

Baldwin Regional Area Transit System's Zero Tolerance Substance Abuse Policy

(Supplemental to Baldwin County Commission's Employee Handbook)

Effective Date: August 15, 2000

Amended: August 19, 2003, October 6, 2009, June 15, 2010, November 2, 2010, and
February 6, 2018, January 21, 2020

I. Introduction

Baldwin Regional Area Transit System (BRATS) is dedicated to providing friendly, safe, dependable and economical transportation services to our transit system passengers. Baldwin Regional Area Transit System is concerned about the effects of the use of illegal drugs, controlled substances and abuse of alcohol upon the health and safety of its employees and passengers. To address these concerns, it is our policy (1) to ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) to create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform assigned duties.

II. Purpose

The purpose of this policy is to assure worker's fitness for duty and to protect employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) has enacted 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive duties when there is a positive test result or a refusal to test. The U.S. DOT has enacted CFR 49 Part 40, as amended, that sets standards for the collection, testing and reporting of urine and breath specimen results. Part 40 also mandates specific protocols used by the Medical Review Officer (MRO), Substance Abuse Professional (SAP), Collector, Breath Alcohol Technician (BAT) and Third-Party Administrator/Consortium (TPA). This policy will be kept current with the latest federal regulations as changes occur. Employees will be notified of any changes to the policy in a timely manner. **The sections of this policy that reflect Parts 655 and 40 will be indicated by the use of Bold Typeface.** *In addition, the Federal Government has enacted 49 CFR part 29, "The Drug-Free Workplace" policies and the reporting of certain drug-related offenses to the FTA. These sections are indicated in italics.* This policy also incorporates Baldwin Regional Area Transit System's policy on the use of alcohol and drugs, under its own authority (as indicated throughout the content of the policy by the use of an asterisk {*}).

III. Applicability

This policy applies to all transit system employees; paid part-time employees; contract employees and contractors when performing any transit-related safety-sensitive duties *or when they are on transit property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. *Visitors, vendors, and contract employees are governed

by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.

A safety-sensitive duty is any duty related to the safe operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), controlling the dispatch or movement and maintenance of revenue vehicle or equipment used in revenue service (maintenance duties include the repair, overhaul and rebuild of engines, vehicles and/or equipment used in revenue service), security personnel who carry firearms, and any other employee or volunteer who perform duties requiring a CDL and/or performs a safety sensitive duty and receives remuneration in excess of their actual expenses. Supervisors performing any of the above described duties are safety-sensitive employees.

Participation in the Substance Abuse Program as stated in this policy is a condition of employment. * Baldwin Regional Area Transit System has a “Zero Tolerance Policy” which means that any safety sensitive employee who violates this policy by having a positive drug or alcohol test result or refuses to be tested as required will result in termination.

All positions were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. A full listing of such employee positions is located on Attachment A of this policy.

The FTA anti-drug rule preempts any state or local law, rule, regulation, or order to the extent that: (a) compliance with both the state or local requirement and any requirement in this part is not possible, or (b) compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this part. Requirements exceeding those established for compliance with FTA regulations will be noted in this policy with the use of an *asterisk as being based upon the authority of Baldwin County Commission and Baldwin Regional Area Transit System. When testing is performed on events beyond the FTA guidelines, the employee will be notified under which authority he/she is being tested and the agency will utilize non-federal custody and control forms.

IV. Prohibited Substances

Prohibited substances addressed by this policy include the following:

A. Illegally Used Controlled Substance or Drugs

*Defined by the U.S. Food and Drug Administration as any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drugs not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse or legally prescribed drugs, and use of illegally obtained prescription drugs. **Safety sensitive employees will be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP). Use of any products that may result in a positive drug test (hemp oil for example) is prohibited by the Federal Guidelines***

B. Legal Drugs

*The appropriate use of legally prescribed drugs and non-prescription medications are not prohibited. However, the use of any substance which carries a warning label or that indicates that mental functions, motor skills, or judgment may be adversely affected should be reported to supervisory personnel. The employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform safety-sensitive duties. When possible, alternative substances should be requested from the prescribing physician.

*It is the employee's responsibility to inform the physician the nature of employee's job duties.

*Any failure to report the use of such drugs or failure to provide proper evidence of medical authorization may result in disciplinary action.

*A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

C. Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing transit business or while on-call to perform a safety sensitive duty, is prohibited.

V. Prohibited Conduct

A. *Manufacture, Trafficking, Ingestion, and Use*

**Any employee engaging in the manufacture, distribution, dispensing, possession or use of prohibited substances on Baldwin Regional Area Transit System's premises, in public transit vehicles, in uniform or while on business related to a public transportation system operated under a contract with Baldwin Regional Area Transit System will be subject to disciplinary action up to and including termination. Ingestion of stated drugs is prohibited at all times. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.*

B. Intoxication/Under the Influence

*Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. **Employees found to be under the influence of prohibited substances or who fail to pass a drug or alcohol test shall be removed from duty. In addition to being**

removed from duty, such employees will receive educational and rehabilitative information and a referral to a Substance Abuse Professional (SAP) *and terminated from his/her position consistent with Baldwin Regional Area Transit System's Zero Tolerance Policy.

A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended (see Section VI of this policy for threshold definitions).

C. Alcohol Use

No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned duties is adversely affected by alcohol or when his/her alcohol concentration is 0.04 or greater. Part 655 permits alcohol testing just before, during and just following the performance of a safety sensitive duty, and* Baldwin Regional Area Transit System under its own authority also prohibits the consumption of alcohol all times the employee is on duty. No safety-sensitive employee shall use alcohol while performing safety-sensitive duties, or 4 hours before, just after performing a safety-sensitive duty or while on call. No safety-sensitive employee shall use alcohol eight hours after an accident or until the employee has undergone a post-accident alcohol test, which ever is first.

D. Compliance with Testing Requirements

All safety-sensitive employees will be subject to urine drug test and breath alcohol testing as a condition of their employment. Refusal of a drug and/or alcohol test will be treated as a verified positive test result. Any covered employee who refuses to comply with a request for testing shall be removed from duty *and their employment shall be terminated. Such employees will also receive educational and rehabilitative information and a referral to an SAP.

Refusals:

According to CFR part 40.191 Refusals can include a variety of behaviors, including but not limited to:

- **failure to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).**
- **verbal or written refusal**
- **failure to attempt to provide breath or urine sample**
- **physical absence**
- **failure to attempt to provide a sufficient quantity of urine specimen or breath specimen without a valid medical explanation**
- **failure to undergo a medical evaluation or an observed collection when required**
- **obstructive behavior including tampering or attempting to adulterate the specimen**
- **not reporting to the collection site in the time allotted (except in the case of pre-employment)**

- not remaining at the collection site until the completion of the process
- failure to sign step 2 of the alcohol test form
- failure to permit monitoring or direct observation
- failure to take a second test as directed by the collector or employer
- having an adulterated or substituted test result verified by an MRO.
- leaving the scene of an accident without a valid reason before post accident tests have been completed. Failure to remain "readily available."
- employee behaves in a confrontational way that disrupts the collection process
- employee fails to follow the observer's instructions to raise and lower their clothing and to turnaround to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- the employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- the employee refuses to wash his or her hands after being directed to do so.
- The employee admits to the collector or MRO that the employee has substituted or adulterated their specimen

Observed Collections:

The following events will also be required in the following Circumstances:

- Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid, and the MRO determined that there was not an adequate medical explanation for the result;
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.
- The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device."

The Federal rule dictates that drug tests can be performed any time a safety-sensitive employee is on duty. An alcohol test must be performed just prior to, during or just after the performance of safety sensitive duties. *Under the authority of Baldwin Regional Area Transit System, the use of or influence of alcohol by a covered employee anytime that the employee is on duty (whether the employee is performing a safety sensitive duty) is prohibited and Company testing may be performed at anytime an employee is on-duty.

***Following a negative dilute drug test result the employee/applicant will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. NOTE: The company may decide to accept a negative dilute test as a final negative result and not proceed with another testing event except when the retest is requested by the MRO.**

E. Voluntary Treatment Requirements (prior to any violation of this policy)

***Voluntary requests for treatment must be made prior to any pending drug/alcohol test or disciplinary action. Employees will not be disciplined for requesting treatment but will be expected to observe job performance standards and work rules as they apply to every employee.**

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

F. Notification of Criminal Drug Conviction

All employees are required to notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination. Any safety sensitive employee must also report any circumstances where there was a criminal conviction or loss of driving privileges due to drug or alcohol misuse within 5 days of such conviction or loss of privileges.

VI. Testing for Prohibited Substances

Analytical urine drug testing and breath testing (saliva testing optional for screening) for alcohol may be conducted when circumstances warrant and as required by Federal regulations. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted according to the procedures put forth in 49 CFR Part 40, as amended, to ensure the test results are attributed to the correct employee by procedures including, picture identification of the employee, the use of the Federal Drug Custody and Control Form with unique specimen identification number completed by a trained collection site person who ensures that the Custody and Control Form is completed correctly and signed and certified by the donor, collection of Split Sample specimens that are sealed and initialed by the donor.

Drugs:

An employee may be tested for the following prohibited substances anytime while on duty. The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. An initial drug screen, called an immunoassay test, will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the metabolites present are above the minimum thresholds established in 49 CFR Part 40, as amended. The following is a chart of the current cut-off levels.

DRUG NAME - METABOLITE	SCREENING CUT-OFF	CONFIRMATION CUT-OFF LEVEL
Marijuana - Delta 9 THC	50 ng/ml	15 ng/ml
Cocaine - Benzoyllecgonine	150ng/ml	100 ng/ml
Opioids - Morphine/Codeine	2000 ng/ml	2000 ng/ml
PCP - Phencyclidine	25 ng/ml	25 ng/ml
Amphetamines	500 ng/ml	250 ng/ml

*In instances where there is a reason to believe an employee is abusing a substance other than the five drugs listed above, Baldwin Regional Area Transit System reserves the right to request a separate sample and to test for additional drugs under Baldwin Regional Area Transit System's own authority using standard laboratory testing protocols and a non-federal custody and control form.

Alcohol:

Tests confirming alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Test (EBT) device operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of .02 or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of .02 or greater but less than .04 will result in removal from his/her position for eight hours unless a retest results in a concentration measure of less than .02. An alcohol concentration of .04 or greater will be considered a positive alcohol test and in violation of this policy, the employee will be immediately removed from safety-sensitive duties and referred to a Substance Abuse Professional.

MRO:

All test results from the laboratory will be reported to a Medical Review Officer (MRO). A MRO is a licensed physician with detailed knowledge of a substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate alternative medical explanation for a confirmed positive result. The MRO will contact the employee, notify the employee of the positive laboratory result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to the Designated Employer Representative. If a legitimate explanation is found, the MRO will report the test result as negative. The MRO may also cancel results that are

troubled according to the protocol set forth in 49CFR part 40. The MRO will also inform the employee whose result is positive from the laboratory of his/her rights to have the split sample analyzed at a second SAMHSA laboratory. The MRO will follow the protocols and meet the requirements defined in 49CFR part 40. See part E – Employee Requested Testing.

Testing Procedures:

A copy of 49CFR Part 40 as amended is available for review for complete and detailed laboratory, collection, MRO, and SAP procedures. An employee who would like to review 49 CFR parts 40 and 655 may request a copy from the Designated Employer Representative (DER).

Any safety-sensitive employee that has a confirmed positive drug and/or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available and referred to a SAP. *A positive drug and/or alcohol test will also result in the employee's termination of employment with Baldwin Regional Area Transit System.

Testing Events:

A. Pre-Employment /Reclassification Testing

All safety-sensitive applicants shall undergo urine drug testing prior to performing safety sensitive duties. This requirement also affects employees not in safety-sensitive positions who seek reclassification into a safety-sensitive position. Receipt by Baldwin Regional Area Transit System of a negative test result is required prior to performing safety sensitive duties in a covered position. A cancelled test result is not acceptable and must be retaken. *Hiring into a safety-sensitive position will be completed within one (1) month of a successful pre-employment/reclassification test. If the applicant has a positive pre-employment drug test, he/she cannot be hired for a safety sensitive position.

If any covered employee has not performed safety sensitive duties for 90 days or more days and has been removed from the random pool during that time is required to produce a negative pre-employment test result before returning to safety-sensitive duties.

An MRO may report negative pre-employment test results for individuals who are unable to provide sufficient volume due to permanent disability but has a medical evaluation that indicates no chemical evidence of illegal drug use.

All applicants for safety-sensitive positions will be notified in writing that they will be required to undergo pre-employment/reclassification drug testing prior to their employment and that they will be subject to drug and alcohol testing throughout the period of their employment with Baldwin Regional Area Transit System. Applicants will acknowledge in writing their understanding of these provisions for their application and employment. Baldwin Regional Area Transit System will retain on file the negative drug test results of all new hires.

When a covered an applicant has previously failed a pre-employment drug test with a prior employer, the employee must present to Baldwin Regional Area Transit System proof of successfully having completed a referral, evaluation and treatment plan as described in Sec. 655.62

B. Reasonable Suspicion Testing

***All safety sensitive employees may be subject to a fitness for duty evaluation, to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. Baldwin Regional Area Transit System reserves the right to refer an employee to a physician for a fitness for duty examination when the employee's observable behavior and reactions are considered inconsistent to a safe and drug-free workplace.**

A reasonable suspicion referral for testing, as specified by Part 655, will be made on the basis of documented objective facts and circumstances which are consistent with the long or short-term effects of substance abuse. Reasonable suspicion testing can be done if the observation is made for suspicion of drugs anytime the employee is on duty or for alcohol during, just preceding, or immediately following the performance of a safety sensitive duty. *However, under Baldwin Regional Area Transit System's authority, a non-federal reasonable suspicion alcohol test may be performed anytime a covered employee is on duty.

Reasonable suspicion determinations will be made by one or more supervisors, in duty rather than by title, who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse. Criteria for reasonable suspicion testing included specific, contemporaneous, and articulable observations concerning appearance, behavior, speech, or body odors of the covered employee consistent with possible drug or alcohol misuse. Written documentation shall be required for any reasonable suspicion testing. Only trained supervisors who directly observe said reasonably suspicious behavior have justification for requiring reasonable suspicion testing. *When a determination has been made for reasonable suspicion testing, the employee will be transported immediately by the supervisor to the collection site. Alcohol tests delayed more than 2 (two) hours must be accompanied with documentation specifying the reason for such a delay. Attempts to collect an alcohol test must conclude after 8 (eight) hours.

C. Post-Accident Testing

Safety-sensitive employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident with a public transportation system vehicle (regardless of whether the vehicle is in revenue service) that results in a fatality. This includes all safety-sensitive employees that are on-duty in the vehicles and any other whose performance could have contributed to the accident, such as surviving operators, dispatchers, maintenance personnel, or other safety sensitive associated employees. Neither a deceased nor an

unconscious employee can be tested. Any post-accident testing is stayed while the employee assists in resolution of the accident or receives medical attention following the accident.

In addition, a post-accident test will be conducted in situations where there isn't a fatality but the following occurs, (a) injuries requiring medical treatment away from the scene (as a result of collision or non-collision), (b) any time one or more vehicles incurs disabling damage that prevents any of the vehicles involved from leaving the scene of the occurrence in their usual manner in daylight after simple repairs, or (c) with respect to an occurrence in which the public transit vehicle involved is a rail car, trolley car, trolley bus or vessel and the vehicle is removed from operation. In a non-fatal accident as previously described, post-accident testing will be conducted unless the operator's performance (and any other covered employees whose performance could have contributed to the accident) can be completely discounted as a contributing factor to the accident as determined by employer using the best information at the time of the decision.

Following an accident, the safety-sensitive employee will be tested as soon as possible, but not to exceed eight (8) hours for alcohol testing and 32 hours for drug testing. All accidents will have documentation as to whether a test was administered and the rationale for such a decision. If there is a delay of greater than 2 (two) hours for an alcohol test, a reason must be given in writing, retained in a file for possible later referral, and the employer must still attempt to administer the alcohol test, however, all attempts must cease after eight hours. Any safety-sensitive employees subject to post-accident testing must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

Safety-sensitive employees subject to post-accident testing must remain readily available for testing and the employer must know the whereabouts of those employees at all times until post-accident testing has been completed or until the employee has been completely discounted as a contributing factor.

Written rationale and documentation is required when a decision is made not to test an employee in a nonfatal accident. In the rare event that the employee can not participate in the FTA collection process, following an accident, the employer may accept the results of a test performed by federal, state, or local officials if results are released.

Procedures are in place to ensure testing can be conducted all hours of operation.

Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test. In such cases, the employee will be subject to the consequences of a test refusal noted previously in Section V-D of this policy.

Post accident testing will be stayed while the employee(s) in question receive medical treatment following the accident.

Any additional post-accident guidelines beyond the FTA criteria are attached within the Baldwin County Commission Drug and Alcohol Policy and tested under the county's authority.

D. Random Testing

FTA regulations require random testing of drugs and alcohol for all safety-sensitive employees. Random testing serves as a deterrent against employee beginning or continuing drug use or alcohol misuse. All employees in safety-sensitive positions will be subjected to random, unannounced testing. The selection of safety-sensitive employees for random drug and/or alcohol testing will be made using a scientifically valid method that ensures each covered employee will have an equal chance of being selected each time selections are made and there will be no discretion of the managers as to the selections made. All safety-sensitive employees remain in the selection pool even after being selected for testing thus, employees may be selected more than once a year. The tests are conducted throughout the year in an unpredictable pattern. The random number selection process is conducted in strict confidence to ensure no employee is forewarned and that testing is unannounced. A limited number of individuals will have knowledge of the random numbers to ensure confidentiality and the integrity of the testing process.

The random tests will be spread throughout the draw period and all shifts of safety-sensitive duties. Alcohol tests can only be performed just before, during, or just after the performance of a safety-sensitive job duty, while drug tests can be conducted at any time during an employee's shift (i.e. beginning, middle, and end). Employees are required to proceed immediately to the collection site upon notification of their random selection.

Only US DOT safety-sensitive employees are included in the random pool. In the event the Designated Employer Representative is selected for random testing, the contact person shall be the ALDOT Consortium Manager, who will notify the Program Manager to report to the collection site for random testing. All safety-sensitive employees shall be notified discreetly to report to the collection site to provide for privacy.

Baldwin Regional Area Transit System retains records the dates of notification that a safety-sensitive employee has been selected and the results of those tests. All information is confidential.

***As a member of the ALDOT Consortium, Baldwin Regional Area Transit System shall, during the course of a year, participate in the random testing program. The agency will test their selected employees to ensure the minimum percentage of safety sensitive employees in the consortium pool are tested for**

drug and alcohol to meet the FTA's minimum current testing rate. The rates are subject to annual revision based on the FTA mandate.

E. Employee Requested Testing

Any safety-sensitive employee who questions the results of a required drug test may request the MRO to forward the split sample to a different DHHS certified laboratory for analysis. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. *Payment for testing of the split specimen is the responsibility of the employee, unless the result of the split sample test invalidates the result of the original test. Testing will not be denied if the employee cannot pay. Baldwin Regional Area Transit System will ensure that the costs for the split specimen are covered in order to complete a timely analysis, however, Baldwin Regional Area Transit System will seek reimbursement for the split analysis from the employee. **The final split specimen result goes to the employer.**

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for split sample testing must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. The MRO must direct the laboratory in writing to send the split sample with appropriate copies of the chain of custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

VII. Employment Assessment

Any safety-sensitive employee or applicant who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, or has refused to submit to a drug or alcohol test (except in the case of and applicant) will be referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. The SAP will follow the protocols and meet the requirements defined in 49 CFR part 40.

VIII. Information Disclosure

Baldwin Regional Area Transit System will strictly adhere to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized by FTA rules to receive such information. All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Privacy of each tested employee

shall be strictly maintained. Information will only be released in the following circumstances:

1. to a third party only as directed by specific, written instruction of the employee;
2. to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested;
3. to a subsequent employer upon receipt of a written request from the employee;
4. to the National Transportation Safety Board during an accident investigation;
5. to the DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed-guideway systems; or
6. to the employee, upon written request.

Employees have the unqualified right to review their drug and alcohol testing records, to have access to information to dispute the results of any testing outcome, to have access to any pertinent records such as equipment calibration records and records of laboratory certifications.

IX. Employee and Supervisor Training

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use. The training will be in the context of prohibited drug use in the workplace, the FTA regulations, and Baldwin Regional Area Transit System's substance abuse policy. The training shall also include information concerning the effects of alcohol misuse on the individual's health, work, and personal life, and signs and symptoms of an alcohol problem. Printed literature concerning prohibited drug use and the effects of drugs and alcohol as well as a service hotline for employees experiencing problems with prohibited drugs and alcohol will be made readily available to all safety-sensitive employees.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Training shall be given to all supervisors concerning: (a) their role and responsibility of reasonable suspicion determinations, (b) procedures for initiating, sustaining, and documenting the referral of reasonable suspicions, (c) instructions for employee intervention, and (d) procedures for record keeping/documenting a reasonable suspicion event. Supervisors will not perform supervisory duties that require reasonable suspicion determination prior to completing supervisor training. *Training for non-safety-sensitive employee on the importance of maintaining a drug-free workplace shall also be provided.

*Handouts are available providing information concerning the effects of drug use and alcohol misuse on the individual's health, work, and personal life and the signs and symptoms of alcohol misuse.

X. Employee/Provider Communications

Baldwin Regional Area Transit System's Substance Abuse Policy was originally approved and adopted by the Baldwin County Commission on August 15, 2000 and became effective that day. A copy of the signed adoption by the Baldwin County Commission is available upon request. Anytime this policy is substantively amended or updated due to changes in Federal regulations in the future, the policy will contain the date, proof of adoption of the amended policy by the Baldwin County Commission and the date the amended policy, or portion thereof, became effective. See attachment B. Last Date of amendment was February 6, 2018.

This policy, current, and future contracts will be modified to stay within required compliance with FTA regulations.

Copies of this policy will be provided to all safety-sensitive employees. A Confirmation of Receipt shall be signed acknowledging that the employee has received the policy and understands that it is the employee's responsibility to abide by the provisions of the policy. Revisions to this policy shall be made aware of to the employee and shall be acknowledged with an updated Confirmation of Receipt. All new hires shall receive the most current policy.

XI. Proper Application of the Policy

***Supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.**

XII. System Contacts

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following transit system representative:

Designated Employer Representative/Program Manager:

Name: Chandra Middleton
Title: Assistant Director of Transportation
Address: PO Box 907
Robertsdale, Alabama 36567
Telephone: (251) 972-6817

Or

Name: Matthew Brown
Title: Director of Transportation
Address: PO Box 907
Robertsdale, Alabama 36567
Telephone: (251) 972-6817

SAMHSA Certified Laboratory

Name: Alabama Reference Laboratory
Montgomery, AL

Medical Review Officer:

Name: Steven Allen, MD, MRO
Address: Physical Express
P. O. Box 688 4081, Hwy 14
Millbrook, AL 36054
Telephone: (334) 285-3222
Email Address: dotdoc@pinelevelfc.com

Substance Abuse Professionals

Primary SAP: Patricia Vanderpool, LPC, CEAP, SAP
Agency: EAP Lifestyle Management, LCC
Address: 1048 Stanton Road, Suite F
Daphne, Alabama 36526
Telephone: (251) 621-5360

Backup SAP: Clarence Whiten
Agency: Gulf Coast Counseling
Address: 805 North McKenzie Street, Suite A
Foley, Alabama 36535
Telephone: (251) 970-5902

Attachment A

Safety-Sensitive Functions

Safety-sensitive Functions at Baldwin Regional Area Transit System

All positions at BRATS were reviewed for safety-sensitive duties; as defined in 49 CFR part 655, to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. All positions at BRATS were determined to be safety- sensitive.

Examples of safety-sensitive positions:

- Scheduling Manager
- Driver Supervisors
- Dispatchers
- Customer Service Representative
- Mechanics
- All Drivers
- Bookkeepers
- Office Assistants

Attachment B

Signed Proof of Policy Adoption by Baldwin County Commission

The Baldwin County Commission, during its regularly scheduled meeting held on January 21, 2020, adopted the Baldwin Regional Area Transit System's (BRATS) Amended Zero Tolerance Substance Abuse Policy, which is in accordance with the 5311 and 5307 Grant requirements of the Federal Transit Administration and Alabama Department of Transportation for the transit industry. This amended policy supersedes any previously adopted Substance Abuse Policy for Baldwin Regional Area Transit System.

Billie Jo Underwood
Chairman
Baldwin County Commission

Date

**EMPLOYEE RECEIPT OF
Baldwin Regional Area Transit System's
Zero Tolerance Substance Abuse Policy**

(Supplemental to Baldwin County Commission's Employee Handbook)

Effective Date: August 15, 2000

Amended: August 19, 2003, October 6, 2009, June 15, 2010, November 2, 2010, and
February 6, 2018, January 21, 2020

Return this completed form to your immediate supervisor

Employee Name: SAMPLE
Print

I have received and will read The Baldwin Regional Area Transit System's Drug and Alcohol Abuse Testing Policy. I understand that I will be held responsible for the content of the policy and I agree to abide by drug and alcohol testing policy. If I need any clarification or if I have any questions regarding the substance of the policy, I will address them with the company's program administrator.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

I understand that substance abuse testing is as follows:

- Random Testing is on-going during my employment.
- Pre-employment Testing is performed at hiring date and before safety sensitive duties.
- Reasonable Suspicion Testing in the event that trained supervisors witness suspicious behavior.
- Post-accident Testing is performed in the event of an *accident.

*Baldwin County Commission requires that testing must follow any accidents; the Federal Transit Administration and the Alabama Department of Transportation requires that testing must follow any accident which results in a fatality, an individual suffer bodily injury and immediately receives medical treatment away from the scene of the accident, any vehicle incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle, or if the mass transit vehicle is removed from operation.

This policy adheres to the Federal Transit Administration's mandated regulations for drug and alcohol testing.

Employee Signature: _____

Date Signed: _____

Time Signed: _____

Witness Signature: _____

ATTACHMENT B
Insert from the Baldwin County Commission Employee Handbook

Violation of any safety, health, fire or environmental rule may result in appropriate corrective action that may vary from a verbal warning to termination of employment, depending on the seriousness of the violation.

K. Alcohol and Drugs – Drug Free Workplace Policy

The Baldwin County Commission is committed to providing a safe working environment for all employees while serving the citizens of Baldwin County. The Baldwin County Commission recognizes that any employee who improperly uses intoxicating substances, including drugs and alcohol, poses a serious threat to his or her self, his or her coworkers and to the public in general. Even small quantities of narcotics, abused prescription or over-the-counter drugs or alcohol can impair judgment and reflexes. This impairment can have dire results, particularly for employees operating vehicles or potentially dangerous equipment.

It is therefore the policy of the Baldwin County Commission that all employees or any person performing any kind of work for Baldwin County Commission must report to work completely free from alcohol, illegal or unauthorized drugs or any other substances that may have a mind-altering or intoxicating effect or otherwise impair the employee's judgment, reaction times or functioning.

The County also prohibits all employees from using, possessing, manufacturing, distributing or making arrangements to distribute alcohol, illegal or unauthorized drugs or any other intoxicating substances while at work or on or about any county property.

In order to avoid creating safety problems and violating this policy, employees must inform his or her supervisor when he or she is legitimately taking any medication, including prescription drugs or over-the-counter medications, which affects his or her ability to work. Employees whose job performance may be affected by such medications may be required to provide a fitness-for-duty certification before being allowed to resume their job duties.

Any employee who violates this policy in any way shall be immediately removed from his or her job duties and shall be subject to discipline, up to and including immediate termination.

No part of this policy shall be construed to create a contract of continued employment or to confer upon any employee or applicant a property interest in his or her employment. The County maintains the right to change this policy at any time without notice. To the extent that any portion or provision of this policy and procedure conflicts with any applicable federal or state laws or regulation, such federal or state laws or regulations will be controlling.

The Baldwin County Commission has designated the Risk Manager as the Drug Program Coordinator. If you have any questions or concerns regarding this policy or its application, please contact him or her at: (251) 937-0265.

Employees of the Baldwin Regional Area Transit System (BRATS) are subject to ALDOT Substance Abuse Regulations, unless the County's policies are more stringent, in which case the

County's policy would apply.

1. Definitions.

- a. "Accident" means any on the job accident. "Accident" includes vehicular accidents as well as any acts or omission causing an accident or injury to any person or damage to any equipment or property belonging to the County.
- b. "Administrator" means the person or entity that implements drug testing on employees and applicants.
- c. "Alcohol" means distilled or fermented beverage containing ethyl alcohol, including, but not limited to, beer and wine.
- d. "Chain of Custody" means procedures implemented by the Baldwin County Commission for the identification and integrity of each urine specimen. The Baldwin County Commission requires the person responsible for policy implementation to track the handling and storage of each urine specimen from the point of specimen collection to final disposition of the specimen. These procedures include an appropriate drug testing chain of custody form to be used from time of collection to receipt by the testing laboratory. Chain of custody forms shall document the date and purpose of each time a specimen is handled or transferred and shall identify every individual in the chain of custody.
- e. "Collector" means a person who instructs and assists tested employees and applicants for eligible positions at a collection site and who receives and makes an initial examination of the urine specimens. The collector shall have successfully completed training to carry out this function or shall be a licensed medical professional or technician who shall be provided instructions for collection under this procedure and certifies completion as required herein. In any case, where a collection is observed or monitored by non-medical personnel, the collector shall be a person of the same gender as the employee or applicant.
- f. "Collection Site" means a place designated by the Baldwin County Commission where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of specified controlled substance and alcohol. The site will possess necessary personnel, materials, equipment facilities and supervision to provide for the collection, security, temporary storage and transportation or shipment of the samples to a laboratory.
- g. "Controlled Substance" means any substance defined or classified as a controlled substance according to federal or state law. Title II of the Comprehensive Drug Abuse Prevention Act of 1970 (Controlled Substance Act), as it is amended from time to time, provides the basic standard. Controlled substances include, but are not limited to, any and all forms of marijuana, stimulants or hallucinogens the sale purchase, transfer, use or possession of which are prohibited or restricted by law.
- h. "County" means Baldwin County.
- i. "DOT Employee" is an employee who is subject to the rules and regulations of the United States Department of Transportation regarding drug and alcohol testing because of the job duties that he or she performs.

- j. “Drug Program Coordinator” is the person designated by the Baldwin County Commission to ensure compliance with this Policy, including, but not limited to, ensuring that proper testing procedures are followed, ensuring that the lab(s) used by the Baldwin County Commission are properly certified and ensuring that the Medical Review Officer is properly credentialed. The name and contact information of the Drug Program Coordinator will be distributed to all employees.
- k. “Employer Premises” includes all property owned, leased, used or under the control of Baldwin County Commission, including, but not limited to, the job site of any employee, structures, building offices, facilities, vehicles and equipment or transportation to and from those locations while in the course and scope of County employment.
- l. “Employee” means any and all employees of the Baldwin County Commission.
- m. “Illegal/Unauthorized Drug” means any drug (1) which is legally obtainable but has not been legally obtained or, even if legally obtained, is not being used in accordance with instructions given either by a physician or, if over-the counter, on the drug’s label; or (2) all illegal drugs, including, but not limited to, methamphetamine, marijuana, cocaine, etc.
- n. “Intoxicating Substance” means any substance, whether legal or illegal, that may have an intoxicating or mind-altering effect when ingested, snorted, smoked or otherwise introduced into the body. Intoxicating substances include, but are not limited to, “bath salts,” nitrous oxide, glues, solvents or herbs or other plants such as salvia.
- o. “Legal Drug” means prescribed drugs and over-the-counter drugs which have been legally obtained and are being used appropriately for their intended purpose in accordance with directions given either on the label or by employee’s treating physician.
- p. “Possession” means actual or constructive care, custody, control or immediate access.
- q. “Under the Influence” means being unable to perform work in a safe and productive manner; being in a physical or mental condition which creates a risk to the safety and well-being of the individual, other employees or the public; and/or having any laboratory evidence of the presence of drugs, alcohol, prohibited or controlled substance in the employee’s body.
- r. “Medical Review Officer” (MRO) means a licensed physician (medical doctor) responsible for receiving laboratory results generated by the county’s drug testing program. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individuals confirmed positive test result, together with his or her medical history and any other relevant biomedical information.
- s. “Random Selection Process” is the process used to ensure that each employee holding a safety-sensitive position has an equal chance of being drug-tested every time that random drug tests are conducted. This process means that some employees may be tested multiple times in any given year.
- t. “Reasonable Cause” means that the County believes the actions or appearance or conduct of an employee on duty are indicative of the use of a controlled substance or alcohol.
- u. “Safety-Sensitive Employees” are those persons who are subject to random drug and alcohol testing. These employees include, but are not limited to, persons who inspect, service, repair or maintain a vehicle or other heavy equipment, operate or load a vehicle or heavy equipment, use tools, including both power and hand tools, that have the

capacity to injure any person and those who are authorized to carry weapons of any kind. An employee is engaged in a safety-sensitive function at all times from the time that an employee begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work.

v. Persons Subject to Testing.

The following employees have been designated by the Baldwin County Commission to submit at any time to be tested for illegal drug abuse and alcohol abuse:

- All employees who hold positions or regularly perform duties that have been designated to be “safety sensitive” by the Baldwin County Commission;
- Any employee who, during the course of said employee’s employment, is involved in an accident causing physical injury to any person or damage to any property; and
- Any employee, regardless of whether he or she holds a safety sensitive position, whose conduct, behavior or physical symptoms establishes reasonable cause to believe that said employee is under the influence of any drug and/or alcohol while performing his or her job duties or while being physically present on the premises of the Baldwin County Commission’s property during any activity sponsored, supervised or in which the Baldwin County Commission participates.

w. Types of Testing.

Pursuant to Baldwin County Commission’s policy and procedures, employees will undergo testing as follows:

- **PRE-EMPLOYMENT TESTING:** All employees applying for a position that has been designated as safety-sensitive will be required to submit to a pre-employment drug and alcohol test before a final offer of employment is extended. All pre-testing offers of employment to such persons are explicitly conditioned on the employee successfully taking and passing the drug and alcohol test. Pre-employment testing will also be done when an employee transfers from a non-safety-sensitive position to a safety sensitive position;
- **RANDOM TESTING:** All employees holding safety-sensitive positions will be subject to testing on a random basis without advance notice to them;
- **REASONABLE CAUSE TESTING:** Baldwin County Commission may schedule a drug/alcohol test when behavioral observations indicate to the employee’s supervisor that any employee may be involved in illegal use of a controlled substance, use of alcohol or abuse of legal drugs. Before testing, the employee’s supervisor shall either (1) contact another supervisor to observe the employee’s behavior and to concur with the decision to test the employee or (2) review the employee’s behavior with another supervisor to obtain concurrence with the decision to test the employee. The employee shall be promptly escorted to the collection site for testing by the employee’s supervisor or designee;
- Employees arrested or convicted for the off-the-job use or possession of illegal or

controlled substances shall undergo testing to assist Baldwin County Commission in determining fitness for duty. If the employee tests positive, the Baldwin County Commission shall discharge the employee;

- x. POST ACCIDENT TESTING: All employees are required to report all injury or damage related accidents and submit to a post-accident drug/alcohol test as set out in this policy. Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident shall be subject to testing. The employee's supervisor or his designee shall schedule the drug screening test immediately following a reportable incident or a reportable accident; and
- y. RETURN-TO-DUTY TESTING: If an employee has violated the prohibited drug and alcohol rules, he or she must take and pass a drug and alcohol test before returning to work. Further, any employee who has violated the prohibited drug and alcohol rules is required to take a drug and/or alcohol test before returning to safety-sensitive functions for *any* DOT regulated employer and is also subject to unannounced follow-up testing at least six (6) times in the first twelve (12) months following a return to active safety-sensitive service.

Any and all drug testing conducted by the Baldwin County Commission will not be used to identify the existence of any disability.

In the event there is reasonable suspicion of a violation of this policy, the Baldwin County Commission also reserves the right to search all property, cabinets, tool boxes, vehicles, including personal vehicles brought onto Baldwin County Commission's property or any other property on the Baldwin County Commission's property, under control of any employee or in the personal vehicle of any employee and located on the Baldwin County Commission's property and used by said employee in commuting to work or in that employee's duty as an employee.

4. Safety Sensitive Employees.

Employees are considered to be "safety-sensitive" when his or her job duties regularly require them to engage in activities that have the potential to cause physical injury to themselves or others or to cause serious property damage. Such activities include, but are not limited to:

- a. Maintaining or repairing motor vehicles or heavy equipment, including, but not limited to, bulldozers, tractors and riding mowers;
- b. Maintaining or repairing tools that have the capacity to seriously injure the user or another person, including, but not limiting to, chainsaws or weed-eaters;
- c. Regularly operate motor vehicles or heavy equipment as part of his or her job duties, including equipment such as tractors or riding mowers for which licensure is not required by the State of Alabama;
- d. Regularly operate tools that have the capacity to seriously injure the user or another person;
- e. Loading and unloading vehicles or heavy equipment;
- f. Any activity related to the safe operation of a mass transit system, including dispatching

vehicles;

- z. Carrying any weapon or object for the purpose of performing job duties that could reasonably be used as a weapon, including, but not limited to, firearms, knives, machetes, blades, tasers or batons;
- aa. Answering emergency calls and/or directing the provision of emergency services; or
- bb. Providing emergency medical services.

A list of positions that have been designated as safety sensitive by Baldwin County is available for view in the Personnel Department. Some safety-sensitive positions are specifically subject to regulation by the Department of Transportation (DOT). These positions are indicated by an asterisk. An accredited testing laboratory will maintain two (2) different random testing pools, including one pool for persons specifically subject to regulation by DOT and one (1) pool for all other safety-sensitive employees.

All employees are subject to drug and alcohol testing when there is reasonable cause to believe that they have violated this policy and after any accident involving physical injury or serious property damage. However, employees who have been designated as safety-sensitive are also subject to pre-employment testing and random testing. Random drug tests can be performed any time a safety-sensitive employee is on duty. An alcohol test can be performed when the safety-sensitive employee is performing a safety sensitive duty, just before or just after the performance of a safety sensitive duty.

In addition, employees occupying positions deemed to be “safety-sensitive” must promptly report any arrests, charges or convictions for drug or alcohol related criminal offenses, including both misdemeanors and felonies, to his or her supervisor. FAILURE TO REPORT SUCH ARRESTS, CHARGES or CONVICTIONS MAY BE GROUNDS FOR DISCIPLINE, UP TO AND INCLUDING IMMEDIATE DISMISSAL.

5. Necessity of Compliance with Testing Requirements.

All employees are subject to reasonable suspicion and post-accident testing as a condition of his or her employment. In addition, all safety-sensitive employees will be subject to pre-employment and random urine drug test and breath alcohol testing as a condition of employment.

Any employee who refuses to take a drug and/or alcohol test to which he or she is properly subject shall be considered to have a verified positive test result. An employee who has a verified positive test result, including by refusal, shall be immediately removed from his or her duties and may be subject to immediate termination. In addition, any employee subject to DOT regulations will receive educational and rehabilitative information and a referral to a Substance Abuse Professional.

Refusals can include a variety of behaviors, including the following:

- a. Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the Baldwin County Commission;

Failure to remain at the testing site until the testing process is complete;

- b. Failure to provide a urine specimen for any required drug test;
- c. Failure to permit the observation or monitoring of the specimen collection when required to do so;
- d. Failure to provide a sufficient amount of urine when directed without an adequate medical explanation for this failure;
- e. Failure to take a second test when directed to do so by the Baldwin County Commission or collector;
- f. Failure to undergo a medical examination when directed to do so by the MRO or the Baldwin County Commission;
- g. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process or fail to wash hands after being directed to do so by the collector);
- h. Failure to follow the observer's instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- i. Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- j. Admit to the collector or MRO that the specimen has been adulterated or substituted;
- k. Failure to sign step two (2) of the alcohol test form; or
- l. Leaving the scene of an accident without a valid reason before post-accident tests has been completed. Failure to remain "readily available."

6. Off Duty Conduct.

Off-the-job use of drugs, alcohol or any other prohibited substance which results in impaired work performance, including, but not limited to, absenteeism, tardiness, poor work product or harm to the County's image, tasks or government is prohibited. Employees should realize that these regulations prohibit all illicit drug use, on and off duty.

7. Prescription Drugs.

The proper use of medication prescribed by a physician is not prohibited; however, the Baldwin County Commission prohibits the misuse of prescribed and/or over-the-counter medications or other intoxicating substances and requires all employees using drugs at the direction of a physician to notify the Baldwin County Commission's Medical Review Officer (MRO) or their Drug Program Coordinator, when these drugs may affect his or her job performance, such as by causing drowsiness. Employees may not perform safety-sensitive functions while using any controlled substances, unless the employee's physician certifies that the substances will not adversely affect the employee's ability to perform his or her job.

8. Pre-Employment.

All safety-sensitive applicants shall undergo urine drug testing prior to performing safety sensitive duties. This requirement also affects employees not in safety-sensitive positions who seek reclassification into a safety-sensitive position. Receipt by the Baldwin County Commission of a negative test result is required prior to performing safety sensitive duties in a covered position. A cancelled test result is not acceptable and must be retaken. If the applicant has a positive pre-employment drug test, he or she cannot be hired for a safety sensitive position.

A negative result on a pre-employment test by a job applicant is valid for thirty days. If a current covered employee has not performed a safety sensitive duty for ninety (90) days or longer and has been removed from the random pool, the employee must submit to a new pre-employment test and receive a negative result before resuming safety-sensitive duties.

A MRO may report negative pre-employment test results for individuals who are unable to provide sufficient volume due to permanent disability but has a medical evaluation that indicates no chemical evidence of illegal drug use.

All applicants for safety-sensitive positions will be notified in writing that they will be required to undergo pre-employment/reclassification drug testing prior to his or her employment and that they will be subject to drug and alcohol testing throughout the period of his or her employment. Applicants will acknowledge in writing his or her understanding of these provisions for his or her application and employment. The Baldwin County Commission will retain on file the negative drug test results of all new hires.

In addition to undergoing pre-employment testing, applicants for a safety-sensitive position will be asked to sign forms for release of information from any previous employer for whom the applicant performed safety sensitive functions. Failure to sign this form will result in not being hired. When a covered applicant has previously failed a pre-employment drug test with a prior employer, the employee must present proof of having successfully completed a referral, evaluation and treatment plan.

9. Reasonable Cause.

All employees (whether or not safety-sensitive) will be required to submit to screening whenever a supervisor observes circumstances which provide reasonable cause to believe an employee has used a controlled substance or has otherwise violated the substance abuse rules. Examples of circumstances that may establish reasonable cause to warrant testing include supervisor observation, co-worker complaints, performance decline, attendance or behavior changes, involvement in workplace or vehicular accident or other actions which indicate a possible error in judgment or negligence or other violations of the drug or other Commission policy. Before testing the employee, another supervisor shall be contacted to observe the employee's behavior and to concur with the decision to test the employee or the observing supervisor will review the employee's behavior with another supervisor either face to face or via telephone to obtain concurrence with the decision to test the employee. The documentation of the employee's conduct shall be prepared and signed by the witnesses within twenty-four (24) hours of the

observed behavior or before the results of the test are released, whichever is earlier.

Upon the reasonable suspicion determination being made, the Baldwin County Commission shall ensure that the employee is transported immediately to a collection site for the collection of a urine sample. The employee shall be counseled not to drive a vehicle and a supervisor shall provide transportation for the employee to the collection site.

All persons designated to make a determination that reasonable suspicion exists to require an employee to undergo testing under this provision shall receive at least sixty (60) minutes of training on both alcohol and controlled substance use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Any employee refusing to submit to reasonable suspicion testing or any employee having a positive drug and/or alcohol test will be terminated.

a. Random Testing.

The Baldwin County Commission will conduct random unannounced screening of all designated employees at unannounced times throughout the year. An accredited laboratory will maintain two (2) computerized random testing pools including one DOT pool and one non-DOT pool. There will be no maximum number of samples that any one individual will be required to provide during the testing schedule in either pool.

Employees will be required to report to the designated collection site for testing as soon as possible, but in no case later than two (2) hours following notification. Failure to report for drug/alcohol screening within two (2) hours of notification will be treated as a positive test result.

b. Post-Accident Testing.

Employees are required to immediately notify the Drug Program Coordinator or designee of any accident resulting in injury or damage to any County property or personnel.

Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to an accident shall provide a urine specimen to be tested for the use of controlled substances and/or alcohol as soon as possible after the accident, but in no case later than eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing.

Employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident that results in a fatality. A post-accident test will also be conducted in situations where there is no fatality but the following occurs: (1) an individual requires immediate transport to a medical treatment facility as a result of collision or non-collision; (2) any time one or more vehicles incur disabling damage that prevents any of the vehicles involved from leaving the scene of the occurrence in his or her usual manner in daylight after simple repairs; or (3) with respect to any occurrence in which a vehicle including a mass transit vehicle (rail car, trolley car,

trolley bus or vessel) is removed from operation. In a non-fatal accident as previously described, post-accident testing will be conducted, unless the operator's performance (and any other covered employees whose performance could have contributed to the accident) can be completely discounted as a contributing factor to the accident as determined by the Baldwin County Commission using the best information at the time of the decision. In addition, drug screening and alcohol screening will be required for any driver receiving a citation for any moving violation resulting from an accident.

After notification of any accident, the County will arrange for the employee to be taken as soon as practicable to collection site designated by County. The supervisor or designee will schedule the employee and assure that he or she is tested the same day as the reportable accident, if possible.

If an employee is injured, unconscious or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. A supervisor may elect not to test under these circumstances, but such a decision must be made based upon information received as a result of an investigation of the accident. *Nothing in this document should be construed to require the delay of necessary medical attention for injured people following an accident or prohibit a driver 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.*

Any employee subject to post-accident testing must refrain from consuming alcohol or taking any controlled substance for eight (8) hours following an accident or until he or she submits to an alcohol test, whichever comes first. As stated above, the employee will be tested not to exceed eight (8) hours following an accident for alcohol and not to exceed thirty-two (32) hours post-accident for drug testing. If there is a delay of greater than two (2) hours for an alcohol test, a reason must be given in writing, retained in a file for possible later referral and the employer must still attempt to administer an alcohol test for up to eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing must remain available and follow these guidelines or the County may consider the employee to have refused to submit to testing.

The Commission will discipline or terminate any employee who fails to report an accident or submit to substance screening where required by law or this policy. The Drug Program Coordinator shall ensure that an accident report is filed in compliance with Commission policy and applicable laws and regulations.

12. General Testing Procedures.

The Baldwin County Commission will contract with a properly certified testing laboratory that will ensure that all proper testing procedures are followed in accordance with this Policy and all applicable laws. The following is a list of the general procedures that will be followed for all drug and alcohol testing, regardless of the reason why the test is being performed:

- a. All testing procedures, including collections, will be performed by certified technicians and/or laboratories;

- b. Upon arrival at the collection site, the employee must provide proof of identification. The employee will be required to read and sign the controlled substance testing consent form provided by the County. The signature shall be witnessed by the collector. Acceptable proof of identification shall be a current driver's license, with photo, other form of picture identification or identification by a County representative;
- c. The employee shall complete a drug testing custody and control form;
- d. The Drug Program Coordinator shall notify the employee directly of the results of any positive drug test in order to give the employee an opportunity to challenge the findings. The County may, but shall not be required to, reanalyze the employee's original sample to clarify the findings;
- e. Controlled substance testing must follow split sample procedures. Under this provision, an employee whose urine sample has tested positive for a controlled substance has the option of having the other portion of the split sample tested at another laboratory. The employee must notify the County within seventy-two (72) hours after notification of a positive sample that he or she desires a retest under this provision;
- f. If a split sample test produces a negative result or if the second portion is not available, the test is considered negative, and no sanctions will be imposed; and
- g. All persons who receive information by County regarding drug tests shall maintain this information on a confidential basis.

Both the Baldwin County Commission and the laboratory shall rely, when practical, on the guidance of the Federal Department of Transportation's procedures for transportation workplace drug testing programs.

13. Substances Tested For.

DOT employees will regularly be tested for:

- 8. Marijuana (THC Metabolite);
- 9. Cocaine;
- 10. Amphetamines;
- 11. Opiates (including heroin);
- 12. Phenylephidine (PCP); and
- 13. Alcohol

Non-DOT employees may be tested for other substances without advance notice. DOT employees may also be separately tested for other substances without advance notice by the County for safety purposes. Such tests will be coordinated with the Drug Program Coordinator.

14. Collection Sites.

The Baldwin County Commission will designate a collection site in a reasonably accessible location.

15. Collection Procedures.

Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy. The collector seals and labels the specimen, completes a chain of custody document and prepares the specimen and accompanying paper work for shipment to a drug-testing laboratory. The specimen collection procedures and chain of custody ensures the specimen's security, proper identification and integrity is not compromised.

Split specimen procedures:

- a. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen;
- b. Both bottles are sent to a laboratory;
- c. Only "primary" specimen is opened and used for analysis;
- d. "Split" specimen remains sealed and stored at the laboratory;
- e. If the "primary" specimen confirms the presence of illegal, controlled substances, the employee has seventy-two (72) hours to request in writing the "split" specimen be sent to another DHHS certified laboratory for analysis;
- f. If it is positive for one (1) or more of the drugs, then a continuation test is performed for each drug using state-of-the-art gas chromatography/mass spectrometry ("GC/MS") analysis; and
- g. GC/MS confirmation insures that over-the-counter medications or prescriptions are not reported as positive results.

14. Direct Observation.

Observed collections are required in a number of situations for DOT employees. Any employee subject to a drug test may also be required to undergo observed collection. The purpose of direct observation is to guard against employee attempts to mask the testing process. Observed collections are required in the following circumstances:

- a. All return-to-duty tests;
- b. All follow-up tests;
- c. Anytime the employee is directed to provide another specimen, because the temperature on the original specimen was out of the accepted temperature range of 90 – 100 degrees Fahrenheit;
- d. Anytime the employee is directed to provide another specimen because the original specimen appears to have been tampered with;
- e. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- f. Anytime the employee is directed to provide another specimen, because the laboratory

reported to the MRO that the original specimen was invalid, and the MRO determines that there is not an adequate medical explanation for the result; or

- g. Anytime the employee is directed to provide another specimen, because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

The employee who is being observed will be required to raise his or her shirt, blouse or dress/skirt as appropriate, above the waist, lower clothing and underpants and turn around completely at the direction of the observer in order to show that he or she is not wearing any prosthetic device.

When necessary, a Baldwin County Commission representative or medical personnel may obtain a specimen outside of a designated collection site (such as the emergency room following an accident investigation, etc.).

a. Alcohol Testing Procedures.

All employees are prohibited from possessing, drinking or being impaired or intoxicated by alcohol while at work or on duty. ***In addition, safety-sensitive employees are prohibited from consuming any alcohol four (4) hours prior to going on duty.*** A Blood Alcohol Content (BAC) of 0.04 will be accepted as presumptive evidence of intoxication.

Any employee may be subject to alcohol testing either for reasonable suspicion or post-accident. Safety sensitive employees are also subject to random alcohol testing. Random testing will be conducted just before, during or after the employee has performed a safety-sensitive function. Safety sensitive employees with a BAC of 0.02 will be immediately removed from the safety sensitive duties for a period of at least twenty-four (24) hours.

All alcohol tests will be conducted using evidentiary breath testing devices approved by the National Highway Traffic Safety Administration by a properly trained person. Any result showing greater than a 0.02 BAC will be repeated.

b. Evaluations and Return of Results.

The MRO will be responsible for reviewing the quantified test results of employees and confirming that the individuals testing positive have used drugs in violation of policy. Prior to making a final decision, the MRO shall give the individuals testing positive an opportunity to discuss the result either face to face or over the telephone. If the test result is negative dilute, the MRO may decide that the employee must take another test. If this second test results in a negative dilute result, the test will ordinarily be considered to be a negative and no additional testing will be required unless the MRO so directs.

The MRO shall then promptly tell the Drug Program Coordinator which employees or applicants test positive.

19. Request for Re-Test.

An employee may submit a written request for a retest of the original specimen within seventy-two (72) hours of receipt of the final test results. Requests must be submitted in writing to the Drug Program Coordinator. The employee may be required to pay the associated costs of retest in advance but will be reimbursed if the result of the retest is negative.

20. Release of Test Results.

Except where otherwise specifically required by law, employee drug testing results and records are maintained under strict confidentiality by the Baldwin County Commission, the drug testing laboratory and the Medical Review Officer. They cannot be released to others without the written consent of the employee. Exceptions to this confidentiality are limited to DOT agencies when license or certification actions are required or to the decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test.

However, all employees will be required to execute a consent/release form permitting the Baldwin County Commission to release test results and related information to the Department of Industrial Relations or other relevant government agency. Applicants for safety-sensitive positions will also be required to execute a consent/release form permitting the Baldwin County Commission to review records of previous drug and alcohol testing information.

21. Retention of Records.

All records will be maintained so as to preserve confidentiality and prevent unauthorized persons from accessing, releasing or tampering with records. The following records will be maintained:

- a. Records related to the collection process, including:
 - i. Collection logbooks, if used;
 - ii. Documents relating to the random selection process;
 - iii. Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests;
 - iv. Documents generated in connection with decisions on post-accident drug and alcohol testing; and
 - v. MRO documents verifying existence of a medical explanation of the inability of an employee to provide adequate urine or breath sample.
- b. Records related to test results:
 - i. The employer's copy of the custody and control form;
 - ii. Documents related to the refusal of any employee to submit to a test; and
 - iii. Documents presented by an employee to dispute the result of a test.
- c. Records related to referral and return to duty and follow-up testing, including records of any DOT employee's entry into and completion of the treatment program recommended

by the substance abuse professional.

d. Records related to employee training:

- i. Training materials on drug use awareness and alcohol misuse, including a copy of the employer's policy on prohibited drug use and alcohol misuse;
- ii. Names of employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training;
- iii. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion; and
- iv. Certification that any training conducted under this part complies with the requirements for such training.

e. Copies of any annual MIS reports submitted to FTA.

The following records will be maintained for no less than five (5) years: records of verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, referrals to the substance abuse professional and copies of annual MIS reports submitted to FTA.

The following records will be maintained for no less than two (2) years: records related to the collection process and employee training.

The following records will be maintained for no less than one (1) year: records of negative drug or alcohol test results, with the exception that all post-accident testing records will be maintained for at least three (3) years after an accident.

15. Employee Education and Training.

The Baldwin County Commission will provide written information in drug/alcohol use and treatment resources to safety-sensitive employees. The Baldwin County Commission will provide one (1) hour of training for employees on the dangers of controlled substance use annually. All supervisors of safety-sensitive employees must also attend one (1) hour of training on the signs and symptoms of drug abuse. The training is necessary to assist supervisors in making appropriate determinations for reasonable suspicion testing.

16. Employment Assessment.

Any safety-sensitive employee or applicant who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended or has refused to submit to a drug or alcohol test (except in the case of an applicant) will be referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National

Association of Alcoholism and Drug Abuse Counselors Certification Commission. The SAP will follow the protocols and meet the requirements defined in 49 CFR part 40. All employees and applicants will be given contact information for a USDOT qualified SAP if they test positive.

24. Employee Assistance Programs (EAP).

The County's EAP shall include:

- a. Education and training for employees regarding drugs and alcohol; and
- b. Education and training for supervisors regarding drugs and alcohol, including:
 - i. Effects and consequences of substance use on personal health, safety and work;
 - ii. Manifestations and behavioral causes that may indicate substance use;
 - iii. Documentation of training provided; and
 - iv. A written statement on file and available at the Commission office outlining the EAP.

The Drug Program Coordinator or his designee should be contacted for further guidance.

25. Investigation/Searches.

Where a supervisor has reasonable cause to suspect that an employee has violated the substance abuse policy, he or she may inspect vehicles which an employee brings on the Commission's property, lockers, work areas, desks, purses, briefcases, tool boxes or other belongings and at locations where County related activities are being conducted without prior notice in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. Where the employee is not present or refuses to remove a personal lock, the Drug Program Coordinator will do so for him or her. The Commission may release any illegal or controlled drugs or paraphernalia to appropriate law enforcement authorities.

All searches should be coordinated with the Drug Program Coordinator or his designee.

26. System Contacts.

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following transit system representative:

Designated Baldwin County Commission Representative/Program Manager:

Title: Risk Manager
Address: 322 Courthouse Square, Bay Minette, AL 36507
Telephone Number: (251) 937-0265