prohibited from using alcohol during the time that they are on-call. If a covered employee has used alcohol during his or her on-call period, but before being called to work, he or she must disclose such use and

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

the inability to perform safety-sensitive functions as a result. If an on-call employee who is called to work acknowledges the use of alcohol during his or her on-call period, but claims to be able to perform safety-sensitive functions, he or she must submit to an alcohol test and must receive a negative result before being permitted to perform safety-sensitive functions. An on-call covered employee who is required to decline work because of his/her use of alcohol, or who tests positive for alcohol, is subject to discipline up to and including termination.

- e) Covered employees are prohibited from using alcohol for eight (8) hours following an accident or until the covered employee takes a post-accident alcohol test (and tests negative), whichever occurs first.
- f) Covered employees may not “refuse to submit” to any drug or alcohol test required under the FTA drug and alcohol rules and/or this Policy. *(For further details concerning what actions will be considered as a “refusal,” refer to Section 3.2 of the Policy.)*
- g) Covered employees are prohibited from performing or continuing to perform a safety-sensitive function if they have tested positive for drugs or alcohol.
- h) During a covered employee’s workday, a covered employee is prohibited from engaging in the manufacture, distribution, dispensation, sale, purchase, solicitation, transfer, possession, use or transport of drugs or alcohol.
- i) Covered employees are prohibited from failing to stay in contact with the Authority or its medical review officer (“MRO”) while awaiting the results of a drug test.

**3.2 Refusal to Submit:** For purposes of this Policy, the following employee conduct will be considered a refusal to submit to a test:

- a) Failing to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Authority, after being directed to do so by the Authority, its consortium or third-party administrator (as applicable);
- b) Failing to remain at the testing site until the testing process is complete; however, an applicant who leaves the testing site before the pre-employment testing process commences is not deemed to have refused to test;

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

- c) Failing to provide a urine specimen, or breath or saliva specimen for testing;
- d) Failing to attempt to provide a urine, breath or saliva specimen for testing;
- e) Failing to provide a sufficient amount of urine when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure;
- f) Failing or declining to take a second drug or alcohol test that the Authority or collector has directed to be taken, including failing to take a second test that the employer has directed following a negative dilute test result, when the Authority so elects;
- g) Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” procedures (in the case of applicants, only after a contingent offer of employment has been extended), or the insufficient breath procedures;
- h) Failing to provide a sufficient breath specimen when directed and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- i) Failing to sign the certification at Step 2 of the Alcohol Testing Form;
- j) Adulterating or substituting a urine specimen;
- k) Admitting to the collector or MRO that the specimen was adulterated or substituted;
- l) In the case of a directly observed or monitored collection in a drug test, failing to permit the observation or monitoring of the provision of a urine specimen (including failing to follow the observer’s instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine whether there is any prosthetic or other device that could be used to interfere with the collection process);
- m) Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- n) Failing to cooperate with any part of the testing process, such as by delaying the collection, testing or verification process or otherwise

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

engaging in conduct that clearly obstructs or manipulates, or attempts to obstruct or manipulate the testing process (e.g., leaving the test site before the collection process is completed, refusing to empty pockets when so directed by the collector, failing to wash hands after being directed to do so by the collector or behaving in a confrontational way that disrupts the collection process); or,

- o) Failing to promptly notify the Authority that the covered employee was in an accident or not being readily available for testing after an accident (except as necessary to obtain assistance or medical care).

3.3 **Consumption of Food or Food-Products Containing Hemp:** The consumption of food and food-products containing hemp (for example, hemp oil) may cause a covered employee to test positive for marijuana. A test result that is positive as a result of a covered employee’s consumption of food or food-products containing hemp will be reported as a positive test.

3.4 **Prohibition on Supervisor or Manager Permitting a Covered Employee to Work:** No supervisor or manager who has actual knowledge that a covered employee has engaged in or is engaging in conduct prohibited under this Policy shall permit the employee to work or continue working under such circumstances. Any employee who has been directed not to work or directed to stop working under such circumstances must immediately comply.

3.5 **Prohibition against Working While Using Any Drug Medications Which Affect Safety or Performance:** The appropriate and safe use of legally prescribed drugs and over-the-counter medications (aka, “therapeutic drug medications”) is permitted, subject to the following restrictions:

- a) Except as otherwise provided in this section, the lawful use of any therapeutic drug medication(s) while performing a safety-sensitive function is prohibited to the extent such use may affect the covered employee’s ability to perform his/her job duties safely.

- b) Before reporting for duty under the influence of any therapeutic drug medication(s), the covered employee must determine whether the drug manufacturer or the covered employee’s physician warn against driving or performing other safety-sensitive functions while taking such medication(s). If such warnings exist, the covered employee must inform the appropriate DER (the Authority’s Claims Administrator for DRPA employees and the System Safety Program Manager for PATCO employees) of such restrictions before commencing any safety sensitive function under the influence of such medication(s). The covered employee will be required to complete an “Over-the-Counter and Prescription Medication Disclosure and Evaluation Form.” The Authority

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

will evaluate and respond to this information on a case-by-case basis. Responses may include, among other things, temporary job reassignment or modifications, a request for additional medical documentation and consultation, and/or an instruction that the covered employee not work until the restriction is removed.

- c) Any covered employee reporting for work without first advising the Authority about warnings accompanying lawfully prescribed or obtained medications and substances will be subject to discipline up to and including termination of employment. A covered employee's lack of knowledge concerning such warnings will not excuse a violation of this Policy where an employee has failed to make the inquiries required in this section.

3.6 Notification of Workplace Drug Conviction: Employees must notify their supervisor or Human Resource Services of any criminal drug statute conviction for a violation occurring within the workplace within five (5) days of such conviction.

4.0 **REQUIRED TESTS AND INVESTIGATION OF COVERED EMPLOYEES' DRUG AND ALCOHOL TESTING RECORDS FROM PREVIOUS DOT-REGULATED EMPLOYERS.**

As required by FTA regulations (49 CFR Part 655), the Authority will conduct drug and alcohol tests under the conditions and circumstances described below.

4.1 **Pre-Employment Testing and Investigation of Covered Employee's Drug and Alcohol Testing Records from Previous DOT-Regulated Employers:**

4.4.1 **Drug Test:** All job applicants who have received a conditional offer of employment in a covered employee position and all existing employees whose transfer to a covered employee position has been conditionally approved, are required to submit to a pre-employment drug test by 49 CFR §655.41 and must receive a negative test result as a condition of employment.

- a) Applicants who test positive will not be considered for employment;
- b) Transferring employees who test positive will be subject to disciplinary action, up to and including termination.

4.4.2 **Alcohol Test:** In addition, the Authority will require all such applicants and transferees to submit to pre-employment alcohol testing (*as*

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

*permitted by 49 CFR §655.42*) and will require a test result of less than .02 BAC as a condition of hire. Such tests will be conducted prior to the time the applicant is hired or transferred.

- a) Applicants with a confirmed test result of .02 BAC or higher will not be considered for employment;
  - b) Transferring employees with a confirmed test result of .02 BAC or higher will be subject to disciplinary action, up to and including termination.
- b) FTA regulations require the Authority to obtain the following specific drug and alcohol-related information from an applicant's former DOT-regulated employers during the previous two years:
- (1) Whether, within the previous two years, the covered employee violated DOT or FTA drug and alcohol prohibitions, including, but not limited to: (A) confirmed alcohol tests with results of 0.04 or greater; (B) drug tests whose results were verified positive; (C) all instances in which the applicant refused to be drug or alcohol tested (including verified adulterated or substituted drug test results); and, (D) other violations of DOT drug and alcohol testing regulations, including the regulations of all DOT operating administrations;
  - (2) Whether the covered employee failed to undertake or complete a rehabilitation program prescribed by a substance abuse professional (SAP) pursuant to DOT and FTA return-to-duty requirements. If the previous employer does not know this information (e.g., where a previous employer terminated an employee who tested positive on a drug test), the Authority must obtain documentation of the covered employee's successful completion of the SAP's referred rehabilitation program directly from the covered employee.
- c) The Authority will provide applicants and transferees with an authorization form permitting the release of the required information described above from each of the applicant's previous DOT-regulated employers. If the applicant refuses to complete and sign the authorization form(s), the individual will be ineligible for employment by the Authority in a covered employee position. All information will be sought in a confidential manner and the Authority will maintain a confidential record with respect to each former employer contacted. The information obtained from a previous employer who employed the

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

applicant in a DOT-regulated safety-sensitive position may contain alcohol and drug information which that employer obtained from other previous employers regarding the DOT-required drug and alcohol testing of the applicant during the past two years.

- d) If the Authority learns from the covered employee's previous employers that the covered employee had an alcohol test result of 0.04 or greater, a verified positive drug test, or refused to be tested, on a DOT-required drug or alcohol test, or learns that the covered employee violated any other DOT drug and alcohol regulation, the covered employee either will be ineligible to perform safety-sensitive functions for the Authority or, if already hired by the Authority, the covered employee will be terminated, unless the Authority obtains evidence that the covered employee has complied with the return-to-duty requirements, including follow-up tests, set forth in Subpart O of 49 CFR Part 40.
- e) The Authority will ask, and the applicant or transferee must disclose, whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the applicant applied for, but did not obtain, safety-sensitive transportation work covered by any DOT operating administration's drug and alcohol testing rules during the past two years. If the applicant or transferee admits that he or she had a positive test result or refusal to test, the applicant or transferee may not perform safety-sensitive functions until the applicant or transferee and the Authority document the successful completion of the return-to-duty process, set forth in Subpart O of 49 CFR Part 40.
- f) When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the Authority's random selection pool during that time, the covered employee or applicant must submit to a pre-employment drug test and obtain a negative result prior to performing safety-sensitive functions. Returning employees and applicants must submit to a pre-employment alcohol test and receive a test result of less than .02 BAC before performing safety-sensitive functions.

#### 4.2 Post-Accident Drug and Alcohol Testing:

- a) A covered employee who is performing safety-sensitive functions (*as defined*) is required under 49 CFR Part 655 to submit to a post-accident drug and/or alcohol test as soon as practicable following an accident (*as defined*), under the following circumstances:

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

- (1) **Fatal accidents:** As soon as practicable following an accident involving the loss of human life, each surviving covered employee operating a mass transit or other Authority-owned vehicle at the time of the accident must be tested for drugs and alcohol. (*Testing is not required under this provision if testing is conducted under Series 147B, pursuant to the FMCSA's rules concerning fatal accident testing.*) In addition, the Authority shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the Authority using the best information available at the time of the decision.
  
- (2) **Non-fatal accidents:** As soon as practicable following an accident not involving the loss of human life in which a mass transit or other Authority-owned vehicle is involved, the Authority must drug and alcohol test each covered employee operating the mass transit vehicle(s) at the time of the accident, unless the Authority determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The Authority shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the Authority, using the best information available at the time of the decision.
  
- b) A covered employee involved in an accident must contact his immediate supervisor as soon as possible and advise him of the accident. The immediate supervisor will then notify the applicable DER. The DER will determine if a drug or alcohol test is needed. The covered employee will be advised as to whether he is subject to testing and given information on how to proceed with the required testing. If directed to do so, a covered employee is obligated submit to post-accident drug and alcohol tests as soon as possible.
  
- c) The DER shall document any delay (of two or more hours) in alcohol testing of an employee involved in a fatal or non-fatal accident. The DER shall also document his/her decision not to test an employee involved in a non-fatal accident. The attached Form A-5 "Failure to Administer FTA-Required Post-Accident Alcohol Test" form will be used for both purposes.
  
- d) A covered employee who is subject to post-accident testing must remain readily available for such testing or else will be deemed to have refused to submit to such testing. However, this "readily available" requirement does not require the delay of necessary medical attention

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

for injured people, or prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

- e) A covered employee who is required to submit to a post-accident test will be placed out of service with pay, pending receipt of the test results. The Authority also reserves the right to evaluate the conduct of the covered employee which may have caused or contributed to the accident, to determine if this conduct, in and of itself, should warrant discipline, up to and including termination.
- f) The results of a breath or blood test for the use of alcohol, or the results of a urine test for the use of drugs, conducted by federal, state, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable federal, state or local alcohol testing requirements, and that the results of the tests are obtained by the Authority.

#### 4.3 Random Drug and Alcohol Testing:

- a) Each year the Authority will administer random alcohol and drug tests as required by 49 CFR Part 655. Random drug tests may be conducted at any time while a covered employee is on duty. Random alcohol tests will only be conducted while a covered employee is performing safety-sensitive functions, just before the covered employee performs safety-sensitive functions, or just after the covered employee has ceased performing safety-sensitive functions.
- b) The Authority shall select covered employees for testing using a random number table or a computer-based random number generator that is matched with the covered employees' social security numbers, payroll identification numbers, or other comparable identification numbers which will ensure that each covered employee has an equal chance of being tested each time selections are made.
- c) All random tests will be unannounced and the dates for administering the tests will be spread reasonably throughout the calendar year. The dates of random testing, plus the locations and names of those to be tested, are kept in the strictest confidence by the DER and the specimen collector.
- d) Each covered employee who is notified of selection for random drug or alcohol testing must proceed to the test site immediately. If the covered employee is performing a safety-sensitive function at the time of

|  |   |                                  |  |
|--|---|----------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual  | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                  |  |
| DATE ISSUED: June 7, 2004  | <input type="checkbox"/> New  | <input type="checkbox"/> Revised | <input checked="" type="checkbox"/> August 8, 2016 |

notification, the covered employee must cease performing the safety-sensitive function and proceed to the test site immediately. Covered employees who do not proceed to the test site immediately upon notification of the test may be considered to have refused to submit to the test.

#### 4.4 Reasonable Suspicion Drug and/or Alcohol Testing:

- a) A covered employee must submit to a reasonable suspicion drug and/or alcohol test, as required by 49 CFR 655.43, whenever a manager, supervisor or DER has reasonable suspicion to believe that the covered employee has violated the drug or alcohol prohibitions contained in this Policy. Reasonable suspicion drug tests may be conducted at any time that the covered employee is on duty. Reasonable suspicion alcohol tests may be conducted only while the covered employee is performing safety-sensitive functions, just before the covered employee performs safety-sensitive functions, or just after the covered employee has ceased performing safety-sensitive functions.
- b) Reasonable suspicion determinations will be based on specific, contemporaneous and articulable observations concerning the covered employee's appearance, behavior, speech, or body odors. Documentation of the observations leading to a reasonable suspicion test will be prepared and signed by the supervisor or manager who made the observations. The supervisors and managers who make reasonable suspicion determinations must have received training on alcohol misuse and drug use in accordance with FTA regulations.
  - i. The DER shall document any delay (of two or more hours) in testing an employee determined to be under a reasonable suspicion of alcohol use. The DER shall also document a decision not to test an employee determined to be under a reasonable suspicion of alcohol use. The attached Form A-6 "Failure to Administer FTA-Required Reasonable Suspicion Alcohol Test" form will be used for both purposes
- c) A covered employee who is directed to take a reasonable suspicion drug and/or alcohol test must submit to the test as directed. The Authority shall transport or ensure transport of the covered employee both to and from the collection site.
- d) A covered employee who is requested to submit to a reasonable suspicion drug and/or alcohol test will be placed out of service suspended with pay pending receipt of the test result(s). The Authority

|                                 |                 |                        |
|---------------------------------|-----------------|------------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 12 of 28 |
|---------------------------------|-----------------|------------------------|

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

also reserves the right to evaluate the conduct of the covered employee which warranted the reasonable suspicion drug or alcohol tests to determine if the conduct in and of itself should warrant discipline, up to and including termination.

## 5.0 DRUG AND ALCOHOL TESTING PROCEDURES

As required by the FTA rules (49 CFR Part 655), the Authority’s drug and alcohol testing procedures comply with the Department of Transportation’s (DOT) Federal Procedures For Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended. *(A copy is available for inspection in the office of the DER).* These procedures ensure the integrity, confidentiality and reliability of the testing processes, safeguard the validity of the test results and ensure that these results are attributed to the correct covered employee. Further, these procedures minimize the impact upon the privacy and dignity of persons undergoing such tests. The following provides a summary of the federal procedures.

### 5.1 Drug Testing Procedures:

- a) **Drugs being tested for:** DOT drug tests require laboratory testing for the following five classes of drugs: marijuana, opiates (opium and codeine derivatives), amphetamines and methamphetamines cocaine, and phencyclidine (“PCP”) and their metabolites.
  - i. DOT does not prohibit employers from instituting a “company authority” testing program that is in addition to, and distinct from, the required DOT testing program. Under such non-DOT programs, employers can test for other drugs. *(See Series 147C for a list of the other drugs that the Authority tests for under its own, not the DOT, powers.*
- b) **Laboratory, Chain-of-Custody and Split-Specimen Collection Method:** Drug testing is conducted by analyzing an employee’s urine specimen. The specimen collection procedures and chain-of-custody are intended to ensure that the specimen’s security, proper identification and integrity are not compromised. All drug tests conducted pursuant to this Policy shall be performed by laboratories which are certified by the Department of Health and Human Services (“DHHS.”) DOT has established a chain-of-custody procedure for the collection and analysis of urine samples that will verify the identity of each sample and test result. The collector of the specimen will seal and label the urine specimen, complete a required chain-of-custody form (the “Federal Drug Testing Custody and Control Form,”) and prepare the specimen and accompanying paperwork for shipment to a DHHS-certified laboratory. Only official DOT-authorized Federal Custody and Control forms will be

|                                 |                 |                        |
|---------------------------------|-----------------|------------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 13 of 28 |
|---------------------------------|-----------------|------------------------|

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

used in connection with this procedure. A split-specimen collection method will be used for drug tests. This means that a urine sample will be subdivided into two bottles labeled as a “primary” and a “split” specimen. Both bottles will be sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split-specimen bottle remains sealed and is stored at the laboratory. Under certain circumstances, the applicant or covered employee may request a test of the split-specimen by another DHHS-certified laboratory. (*See Section 5.1(c)(6) below*) This split-specimen procedure provides the applicant or covered employee with an opportunity for a “second opinion” using the same urine sample.

c) **Confirmation, review and verification of drug test results:**

- (1) All positive drug screening test results will be confirmed by gas chromatography and mass spectrometry (GC/MS). All confirmed positive drug test results will be reviewed by a medical review officer (“MRO”) to determine whether there is any legitimate explanation other than the use of drugs or alcohol in contradiction of this Policy (“legitimate explanation” or “legitimate medical explanation”) for the positive test result. This review may include a medical interview, review of the applicant’s or covered employee’s medical history, and/or a review of any other relevant biomedical factors and all medical records made available by the tested individuals.
- (2) Individuals with confirmed non-negative results (i.e., positive, adulterated, substituted, and invalid) will be given the opportunity to discuss with the MRO any legitimate explanation for the test result. If, after speaking with the covered employee, the MRO determines that there is a legitimate medical explanation for the confirmed positive test result, the MRO will report the test result as negative to the DER. If the MRO determines that there is no legitimate explanation for the confirmed positive test result, the result will be verified as a “verified positive test result” by the MRO.
- (3) Under the circumstances set forth in 49 CFR Part 40, the MRO is permitted to verify a test result (i.e., as having been positive or cancelled or a refusal to test) without having first communicated directly with the covered employee. In the event that serious illness, injury or other unavoidable circumstances prevented the covered employee from being contacted by the MRO or the DER, the MRO may reopen the verification process

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

to permit the covered employee to provide information concerning a legitimate medical explanation for the positive test.

- (4) All confirmed adulterated or substituted test results will be reviewed by the MRO to determine whether there is any legitimate medical explanation for the laboratory findings. It is the applicant's or covered employee's burden of proof to show that there is a legitimate medical explanation. If the MRO determines that the applicant's or covered employee's explanation does not present a reasonable basis for concluding that there is a legitimate medical explanation, the MRO will report the test to the DER and the individual tested as a verified refusal to test because of adulteration or substitution, as set forth in Section 3.2.g. *(Refer to Section 6.2 for the consequences of a refusal to submit to a test)*. If, however, the MRO believes that the applicant's or covered employee's explanation may present a reasonable basis for concluding that there is a legitimate medical explanation, the MRO will direct the applicant or covered employee to obtain, within five days of the MRO's verification interview of the applicant or covered employee, a further medical evaluation. This evaluation will be performed by a licensed physician, acceptable to the MRO, with expertise in the issues raised by the applicant's or covered employee's explanation. The covered employee or applicant is responsible for finding and paying for a referral physician. However, on request of the applicant or covered employee, the Authority or MRO will provide reasonable assistance to the applicant's or covered employee's efforts to find such a physician. If, after conferring with the referral physician, the MRO concludes that there is a legitimate medical explanation, the MRO shall cancel the test and report the cancellation and the reasons for it to the DER and the tested individual. If, after conferring with the referral physician, the MRO concludes that there is no legitimate medical explanation, the MRO will notify the DER and the tested individual of a verified refusal to test because of adulteration or substitution as set forth in Section 3.2 g. *(Refer to Section 6.2 for consequences of a refusal to submit to a test.)*
- (5) If the MRO reports to the Authority that a negative drug test was dilute, the applicant or covered employee will be directed to take another test immediately. If the applicant or covered employee refuses to take a second test, this constitutes a refusal to test. (Refer to Section 6.2 for the consequences of a refusal to submit to a test).

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

(6) Right to have split-sample analyzed:

- (a) **Verified Positive Tests:** All applicants and covered employees whose primary urine sample results in a verified positive test result have the right to request that their split-sample be analyzed in a different DHHS certified laboratory, selected by the Authority, for the presence of the drug(s) for which a positive result was obtained. The request must be made to the MRO within 72 hours of being notified by the MRO of a verified positive test result. If the split-sample fails to reconfirm the presence of the drug(s) found in the primary sample, or if the split-sample is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the DER, the tested individual and the DOT. However, if the split-sample reconfirms the presence of the drug(s) or drug metabolite(s), the MRO will notify the DER and the tested individual of the test results.
  
- (b) **Verified Adulterated or Substituted Tests:** All applicants and covered employees whose primary urine sample is verified adulterated or substituted have the right to request that their split-sample be analyzed in a different DHHS certified laboratory, selected by the Authority, to reconfirm the adulterated or substituted result. The request must be made to the MRO within 72 hours of being notified by the MRO of a verified adulterated or substituted test result. If the split-sample fails to reconfirm adulteration or substitution of the primary sample, the MRO shall cancel the test and report the cancellation and the reasons for it to the DER, the tested individual and the DOT. Additionally, if the split-sample is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the DER, and the tested individual. The DER shall ensure the immediate collection of another specimen from the applicant or covered employee under direct observation (*see Section 5.1.c.8*), with no notice given to the applicant or covered employee until immediately prior to the collection. However, if the split-sample reconfirms adulteration or substitution, the MRO will notify the DER and the tested individual of the test results. Reconfirmation of adulteration or substitution constitutes a refusal to submit to a test, as set forth in

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

*Section 3.2. (Refer to Section 6.2 for the consequences of a refusal to submit to a test).*

- (7) **Inability to provide an adequate amount of urine sample:** Applicants and covered employees must provide a urine sample of at least 45 milliliters of urine for a drug test. If the tested individual is unable to provide such a quantity of urine, then the tested individual will be instructed to drink a set amount of fluids and after a set period of time, again attempt to provide a complete sample. If the applicant or covered employee refuses to attempt to provide a new urine specimen, this will constitute a refusal to submit to a test. If the applicant or covered employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection will be discontinued. The DER, after consulting with the MRO, will then direct the applicant or covered employee to obtain, within five working days, a medical evaluation. Failure to undergo such an evaluation constitutes a refusal to test. The purpose of the evaluation is to determine whether the applicant or covered employee has a medical condition that has, or with a high degree of probability could have, precluded the applicant or covered employee from providing a sufficient amount of urine.
- (8) **Collections or Re-collections under Direct Observation:** Procedures for collecting urine samples allow an individual privacy unless there is a reason to believe that a particular individual has adulterated or substituted, or attempted to adulterate or substitute, the sample, as defined in the Federal Procedures For Transportation Workplace Drug Testing Programs, 49 CFR Part 40. In such cases, a sample may be obtained under the direct observation of a specimen collector of the same gender as the individual being tested. In addition, the Authority will direct an immediate collection under direct observation with no advance notice to the applicant or covered employee, if:
- (a) The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the Authority that there was not an adequate medical explanation for the result;
  - (b) The MRO reported to the Authority that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could be not performed;

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

- (c) The MRO reported to the Authority that the specimen was a negative dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL; or,
- (d) The test is a return-to-duty test or a follow-up test.

**5.2 Alcohol Testing Procedures:**

- a) **How test will be performed:** Alcohol screening tests will be performed by a screening test technician (“STT”) using a non-evidential screening device, or by a breath alcohol technician (“BAT”) using an evidential breath testing device (“EBT”). The Authority ensures that the STTs are proficient in the operation of non-evidential screening devices and that the BATs are proficient in the operation of EBTs. In addition, the Authority will use only non-evidential alcohol screening devices and EBTs which are listed on the conforming products list issued by the National Highway Traffic Safety Administration.
- b) **Confirmation of alcohol test results:** If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed using an EBT. The confirmation test will be conducted within 30 minutes of the end of the screening test. The confirmation test result is the final result upon which any discipline or other action taken under the Authority’s Policy shall be based.
- c) **Inability to provide adequate amount of specimen for alcohol testing:**
  - (1) If the covered employee is unable to provide sufficient saliva to complete a test on a non-evidential saliva screening device, the STT shall conduct a new test, using a new device. If the covered employee refuses to complete the new test, this will constitute a refusal submit to a test. If the new test is completed, but there is an insufficient amount of saliva to activate the device, the covered employee shall immediately take an alcohol test using an EBT. If the covered employee declines, or otherwise interferes with the testing, this will constitute a refusal to submit to the test.
  - (2) If a covered employee fails to provide or claims that he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the Authority will direct the covered employee to obtain, within five days, an evaluation from a licensed physician who is acceptable to the Authority and who has expertise in the medical issues raised by the covered

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

employee's failure to provide a sufficient specimen. Failure to undergo such an evaluation constitutes a refusal to test. If the physician concludes that a medical condition has, or with a high degree of probability could have, precluded the covered employee from providing a sufficient amount of breath, the covered employee's test will be canceled. If the physician concludes that there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the covered employee from providing a sufficient amount of breath, the covered employee will be considered to have refused to test.

## 6.0 CONSEQUENCES FOR POLICY VIOLATIONS

The consequences discussed below apply to applicants and covered employees who are found to have violated this Policy. Regardless of any personnel actions which may be taken, however, FTA regulations require covered employees who engage in any prohibited conduct under this Policy to be advised of available resources for evaluating and resolving problems associated with drug use and alcohol misuse, including the names, addresses and telephone numbers of Substance Abuse Professionals. This information will be provided through the Authority's Human Resource Services.

- 6.1 **Removal From Safety-Sensitive Functions:** DOT and FTA regulations require covered employees who violate this Policy in any way to be immediately removed from performing safety-sensitive functions.
- 6.2 **Refusal to Submit:** Any covered employee who refuses to submit to a test will be terminated. Applicants who refuse to submit to a test will be ineligible for employment with the Authority. (Refer to Section 3.2 concerning what actions will constitute a covered employee's "refusal to submit.")
- 6.3 **Positive Test Results:**
  - a) **Applicants:** All applicants who receive a verified positive drug test result will be ineligible for employment with the Authority. All applicants who have a BAC over .02 will be ineligible for employment with the Authority.
  - b) **Covered employees:**
    - (1) **Temporary suspension:** Any covered employee who is required to submit to a reasonable suspicion or post-accident drug or alcohol test pursuant to this Policy will be suspended with pay pending receipt of the test results.

|  |   |                                 |                        |
|--|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | X August 8, 2016       |

- (2) Verified positive drug test results and confirmed alcohol test results of 0.04 or greater: If a covered employee receives a verified positive drug test or a confirmed alcohol test result of 0.04 or greater, the covered employee will have tested positive in violation of the FTA-regulations. The covered employee's suspension will continue without pay pending the results of a disciplinary hearing held pursuant to the procedure set forth in Section 6.3(b) (4) below. If the covered employee is found to have violated this Policy, the covered employee will be terminated from employment.
- (a) Under DOT regulations, a covered employee may not return to performing safety-sensitive functions after testing positive (which means, for alcohol, testing at 0.04 or greater under DOT regulations) unless the covered employee: (1) is evaluated by a substance abuse professional; (2) successfully complies with the SAP's recommendations; (3) takes a return-to-duty drug test and receives a negative result, and/or a return-to-duty alcohol test and receives a result of less than .02 BAC; and, (4) participates in a follow-up testing program recommended by the SAP.
- (3) Alcohol test result between 0.04 and 0.02: If an employee's alcohol test results in an alcohol concentration of less than 0.04 but equal to or greater than 0.02, the employee will be suspended, without pay. The covered employee will be subject to the disciplinary hearing described in section 6.3(b)(4), below. If the covered employee is found to have violated this Policy, the covered employee will be subject to disciplinary action, up to an including termination.
- (4) Disciplinary Hearing for Positive Test Results for Alcohol and Drug Tests: In the case of a drug or alcohol test that yields a Positive Test Result, the employee shall be suspended without pay, subject to the following disciplinary procedure:
- (a) The Authority shall notify the employee by certified mail of the results and schedule a hearing before the Chief/Director.
- (b) If the employee is a member of a bargaining unit, it is the responsibility of the employee to inform his bargaining representative of the test results and the date and time of the hearing.

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

(c) At the hearing, the Chief/Director or designee shall review the incident or incidents which caused the Authority to order the tests and the results of the tests. The employee will be given the opportunity to provide information to show that he/she did not violate the Authority Policy and may at that time offer the results of an independent test, if one was conducted, of the employee's split specimen.

(d) If the Chief/Director determines that the employee has violated the Authority's Drug and Alcohol Abuse and Testing Policy, the employee will be subject to disciplinary action, up to and including termination from employment.

(5) Fitness-for-duty evaluation in the event of covered employee's legal and authorized use of a drug: Whenever a covered employee is required to submit to a reasonable suspicion drug or alcohol test and receives a negative test result, the Authority may require the covered employee to submit to a fitness-for-duty medical evaluation conducted by a licensed physician. The evaluation may include a review of the covered employee's medical records, a medical examination, or both. The purpose of the evaluation is to determine whether the covered employee poses a significant risk of substantial harm to the health and safety of the covered employee or others in the workplace, including customers and visitors. Covered employees will be required to provide the necessary authorizations for obtaining the medical records and conducting the examination. Depending upon the results of the evaluation, the Authority will consider whether the safety or health risk can be eliminated or sufficiently reduced by a reasonable accommodation, if applicable.

(6) In accordance with DOT regulations, the Authority will provide each applicant and covered employee who violates a DOT regulation (as set forth in this Policy) with a list of substance abuse professionals (SAPs) who are readily available to the employee and acceptable to the Authority.

6.4 Other Policy Violations: Covered employees who commit Policy violations other than those addressed in Sections 6.2 and 6.3 above will be subject to discipline, up to and including immediate termination. Applicants who violate this Policy will be ineligible for employment with the Authority.

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

6.5 **Potential Denial of Workers' Compensation and/or Unemployment Compensation Benefits:** For purposes of this Policy, violations of DOT's and FTA's regulations and/or the requirements of this Policy constitute gross and willful misconduct. In addition to the discipline and other consequences imposed by DOT, FTA and the Authority under this Policy, such gross and willful misconduct may also result in the denial of unemployment compensation under applicable state law. In addition, covered employees who are injured as a result of a violation of DOT's or FTA's regulations and/or the Authority's safety rules(including but not limited to the conduct prohibited under this Policy) may also be denied workers' compensation benefits under applicable state law.

## 7.0 NOTIFICATION OF TEST RESULTS

Applicants will be notified of the results of a pre-employment drug test if the applicant requests his/her test results within 60 days of being notified of the disposition of the employment application. Covered employees will be advised of drug test results which are verified positive and the drug or drug(s) for which a positive result was verified. Covered employees will be notified of the results of their alcohol tests immediately after the administration of the screening test and, if necessary, the confirmatory test.

## 8.0 TESTING EXPENSES AND COMPENSATION FOR TESTS

The Authority will pay for drug and alcohol tests and related expenses as follows:

8.1 All drug and alcohol tests required to be taken by covered employees or applicants under this Policy, including confirmation tests, will be paid for by the Authority. Any test taken at a covered employee's or applicant's request will be at the covered employee's or applicant's expense, unless the result of the test is negative. However, compliance with an applicant's or covered employee's request for a split-specimen test may not be conditioned on the covered employee's or applicant's direct payment to the MRO or laboratory or the covered employee's or applicant's agreement to reimburse the Authority for the costs of testing. The Authority will also pay for the cost of the covered employee's transportation to the test site, if the test is conducted at a place other than the covered employee's normal work site.

8.2 All time spent by covered employees providing a specimen required under this Policy, including travel time to and from the collection site, will be considered as on-duty time. The covered employee will receive his or her regular compensation, including overtime if applicable, for such time.

|                                 |                 |                        |
|---------------------------------|-----------------|------------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 22 of 28 |
|---------------------------------|-----------------|------------------------|

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

## 9.0 VOLUNTARY SELF-IDENTIFICATION OF SUBSTANCE ABUSE PROBLEM

- 9.1 Consistent with and subject to the Authority’s policies concerning medical and personal leaves and vacations, a covered employee who voluntarily self-identifies himself or herself as having a drug or alcohol problem and requests assistance for such a problem will be referred to a substance abuse professional (which, for purposes of this section, may include an employee assistance professional or qualified drug and alcohol counselor) for an evaluation and, if recommended, an appropriate counseling, education, treatment or rehabilitation program collectively or individually, “Treatment”). The cost of the Treatment is the covered employee’s responsibility. (For further details concerning the employee’s payment obligations, employees should refer to their medical insurance plan.)
- 9.2 This request must be made before the covered employee begins performing safety-sensitive functions on any work day (i.e., before reporting for duty). This request also must be made before the covered employee is directed or otherwise required to submit to a drug or alcohol test required by DOT or this Policy or before the covered employee has been found to have violated a prohibition contained in this policy. Such timely request shall not constitute a basis for reasonable suspicion testing.
- 9.3 Once leave commences, periodic certification that the employee is actively continuing to participate in the Treatment, together with progress reports, shall also be required. As a further condition of taking such leave, the employee will be required to authorize the attending SAP to communicate directly with the Authority, including releasing the employee’s relevant treatment records to the Authority, except as federal or state law may otherwise require. All such oral and written communications between the substance abuse professional and Authority shall be treated as confidential.
- 9.4 Except where the law prohibits, all leave time taken for the evaluation, counseling, treatment or rehabilitation will be counted against the leave to which the employee may be entitled under the federal Family and Medical Leave Act.
- 9.5 Prior to the time such leave begins, the covered employee will be required to execute the Authority’s “Agreement for Voluntary Evaluation and Treatment of Substance Abuse Problem and Conditions for Continued Employment.” This agreement provides, among other things, that before a covered employee will be permitted to return to his/her driving duties or perform other safety-sensitive functions for the Authority, the covered employee will be required to submit to post-voluntary rehabilitation return-to-duty drug test and/or a post-voluntary rehabilitation return-to-duty alcohol test and must receive a negative result. The agreement also provides that the covered employee may be

|                                 |                 |                        |
|---------------------------------|-----------------|------------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 23 of 28 |
|---------------------------------|-----------------|------------------------|

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

required to submit to post-voluntary rehabilitation follow-up drug tests and/or post-voluntary rehabilitation follow-up alcohol tests after returning to work, if directed by the treating substance abuse professional.

- 9.6 If a covered employee voluntarily self-identifies that he or she has a substance abuse problem and requests assistance for such problem, but fails or refuses to comply with the requirements of this section, the covered employee will not be permitted to perform safety-sensitive functions and will be subject to discipline, up to and including termination.

## 10.0 RECORDKEEPING, ACCESS TO RECORDS AND CONFIDENTIALITY OF TEST RESULTS

- 10.1 The Authority will maintain records related to its drug and alcohol testing program as required by the DOT's and FTA's regulations. These records will be maintained in a secure location with controlled access and will not be released to any person except as required by law or expressly authorized by the covered employee.

- 10.2 The Authority and its Drug & Alcohol Program service providers may release drug and alcohol testing records to representatives of the USDOT, NJDOT, PennDOT and the NTSB as required by 49 CFR 40.331.

## 11.0 EDUCATION AND TRAINING PROGRAM

- 11.1 The Authority has established an employee education and training program for all covered employees, including:
- a) **Education.** The Authority shall display and distribute to each covered employee informational materials concerning substance abuse as well as community service hotline information and information where employees may obtain assistance for substance abuse problems.
  - b) **Training.** Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.
  - c) **Supervisor Training.** Supervisors must receive at least 60 minutes of training on the role and responsibilities of supervisors and other Authority officials who are responsible for determining reasonable suspicion, including:

|                                 |                 |                        |
|---------------------------------|-----------------|------------------------|
| CLASSIFICATION: Risk Management | DISTRIBUTION: D | PAGE NO. Page 24 of 28 |
|---------------------------------|-----------------|------------------------|

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

- (1) General requirements on reasonable suspicion referrals.
- (2) Alcohol abuse in the workplace.
- (3) Prohibited Drug use in the workplace.
- (4) The reasonable suspicion interview

|  |     |   |                                 |                        |
|--|-----|---|---------------------------------|------------------------|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |     |  | Policies &<br>Procedures Manual | Series No. <b>147A</b> |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |     |   |                                 |                        |
| DATE ISSUED: June 7, 2004  | New |   | Revised                         | X August 8, 2016       |

## APPENDIX A

### DESIGNATED EMPLOYER REPRESENTATIVES (“DER”)

#### DRPA

|                     |                   |           |                       |
|---------------------|-------------------|-----------|-----------------------|
| Mark Armbruster     | Safety Specialist | ext. 2706 | mearmbruster@drpa.org |
| Khalil A. Christian | Safety Specialist | ext. 2240 | kachristian@drpa.org  |

#### Public Safety

|                   |                    |           |                       |
|-------------------|--------------------|-----------|-----------------------|
| Jack Stief        | Chief of Police    | ext. 7840 | jlstief@drpa.org      |
| Robert Finnegan   | Lieutenant, Police | ext. 3378 | rjfinnegan@drpa.org   |
| George Bollendorf | Lieutenant, Police | ext. 3717 | gpbollendorf@drpa.org |

#### Claims

|               |                      |           |                   |
|---------------|----------------------|-----------|-------------------|
| Brenda Greene | Claims Administrator | ext. 2241 | blgreene@drpa.org |
|---------------|----------------------|-----------|-------------------|

*(for “Over-the-Counter and Prescription Medication Disclosure and Evaluation Form” only)*

#### PATCO

|                 |                               |           |                     |
|-----------------|-------------------------------|-----------|---------------------|
| David Fullerton | System Safety Program Manager | ext. 6928 | ddfllerton@drpa.org |
| Lyle Hutnick    | Safety Specialist             | ext. 6903 | lchutnick@dpra.org  |

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

## APPENDIX B

### NON-EXHAUSTIVE LIST\* OF POSITIONS COVERED BY FEDERAL TRANSIT ADMINISTRATION REGULATIONS

#### Public Safety Department

Chief  
 Captain  
 Lieutenant  
 Sergeant  
 Corporal  
 Police Officer

#### PATCO Equipment Department

Director  
 Managers  
 Technical Supervisor  
 All Equipment Foremen  
 Electrician  
 Electrician A/C  
 Electronic Technician  
 Electronic Technician Trainee  
 Machinist 1/C  
 Machinist 1/C Tool Maker Mechanic  
 Mechanic Apprentice, I, II & III  
 Welder

|  |   |                                 |  |
|--|---|---------------------------------|--|
| DELAWARE RIVER PORT AUTHORITY<br>PORT AUTHORITY TRANSIT CORPORATION  |  | Policies &<br>Procedures Manual | Series No. <b>147A</b>                             |
| <b>SUBJECT: DRUG AND ALCOHOL ABUSE TESTING POLICY FOR SAFETY-SENSITIVE EMPLOYEES SUBJECT TO FEDERAL TRANSIT ADMINISTRATION REGULATIONS</b> |   |                                 |  |
| DATE ISSUED: June 7, 2004  | New   | Revised                         | <input checked="" type="checkbox"/> August 8, 2016 |

**PATCO Transit Services Department**

- Director
- Technical Supervisor
- Dispatcher
- Dispatcher Trainee
- Supervisor
- Traffic Analyst
- Train Operator
- Passenger Services Supervisor
- Passenger Services Station Supervisor

**PATCO Way and Power Department**

- Director
- Technical Supervisor
- All Way and Power Foremen (not including Custodial Foreman)
- Managers
- Electronic Technician
- Groundskeeper
- MW Laborer
- Machine Operator 1/C
- Machine Operator 2/C
- Maintenance Man
- WP Maintainer

*\*The Authority reserves the right to amend this list at any time without notice.*