

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	September 9, 2014	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/>	Regular
Department:	Palm Tran	<input type="checkbox"/> Ordinance	<input type="checkbox"/>	Public Hearing

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a revised Substance Abuse Policy for Palm Beach County's public transit system and transmit the revised program to the Federal Transit Administration (FTA) for approval as required by change in law.

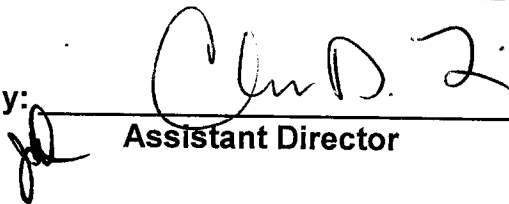
**Summary:** On December 7, 2004, the Board of County Commissioners of Palm Beach County, Florida, approved Palm Tran's Substance Abuse Policy (R2004-2525). The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR (Code of Federal Regulations) Part 655, which mandates urine drug testing and breath alcohol testing, for employees performing safety-sensitive functions. The Policy is being revised to incorporate the revisions to 49 CFR Part 40, specifically, modifications to the standards for the collection and testing of urine and breath specimens. Countywide (DR)

**Background and Justification:** The Code of Federal Regulations prevents performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards for the collection and testing of urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

**Attachments:**

1. Substance Abuse Policy – Summary of Policy Changes
2. Substance Abuse Policy

Recommended By:

  
 Assistant Director

8/15/14  
 Date

Approved By:

  
 Assistant County Administrator

8-27-14  
 Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b>* \$0</b>	_____	_____	_____	_____
<b>No. ADDITIONAL FTE POSITIONS (Cumulative)</b>	<b>0</b>	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.: Fund \_\_\_\_\_ Dep't. \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**  
 \* This Agenda item has no Fiscal impact.

**C. Departmental Fiscal Review:** John Murphy  
 John Murphy, Finance Manager

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

John 8/20/2014  
 OFMB  
 8/19

Dr. J. Jacobson 8/21/14  
 Contract Dev. and Control  
 3-24-13-14

**B. Legal Sufficiency:**

[Signature] 8/22/14  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

## **Palm Tran – Substance Abuse Policy**

The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR (Code of Federal Regulations) Part 655, which mandates urine drug testing and breath alcohol testing, for employees performing safety-sensitive functions. These regulations also prevent performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards for the collection and testing of urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

### **Summary of Policy Changes**

The following changes have been made to Palm Tran's Substance Abuse Policy:

- The list of drugs to be tested for was expanded to include Ecstasy and initial testing for this drug will include:
  - MDMA (Methylenedioxyamphetamine)
  - MDA (Methylenedioxyamphetamine)
  - MDEA (Methylenedioxyethylamphetamine)
- Initial test cutoff levels for cocaine metabolites will change from 300 to 150 ng/mL and the confirmation test cutoff will change from 150 to 100 ng/mL.
- Initial test cutoff levels for amphetamines will change from 1000 to 500 ng/mL, and the confirmation tests for amphetamines and methamphetamines will change from 500 to 250 ng/mL.
- The random drug and alcohol percentage pool will change from 50% to 25% and will be adjusted in accordance with FTA administrator pursuant to 49 CFR 655.45.
- Language has been added to state applicants with a confirmed positive drug test will not have to show proof of a successful Substance Abuse Program (SAP) if the applicant reapplies after being disqualified for one year. The applicant will be referred and advised of resources available associated with prohibited drug and alcohol misuse.
- Language has been added to the Post Accident testing criteria, nonfatal incidents, if an employee can be completely discounted as a contributing factor to the accident this would eliminating the requirement for a test.

- The system contact title changed from Palm Tran Drug/Alcohol Program to Palm Tran's Designated Employer Representative (DER).
- Language has been added to the Access to records section stating the grantee required to certify compliance to a Drug and Alcohol Program can have access to test records without written authorization from the tested individual.
- Language has been added to the Records Maintenance section stating documents for cancelled drug test and alcohol tests of less than 0.02% will be maintained for one year. The calibration of Evidential Breath Testing (EBT) documents will be maintained for two years. Alcohol test results of 0.02% or higher, follow-up tests and return to duty forms will be maintained for five years.
- Language has been expanded under the criteria for Behavior that Constitutes a Test Refusal (Exhibit B) to now include, admitting to the collector or the Medical Review Officer (MRO) that the employee has adulterated or substituted the specimen. In addition, failure to follow the observer's instructions to raise the employees clothing to determine if any prosthetic devices are being used can constitute a test refusal.
- Procedures for Random Test Notification have been updated to reflect the current notification procedure. Whereby the (DER) maintains the selection list and contacts the selected employee's supervisor to schedule a time to perform the test.
- Procedure to Test under Reasonable Suspicion has been changed from requiring two supervisors observing symptoms to only one supervisor deciding based on his/her observations.

# Palm Tran

# Substance Abuse Policy

for

Safety Sensitive Employees

July 2014

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## SUBSTANCE ABUSE POLICY

### 1.0 POLICY

Palm Tran is dedicated to providing safe, dependable, and economical service to its customers. Palm Tran's employees are our most valuable resource. It is our policy (1) to take appropriate action to ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned tasks. To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

**A) Prevention through education and training:**

Education and training will communicate and clarify this policy to all applicable employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.

**B) Detection, deterrence and enforcement:**

All safety-sensitive employees will be subject to pre-employment, reasonable suspicion, post-accident, random, return-to-duty and follow-up, drug and/or alcohol testing. Applicants for safety-sensitive positions will not be hired unless they pass a pre-employment drug test. Depending on the type of test, positive drug or alcohol tests will result in a referral to a Substance Abuse Professional (SAP) and a return-to-duty test or termination.

**C) Treatment and opportunities for rehabilitation:**

Alcohol and drug abuse are recognized as diseases that can be treated. Palm Tran promotes a voluntary rehabilitation program to encourage employees to seek professional assistance prior to testing positive for drugs or alcohol, without fear of discipline.

This Policy has been reviewed and approved by the Executive Director of Palm Tran, Inc.

\_\_\_\_\_  
Robert Weisman, County Administrator  
Palm Beach County

\_\_\_\_\_  
Date

\_\_\_\_\_  
Priscilla A. Taylor, Mayor  
Palm Beach County Board of County Commissioners

\_\_\_\_\_  
Date

## **2.0 PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and Prohibited Drugs (as defined below). This policy is also 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 has adopted 49 CFR (Code of Federal Regulations) Part 655, which mandates urine drug testing and breath alcohol testing, for employees performing safety-sensitive functions. These regulations also prevent performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards for the collection and testing of urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

In addition, DOT has published 49 CFR Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

If any provision of an existing Palm Tran policy, rule or resolution is inconsistent or in conflict with any provision of this policy or the DOT/FTA Regulations, this policy and the FTA Regulations shall take precedence; if any provision of this policy is inconsistent or in conflict with the FTA Regulations, the FTA Regulations shall take precedence.

Palm Tran 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 the FTA rules to receive such information.

## **3.0 APPLICABILITY**

### **3.1 Safety-Sensitive Employees:**

This policy applies to all safety-sensitive Palm Tran employees only, including paid part time employees who perform or could be called upon to perform any safety-sensitive function. In the case of alcohol testing, "performing a safety-sensitive function" includes any period in which the employee is actually performing, ready to perform or immediately performed a safety-sensitive function. For both drug and alcohol testing, this policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Participation in Palm Tran's drug and alcohol testing program is a requirement of each safety-sensitive employee, and therefore, is a condition of employment.

A safety-sensitive function is any of the following duties:

- 1) Operating a revenue service vehicle, whether or not in revenue service;
- 2) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- 3) Controlling dispatch or movement of a revenue service vehicle;



- 4) Maintaining a revenue service vehicle or equipment used in revenue service; or

The following is a list of Safety-Sensitive Functions at Palm Tran:

- 1) All employees with a commercial drivers license that will operate a revenue service, or non-revenue service vehicle;
- 2) All dispatch personnel and supervisors who control the movement of any revenue service vehicle;
- 3) All Maintenance personnel who perform various repairs to revenue vehicles and those who directly supervise them or;
- 4) All Trainers, who will operate a revenue service or non-revenue service vehicle.
- 5) All Service Coordinators and direct supervisors of Service Coordinators who transport passengers in a revenue service or non-revenue service vehicle.

### **3.2 Other Palm Tran Employees; Contractors:**

Contractors who perform safety-sensitive duties for Palm Tran will also be subject to the same requirements as safety-sensitive Palm Tran employees. Palm Tran does not utilize volunteers that are safety sensitive. Under Palm Tran authority, all non-safety-sensitive employees will be subject to Palm Beach County's, *Controlled Substances Use and Testing Policy for Palm Tran* (PPM # PT-P-060).

## **4.0 OPPORTUNITIES FOR REHABILITATION**

To promote a drug and alcohol free workplace, this policy includes the option of voluntary rehabilitation.

### **4.1 Voluntary Rehabilitation:**

An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or is not involved in a disciplinary proceeding, may voluntarily refer her or himself to the Senior Management of Palm Tran, who will refer the individual to the company's Substance Abuse Professional (SAP) for treatment and evaluation. Voluntary self-referral commits the employee to a therapeutic process. Confidentiality, job security and promotional opportunities will be protected and no disciplinary action will be taken. The SAP will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Please note: Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the transit system. This policy document should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

### **4.2 Rehabilitation After a Positive Random Alcohol or Drug Test:**

When an employee tests positive for drugs or alcohol, the employee will be referred to the Substance Abuse Professional (SAP) for evaluation at the Palm Beach County's Occupational Health Clinic.

## **5.0 PROHIBITED SUBSTANCES:**

"Prohibited substances" addressed by this policy include the following:

### **5.1 Prohibited Drugs:**

FTA regulations specifically prohibit the use of the following illegal, prohibited substances and require testing for their presence under certain circumstances: Marijuana, Amphetamines (Including MDMA-Ecstasy), Opiates, Phencyclidine (PCP) and Cocaine. Safety-sensitive employees may be tested for Prohibited substances at any time while on duty. The use and ingestion of illegal drugs is prohibited at all times and employees can be tested for drugs anytime while on duty. Under Palm Tran authority, while on property, employees will not manufacture, distribute, dispense, possess or use controlled substances.

### **5.2 Alcohol:**

The consumption of beverages containing alcohol, or substances including any medication such that alcohol is present in the body while performing transit business, are prohibited. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.)

### **5.3 Legal Drugs:**

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. The prescription or approval must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, under Palm Tran authority, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to Palm Beach County's Occupational Health Clinic. Medical advice should be sought, as appropriate, before performing work-related duties and employees shall share a description of their job duties to their physician. The misuse of legal drugs while performing transit business is prohibited.

## **6.0 PROHIBITED CONDUCT**

### **6.1 Relieved From Duty:**

Any safety-sensitive employee who is reasonably suspected of using a Prohibited Drug, or not fit for duty, shall be relieved from his or her safety-sensitive job duties pending an investigation and verification of condition. Any safety-sensitive employee who fails to pass a drug or alcohol test shall be referred to the SAP.

## **6.2 Alcohol Use/Hours of Compliance:**

No safety-sensitive employee should report for duty or remain on duty when his or her ability to perform assigned functions is adversely affected by alcohol or when his or her blood alcohol concentration is 0.02% or greater. No employee shall use alcohol while on duty or while performing safety-sensitive functions, or just before duty or just after duty. No employee shall have used alcohol within four (4) hours of reporting for duty. No safety-sensitive employee shall use alcohol during the hours that they are on call. After an accident (see Section 7.2C.iii), employees shall refrain from alcohol use for eight (8) hours or until an alcohol test has been administered, or whichever comes first. An alcohol test may only be conducted just before, during, and just after performing a safety-sensitive function.

## **6.3 Compliance with Testing Requirements:**

An employee must follow the instructions and directions of all Palm Tran supervisors and medical personnel involved in the testing process. Any safety-sensitive employee who refuses to comply with a request for testing, who fails to remain readily available for post-accident testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, or fails to report to a collection site facility upon notification in a timely manner or fails to sign a chain of custody form, will result in a diagnosis of a positive test result, be referred to a SAP, removed from duty, without pay, and provided with a pre-termination hearing prior to termination.

Blatant tampering or adulteration of any test will result in the employee undergoing an observed collection. Failure to permit monitoring or observation collection is a refusal to test. Any safety-sensitive employee who refuses a test as defined in Exhibit B will result in a diagnosis of a positive test result, be referred to a SAP, removed from duty, without pay, and provided with a pre-termination hearing prior to termination. Verification of falsifying test results will result in a pre-termination hearing prior to termination.

## **6.4 Compliance with Treatment Requirements:**

All employees are encouraged to make use of the available resources for treatment for alcohol and substance abuse problems. Any employee who tests positive for drugs and/or alcohol and qualifies to enter into a "Last Chance Agreement" contract, and violates the agreement will be provided a pre-termination hearing prior to termination.

## **6.5 Improper Application of the Policy:**

Palm Tran is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor and/or 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 discipline up to and including termination.

## **7.0 TESTING FOR PROHIBITED SUBSTANCES**

### **7.1 Procedures for Testing:**

#### **A) General**

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and

using techniques, equipment, and laboratory facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). Testing for prohibited drugs and alcohol on safety-sensitive employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40. See attached Testing Procedures for detailed procedures on all required types of drug and alcohol testing.

**B) Testing for Prohibited Drugs**

Palm Tran shall have collected urine samples from safety-sensitive employees to test for Prohibited Drugs. An assigned Collection agency will split each urine sample collected into a primary and a split sample (see testing procedures). The urine samples will be sent under seal, with required chain of custody forms, to a laboratory approved by the DHHS. At the laboratory, specimens are placed in a secure storage. An initial drug screen will be conducted on each *primary* specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GS/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as set forth in the attached Exhibit A, threshold levels of testing. If the result of the test of the primary specimen is positive, the split sample will be retained in frozen storage for at least for at least 60 days from the date the laboratory receives it. The laboratory will retain all positive specimens in frozen storage, for at least one year.

**C) Alcohol Testing**

A trained Breath Alcohol Technician (BAT) will conduct tests for alcohol concentration on safety-sensitive employees with a National Highway Traffic Safety Administration (NHTSA) approved evidential breath-testing device (EBT) operated. In order to maintain quality assurance, EBT's must be externally calibrated in accordance with the plan developed by the manufacturer of the device. The EBT will identify each test by a unique sequential identification number. If the initial test on an employee indicates an alcohol concentration of 0.02% or greater, a second test will be performed to confirm the results of the initial test. For summary of applicable alcohol threshold levels, see Exhibit A.

**D) Cancelled Test**

A cancelled test is neither a positive nor a negative test. For purposes of this part, a sample that has been rejected for testing by a laboratory is treated the same as a cancelled test. Also, if the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is inadequate for testing or un-testable, the Medical Review Officer (MRO) shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.

**E) Refusal to Test**

A refusal means that an employee fails to provide a drug or alcohol-testing sample as required by this policy without a valid medical explanation from a doctor chosen by Palm Tran, or engages in conduct that obstructs the testing process. Refusals include and are defined in Exhibit B. A refusal constitutes a violation of policy and Palm Tran's policy and procedures in this policy will be enforced. Any Palm Tran safety-sensitive employee who refuses to be tested, as defined by the FTA in Exhibit B, will result in a diagnosis of a positive test result, will be removed from duty, without pay, be referred to a SAP, and provided with a pre-termination hearing prior to termination.

**F) Specimen Validity Testing**

Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**G) Medical Review Officer (MRO)**

All drug testing results shall be interpreted and evaluated by an MRO, who shall be a licensed physician or Doctor of Osteopathy, responsible for receiving laboratory results generated by an employer's drug testing program and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result. The MRO should have a detailed knowledge of substance abuse disorders and drug testing. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO will not review alcohol test results. When a confirmed positive test is reported from the testing laboratory, it is the responsibility of the MRO to: (a) review the individual's medical history, including any medical records and biomedical information provided; (b) contact the employee and afford the employee the opportunity to discuss the test results with him/her; (c) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication.

The MRO shall not convey test results to Palm Tran until the MRO has made a definite decision that the test result was positive or negative. If the employee provides an adequate explanation, the MRO verifies the test as negative and no further action is taken.

If the MRO reports a dilute negative to Palm Tran, the employee will be immediately directed to take a non-observed retest. Palm Tran will absorb the cost of this retest.

When the MRO reports the results of the verified positive test to Palm Tran, the MRO may disclose the drug(s) for which there was a positive test. Palm Tran currently contracts for an MRO through WTC, Inc:

Contractor: Dr. Stephen Kracht  
Address: C/O WTC, Inc.  
7500 W. 110<sup>th</sup>. St., Ste 500  
Overland Park, KS 66225  
Telephone #: 1-888-382-2281

**7.2 Types of Testing:**

49 CFR Part 655 requires the following types of testing for Prohibited Substances for safety-sensitive employees: Pre-employment or transfer, reasonable suspicion, post-accident, random, return-to-duty, and follow-up testing.

**A) Pre-employment or Transfer Testing**

All applicants for safety-sensitive positions shall undergo urine drug test prior to employment. Receipt by Palm Tran of verified negative test results is required prior to employment. If an applicant drug test is canceled, Palm Tran shall require the applicant to take another pre-employment drug test prior to performing any safety-sensitive function. Employees who are

being considered for transfer to safety-sensitive positions from non-safety sensitive positions will be required to undergo a drug test.

An applicant with a confirmed positive drug test as certified by the MRO will be disqualified from being hired for one year with Palm Tran. The applicant will be referred and advised of resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse as per 49 CFR 655.62. An employee with a confirmed positive drug test as certified by the MRO will be disqualified from transfer for one year with Palm Tran. Employees who have previously failed or refused a pre-employment drug test must show proof of a successful SAP referral, evaluation, and treatment as per Part 655.62. A pre-employment/transfer test will also be performed any time an employee's status changes from an inactive status in a safety-sensitive position to an active status in a safety-sensitive position (i.e., return from work comp, return from a leave of absence). This type of pre-employment testing shall only be conducted under FTA authority when (1) a safety-sensitive employee has not performed safety-sensitive duties for 90 or more days, and (2) that employee was removed from the random pool during that time.

**i.) Previous DOT Employer Record Check**

Each applicant or transferred employee who is offered contingent employment for safety-sensitive positions must complete a written consent that allows their previous employers to release drug and alcohol testing information to Palm Tran. If the applicant/transferee refuses to provide this written consent, an offer of employment cannot be made. Palm Tran will ask all applicants/transferees whether he/she has tested positive, or refused to test within the past two (2) years on any DOT pre-employment drug or alcohol test administered by a DOT-covered employer for which they did not get the job.

This consent along with a request for information will be sent to each of the DOT-regulated employers who have employed the applicant/transferee for any period during the two (2) years before the date of the individual's application or transfer. The following information will be obtained; alcohol test results of 0.04% alcohol concentration or greater, verified positive drug tests, refusals to test, other violations of DOT rules and as appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow-up tests. If possible, this information will be obtained and reviewed before the employee is employed. If this is not possible, a good faith effort to obtain the information must be made. All information received and documentation of good faith efforts will be kept as a confidential record and maintained for a minimum of three (3) years.

If information obtained from a previous employer includes any drug or alcohol test information that indicates a non-negative test result or violation of the DOT regulations, the employee cannot perform safety-sensitive duties until Palm Tran has obtained documentation that the employee has complied with the return-to-duty requirements including a SAP assessment, successful treatment, negative return-to-duty test, and negative follow-up tests.

**B) Reasonable Suspicion Testing**

All safety-sensitive employees shall be subject to reasonable suspicion testing, to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with short-term effects of substance abuse or alcohol misuse. Reasonable suspicion tests for the presence of

alcohol shall be triggered by observations made just prior, during or immediately after performance of a safety-sensitive function.

Reasonable suspicion determination will be made by a supervisor who is trained to detect and document the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his or her work performance due to prohibited substance abuse or alcohol misuse. Trained supervisors will observe and document the appearance, behavior, speech, or body odors of the covered employee using the *Reasonable Suspicion Test Determination* form.

C) **Post-Accident Testing**

i.) **Fatal Accidents**

All surviving safety-sensitive employees shall be required to undergo urine and breath alcohol testing if they are involved in an accident with a revenue service vehicle (whether or not the vehicle is in revenue service) that results in a fatality. This includes safety-sensitive employees who are operating the vehicle and any other safety-sensitive employee whose performance could have contributed to the accident, as determined by Palm Tran Management.

ii) **Nonfatal incidents**

In nonfatal accidents, testing shall be required of safety-sensitive employees operating the vehicle and any other safety-sensitive employee whose performance could have contributed to the accident if an accident results in injuries requiring immediate transportation to a medical treatment facility or one or more vehicles incurs disabling damage. However, no test shall be required if Palm Tran Management determines that the employee can be completely discounted as a contributing factor to the accident, based on the best available information available at the time of accident as per 655.44(2)(i).

iii) **Procedure**

Following an accident, all safety-sensitive employees subject to testing shall remain readily available for testing. The applicable supervisor will use the *Post-Accident Drug/Alcohol Test Determination* form. An employee who fails to remain readily available, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submitting for testing, may be deemed to have refused to submit to testing. The drug test shall occur as soon as possible but not later than thirty-two (32) hours after the accident. If an alcohol test is not administered within two (2) hours of the accident, the employer must still attempt to administer the test, and must also prepare and maintain on file a record stating the reason(s) the test was not promptly administered. If an alcohol test is not administered within eight (8) hours of the accident no test shall be given and documentation must be made to the file stating the reason why the test was not conducted. Nothing in this section shall delay medical attention for the injured following an accident or prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care when appropriate approval is given.

If an FTA drug and alcohol test is unable to be performed (i.e., employee is unconscious, employee is detained by law enforcement agency, etc.), Palm Tran may use drug and

alcohol post-accident test results administered by State and local law enforcement officials. The State and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with State and local law.

**D) Random Testing**

Employees performing safety-sensitive functions will be subject to unannounced, random drug and alcohol testing in accordance with FTA regulations. Each such employee shall be in a pool from which currently 25% random selection is made for drug testing and 10% for alcohol testing; however, such percentages will be adjusted in accordance with the decision of the FTA's administrator pursuant to 49 CFR 655.45. Each such employee shall have an equal chance at selection and shall remain in the pool even after being tested. The basis for random selection shall be by a scientifically valid random number generation method initiated by computer. The dates for administering unannounced testing of randomly selected covered employees shall be spread reasonably throughout the calendar year and during randomly spread throughout all hours of service. This ensures that employees would have a reasonable expectation that they might be called for a test on any day they are at work. Employees are required to proceed immediately to the collection site upon notification of their random selection.

**E) Return-to-Duty Testing/Follow-up Testing**

Any safety-sensitive employee who has failed a drug test, refused to test or tested in excess of .04% on an alcohol test must be evaluated and released by a SAP before returning to work in a safety-sensitive function, pass a return-to-duty drug or alcohol test and enter into Palm Tran's "Last Chance Agreement" contract. Once allowed to return-to-duty, an employee shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be determined by the SAP, with a minimum of six tests performed during the first 12 months. The SAP may recommend follow-up testing of the employee beyond the 12-month requirement but must not exceed 60 months from the time the employee returns to duty.

The SAP will document his/her recommendations in a written follow-up testing plan, without actual test dates, that Palm Tran will follow. Follow-up testing will be separate from and in addition to the regular random testing program and the employee will remain in the standard random pool and tested whenever they are selected. The SAP's recommendations are non-negotiable, only the SAP may modify evaluation based on new or additional information and the employer may not impose additional testing requirements beyond the SAP's testing plan. Palm Tran is aware that the follow-up testing plan follows the employee to subsequent DOT employers, and/or through breaks in service. The SAP will notify Palm Tran when the employee has completed the entirety of the education and treatment program.

**F) Employee-Requested Drug Re-Testing**

Any safety-sensitive employee who questions the results of a required drug test under Sections 7.2A through 7.2E of this policy may, within 72 hours of having been notified of a verified positive test, request that the split-sample test be conducted. This test must be conducted at a different DHHS-certified laboratory for analysis as soon as possible. The employee is not required to pay for the test before the test takes place. However, Palm Tran will seek reimbursement for the cost of the test once the test has been performed. This can be set up by payroll deduction.



Each urine sample is to be a minimum of 45ml. The sample is to be split at the time of collection into 30ml. for the primary test and 15ml. for a re-test if the primary sample tests positive. The test must be conducted on the split sample that was provided at the same time as the original sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. The employee's request for a re-test must be made to the MRO within 72 hours of notice of the initial test result. Requests after 72 hours will only be

accepted if the delay was due to documentable facts that were beyond the control of the employee.

If the analysis of the split sample fails to confirm the presence of the drug(s) detected in the primary specimen, or if the split specimen is unavailable, inadequate for testing or un-testable, the MRO will cancel the test and report the cancellation and the reasons for it to DOT, the employer and the employee. See Section 7.1 for Procedures for Testing.

### **7.3 Consequences of Positive Test Result:**

This section describes actions that will be taken under Palm Tran, not FTA Authority.

#### **A) Positive Post-Accident Test**

Any safety-sensitive employee who is tested under post-accident and tests positive for drugs as confirmed by the MRO or who has a confirmed alcohol concentration of 0.04% or greater will be removed from duty, without pay, referred to a SAP and terminated following a pre-termination hearing, unless it can be clearly established; (1) that the actions of the safety sensitive employee involved in the accident were only incidental to and did not have a meaningful bearing to the accident, and (2) that the accident involved a series of unique circumstances that limited the opportunity of the safety sensitive employee to avoid involvement; then employee will be treated under the Substance Abuse Policy identical to a positive random test (see D below). This determination will be the sole discretion of the Hearing Officer at the pre-termination hearing.

#### **B) Second Positive Test**

Any safety-sensitive employee who previously tested positive and has entered into a "Last Chance Agreement" contract with Palm Tran, tests positive for the same controlled substance at any future date while employed, will be removed from duty, without pay, referred to a SAP and provided with a pre-termination hearing prior to termination.

#### **C) Positive Reasonable Suspicion or Random Alcohol Test**

i) A safety-sensitive employee who has a confirmed reasonable suspicion or random alcohol concentration of greater than 0.02% but less than 0.04% will be removed from his or her duties for a minimum of eight (8) hours unless a re-test results in a concentration measure of less than 0.02%. Palm Tran will remove the employee from duty, \*without pay and under Palm Tran authority will be referred to the EAP counselor for evaluation and treatment.

ii) An alcohol concentration of 0.04% or greater will be considered a positive alcohol test. The randomly tested employee will be immediately removed from duty, \*without pay and referred to the SAP for evaluation and treatment.

**D) Positive Reasonable Suspicion or Random Drug Test**

Any safety-sensitive employee who under reasonable suspicion or random testing tests positive for drugs as confirmed by the MRO will be immediately removed from duty, \*without pay, and referred to a SAP for evaluation and treatment.

\*Employees who test positive during a reasonable suspicion or random test will be permitted to use accrued annual leave during their absence.

**8.0 SUBSTANCE ABUSE PROFESSIONAL (SAP):**

The SAP can be (1) 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 (2) an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission.

The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse, as well as to determine whether or not the employee has successfully completed a rehabilitation program. Palm Tran utilizes the following for the Substance Abuse Professional:

Center Name: Palm Beach County Occupational Health Clinic  
Address: 160 Australian Avenue  
West Palm Beach, FL 33406  
Telephone #: 561-233-5450

**9.0 TRAINING AND EDUCATION:**

All safety-sensitive employees shall participate in a minimum one (1) hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety and the work environment. The training will also include manifestations and behavioral cues that may indicate prohibited drug use.

For those supervisors participating in reasonable suspicion testing determinations, there will be at least two (2) hours of training to explain the criteria for reasonable cause testing, including one (1) hour on the physical, behavioral and performance indicators of probable drug use and another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Initial training sessions will be reinforced with educational materials and meetings.

**10.0 RECORDS; CONFIDENTIALITY:**

**A) Access to Records**

A safety-sensitive employee is entitled, upon written request, to review and obtain copies of their own records relating to the employee's drug and alcohol testing and to provide information to dispute the results. However, Palm Tran shall not release the results of individual drug or alcohol tests to anyone other than the employee without express written authorization of the tested individual. The only exceptions are as follows:

- i) Pursuant to a lawful court order or other law requiring disclosure;
- ii) In connection with Palm Tran disciplinary, grievance, arbitration or other legal proceeding initiated by or on behalf of the individual and arising from a certified positive drug or alcohol test or from Palm Tran's determination that the employee engaged in conduct prohibited under the FTA rules.
- iii) To the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees or to a State oversight agency or the grantee required to certify compliance to a Drug and Alcohol Program
- iv) When requested by the National Transportation Safety Board as part of an accident investigation, Palm Tran shall disclose information related to its administration of a post-accident drug or alcohol test administered following the accident under investigation.
- v) To a subsequent employer upon receipt of a written request from the employee.

Palm Tran affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. In addition, if at any time, the integrity of the testing procedures or the validity of the test results is compromised, the test will be cancelled.

**B) Records Maintenance**

Palm Tran must maintain records of its substance abuse program in a secure location with controlled access. Records must be maintained, at a minimum, as follows: (a) results of negative tests, cancelled drug test results, alcohol tests of less than 0.02 - one year; (b) records of training, calibration of EBTs - two years; (c) records of verified positive drug test results, documentation of refusals, alcohol test results of 0.02 or higher, referrals to SAP, follow-up tests, return to duty, reports to FTA - five years; (d) previous DOT employer record check - three years.

**11.0 SYSTEM CONTACT:**

Any questions regarding this policy or any other aspect of Palm Tran's Substance Abuse Management Program should be directed to the office of the following:

Contact: Palm Tran's Designated Employer Representative (DER)  
 Address: 3201 Electronics Way  
 West Palm Beach, FL 33407  
 Telephone #: 561-841-4200

**11.1 Local Authority:**

Palm Tran's DAPC is authorized to receive test information from the MRO, as well as, confirmation test results from the Certified B.A.T.

**12.0 REVISIONS TO THE POLICY AND PROGRAM:**

This policy and program is subject to revision.

**EXHIBIT A**

Pursuant to the Federal Department of Transportation regulations, the following are the drugs to be tested for, and the threshold levels of each test, which Palm Tran is required to accept:

Drug or Metabolite	Urine Initial Test Cutoff (ng/ml)*	Confirmatory (GC/MS) Test Cutoff (ng/ml)*
1. Marijuana metabolites THCA <sup>1</sup>	50	15
2. Cocaine metabolites	150	100
3. Opiates metabolites Codeine/Morphine <sup>2</sup>	2,000	2,000
4. Acetylmorphine	10	10
5. Amphetamines <sup>3</sup> AMP/MAMP <sup>4</sup> Amphetamine, Methamphetamine <sup>5</sup> MDMA-Ecstasy <sup>6</sup> MDA <sup>7</sup> MDEA <sup>8</sup>	500	250
6. Phencyclidine (PCP)	25 ng	25 ng

**ALCOHOL**

(Includes ethanol, methanol, isopropanol)

**Breath Alcohol Concentration**

(Expressed in terms of grams of alcohol per 210 liters of breath)

Initial Screen

Under 0.02

Confirmatory

(Given if 0.02 or greater on initial screen)

0.02 to less than .04 employee may not perform safety-sensitive function.

<sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>2</sup> Morphine is the target analyte for codeine/morphine testing.

<sup>3</sup> Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff

<sup>4</sup> Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

<sup>5</sup> To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/ml.

<sup>6</sup> Methylenedioxymethamphetamine (MDMA).

<sup>7</sup> Methylenedioxyamphetamine (MDA).

<sup>8</sup> Methylenedioxyethylamphetamine (MDEA).

**EXHIBIT B**

Pursuant to the Federal Department of Transportation regulations, the following are the behaviors that constitute a refusal to test which Palm Tran is required to accept for; Random, Reasonable Suspicion, Post-Accident, Return-to-Duty, and Follow-Up testing.

If an employee refuses a test for any of the following reasons, under Palm Tran authority, the employee will be removed from duty, without pay, and provided with a pre-termination hearing prior to termination.

<b>Behavior That Constitutes a Test Refusal</b>	<b>Drug Test</b>	<b>Alcohol Test</b>
Failure to appear for a test in the time frame specified by Palm Tran, except for pre-employment tests.	X	X
Failure to remain at the testing site until the testing process is complete.	X	X
Failure to provide a urine and/or breath specimen, as applicable.	X	X
Failure to provide a sufficient volume of urine or breath without a valid medical explanation for the failure.	X	X
Failure to undergo a medical examination to verify insufficient volume as required by the MRO or DER.	X	X
Failure to cooperate with any part of the testing process.	X	X
Failure to permit the observation or monitoring of specimen donation when so required.	X	
Failure to take a second test required by the employer or collector.	X	
A drug test result that is verified by the MRO as adulterated or substituted.	X	
Failure to sign the certification on Step 2 of the Alcohol Test Form		X
For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.	X	
Possess or wear a prosthetic or other device that could be used to interfere with the collection process.	X	
Admit to the collector or MRO that you adulterated or substituted the specimen.	X	

**Palm Tran**

**SUBSTANCE ABUSE PROGRAM**

**TESTING PROCEDURES**

## RANDOM TESTING PROCEDURES

The FTA regulations require random testing for prohibited drugs and alcohol for all safety-sensitive employees. Random testing identifies who is using drugs or misusing alcohol but is able to use the predictability of other testing methods to escape detection. More importantly, it is widely believed that random testing serves as a strong deterrent against employees beginning or continuing prohibited drug use and misuse of alcohol. Palm Tran has developed procedures for notification and collection to best implement the requirements of the federal regulations.

These procedures answer common questions regarding random testing: *Who is tested? Why are only some individuals tested? When and how do the tests occur?*

1. Random drug and alcohol testing applies only to safety-sensitive employees. All safety-sensitive employees will be included in a selection pool.
2. Random drug and alcohol testing is accomplished by a scientifically valid, tamper-proof, computer-generated selection process. A random list of employee names will be generated every month.
3. Employees are chosen in an unannounced, unpredictable manner. No employee will be removed from the random pool following selection, and every employee will continue to be subject to selection throughout the year. Every employee in the random pool has an equal chance of being selected every time. Employees are only removed from the random pool when they are on an approved leave of absence or permanently transferred to a non safety-sensitive position.
4. Random testing will be conducted on all shifts, all times of day, and all days of the week throughout the calendar year. No shift is exempt from testing.
5. A minimum of twenty-five percent (25%) or such percent designated by the FTA administrator as per 49 CFR 655.45 of the eligible safety-sensitive employees in the random pool will be tested for prohibited drugs and a minimum ten percent (10%) for alcohol each calendar year.
6. Random drug testing may be conducted concurrently with random alcohol testing or at any time during an employee's shift. Random alcohol testing will be conducted just before the employee is scheduled to perform a safety-sensitive function, while the employee is performing safety-sensitive duties or just after the employee performs a safety-sensitive function. The employee must proceed to the test site immediately after being notified that he or she has been selected for testing. Failure to report after notification constitutes a refusal to test and the employee will be provided a pre-termination hearing prior to termination. (See Exhibit B)
7. Employees will be notified where to report for collection, when to stop work and report to the collection site and who they must contact, if necessary.
8. All employees are provided with a Palm Tran "Drug/Alcohol Test Order Form", indicating the collection site and the type of test to be performed.

9. The employee must submit to the drug and/or alcohol test, and sign all necessary forms. Failure to cooperate with the collection procedure in any way constitutes a refusal to test and the employee will be provided a pre-termination hearing prior to termination. (See Exhibit B)
10. The employee is in a paid status throughout the random testing procedure. Employees will be removed from duty if the results are positive.
11. If both alcohol and drug tests are being given, the breath alcohol test will be performed first if possible. Immediately thereafter, the urine sample will be collected for the drug test.
12. If there is a confirmed breath alcohol test of equal to and greater than 0.02% but less than 0.04%, the employee will be relieved from duty immediately, \*without pay, for a minimum of eight (8) hours and referred to the SAP for evaluation and treatment.
13. If there is a confirmed positive breath alcohol test (0.04% or above) and/or confirmed positive drug test, the employee will be relieved from duty immediately, \*without pay, and referred to the Substance Abuse Professional (SAP) for an evaluation and treatment.
14. Employees who test positive for drugs or alcohol will be disciplined in accordance with current policies and practices.

\*Employees who test positive during a random test will be permitted to use accrued annual leave during their absence.



## **PROCEDURES FOR RANDOM TEST NOTIFICATION**

1. The Designated Employer Representative (DER) uses a spreadsheet to list the employee's name, position, shift, division and location in which each safety-sensitive employee works.
2. Once the employee is selected for random testing, the DER will contact the supervisor in charge of the employee's position, who will then review his/her work schedule, including planned absences when known, to develop the best available time to perform the tests. If an employee provides in advance a verifiable notice of scheduled medical or child-care commitments, they will be precluded from testing no later than three hours before the shift ends.
3. The employee's direct supervisor will notify the safety-sensitive employee that they have been selected. The employee who is selected is to report to the test site immediately.
4. The employee cannot "go off sick" or on vacation or leave after notification.
5. Collection personnel shall report "no shows" to Palm Tran management.
6. An employee who fails to report for testing shall be provided a pre-termination hearing prior to termination for refusing to test. (See Exhibit B)

## **RANDOM COLLECTION PROCEDURES**

1. An employee will be notified that she/he has been selected for random testing for drugs and/or for alcohol by their supervisor. The employee will be given a copy of the "Drug/Alcohol Order Test Form" to take to the collection site.
2. The employee must report to the collection site immediately after notification.
3. The employee shall provide photo identification to collection site personnel. Supervisors will verify the identification of an employee without photo identification if necessary.
4. The employee must comply with all collection procedures including correctly completing all required federal urine and breath forms. Refusal to sign constitutes a refusal and the employee will be provided a pre-termination hearing prior to termination. (See Exhibit B)
5. The employee must follow the directions of the collection staff to ensure that an unadulterated urine specimen is collected and the breath alcohol test is completed.
6. The employee will be in a private enclosure and unobserved unless there is reason to believe that the individual has altered or substituted the specimen.
7. The employee must supply at least 45 ml of urine (approx. 1 ½ oz). If the employee is unable to give a sufficient urine sample, collection site staff shall provide the individual with no more than 40 oz's of liquid to drink during a period of up to three (3) hours. The employee will then attempt to provide a complete sample using a fresh container. If the required amount is provided, the original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer shall refer the individual for a medical evaluation to determine whether the individual's inability to provide a specimen is genuine or constitutes a refusal to submit to a drug test, which will result in the employee being provided with a pre-termination hearing prior to termination. (See Exhibit B)
8. If the employee fails to provide an adequate amount of breath for the breath alcohol test, a second attempt will be made. Failure to produce a sample, the Breath Alcohol Technician (BAT) shall so note in the "Remarks" section of the breath alcohol testing form and immediately inform the employer. The employer will instruct the employee to obtain, as soon as possible after the attempted provision of breath, an evaluation from a licensed physician who Palm Tran chooses concerning the employee's medical inability to provide an adequate amount of breath.
9. Whenever there is reason to believe that a particular individual has altered or substituted the urine specimen, a second specimen shall be obtained as soon as possible under direct observation of an authorized same gender person. Reasons include: temperature of the specimen out of normal range, bluing agent in the specimen, or suspicious behavior. This behavior is grounds for termination.
10. The 45 ml sample will be split into two parts: one 30 ml *primary* sample, and one 15 ml *split* sample. The specimen will be poured, sealed and labeled in the presence of the employee.
11. To ensure that the test results are attributed to the correct covered employee; both specimen bottles must be sealed and labeled in the presence of the donor. The labels must be printed

with the same specimen identification number as the custody control form and are attached to the specimen bottles. The donor initials the labels verifying that the specimen is his or hers.

12. If the primary specimen is positive, the employee will have seventy-two (72) hours after notification by the MRO to request that the split specimen be tested.
13. If the test is reported as a positive drug test, but dilute, the test is treated as a verified positive drug test. If the test is reported as a negative drug test, but dilute, Palm Tran will direct the employee to perform another drug test immediately. Such recollections will not be collected under direct observation, unless there is another basis or if directed by the MRO. The result of the second collection will be the result of record, even if it is dilute, unless directed by the MRO.
14. Not all employees receive both tests since the testing rate for drugs is different than the testing rate for alcohol. As part of the random selection process, the computer will select employees for drug testing and then another selection process for alcohol testing. If both tests are being given, the breath alcohol test will be performed first if possible. Followed by the collection of the urine sample for the drug test.
15. If the breath alcohol screening is equal to 0.02% or greater, the breath alcohol technician will wait at least 15 minutes and a maximum of 30 minutes, then administer the confirmation test. If the second test is positive, it is considered a confirmed positive result.

## REASONABLE SUSPICION TESTING PROCEDURES

The FTA regulations also require a safety-sensitive employee to submit to a test when the employer has a reasonable suspicion that the employee has used a prohibited drug or has misused alcohol as defined in the regulations. The request to undergo a reasonable suspicion test must be based on specific, articulate contemporaneous observations concerning appearance, behavior, speech, or body odor of the safety-sensitive employee.

1. Applicable supervisors, trainers and managers receive training in order to identify behaviors that might be indicators of drug use and/or alcohol misuse. Training includes the procedures for how to deal with employees suspected of drug use and/or alcohol misuse.
2. If a supervisor observes behavior that might be indicative of drug use and/or alcohol misuse, Palm Tran prefers that the supervisor directs the employee to stop work and escorts the employee to an area to be questioned and observed in private.
3. The supervisor will complete Palm Tran's *Reasonable Suspicion Determination form*. The supervisor must ensure that the employee does not continue to operate in a safety-sensitive job after being identified for reasonable suspicion testing. If reasonable suspicion testing follows a qualifying accident, post-accident forms must also be completed.
4. If there is a decision to test based on observable symptoms, the employee is ordered to submit to a drug and/or alcohol test and is taken to the collection site. Collections of samples will follow #2-15 of random collection procedures outlined in this manual.
5. The employee is on paid status until the test collection is completed. Palm Tran requires that the employee may not perform safety-sensitive work pending the outcome of the drug test. Since the employee is believed to be under the influence of drugs and/or alcohol, the employee will be escorted/driven by the supervisor to the collection site. Arrangements may also be made to have the employee transported home.
6. If there is a confirmed breath alcohol test greater than 0.02% and less than 0.04%, the employee will be relieved from safety-sensitive duty immediately for a minimum of eight (8) hours and be referred to the EAP counselor for evaluation and treatment.
7. If there is a confirmed positive breath alcohol test of 0.04% or greater and/or confirmed positive drug test, the employee will be relieved from safety-sensitive duty immediately and referred to a SAP for evaluation and treatment.
8. If the drug test is reviewed by the MRO, and determined to be positive, the employee has 72 hours to request testing of the split sample. If the test is confirmed positive, the employee is still then referred to a SAP for evaluation and treatment. If the test is positive, the employee's pay will be docked from the time of indication.
9. Employees who test positive for drugs and/or alcohol will be disciplined in accordance with current policies and practices.

## POST-ACCIDENT TESTING PROCEDURES

The FTA regulations require testing for prohibited drugs and alcohol in the case of certain mass transit accidents. Post-accident testing is mandatory for accidents where there is a loss of life and for other non-fatal accidents.

1. The supervisor ensures that all injured people receive proper medical care.
2. The supervisor assesses whether there is a need for reasonable suspicion testing. The supervisor also determines whether the accident meets FTA criteria by using the *Post-Accident Drug/Alcohol Test Determination* form.
3. The employee will be taken to the collection site and tested as soon as is practicable following the accident. The employee should remain readily available for alcohol testing up to eight (8) hours post-accident and for drug testing up to 32 hours after the accident, including notifying their supervisor of their location, or the employee may be deemed to have refused to submit to testing if they have not made themselves readily available for testing and as defined in Section 7.1E, the employee will be provided with a pre-termination hearing prior to termination. Collection procedures will follow those outlined in Random Testing #2-15.
4. If the employee is injured and needs medical treatment, provisions will be made to perform an alcohol test within 8 hours and a drug test within 32 hours of the accident.
5. The employee is prohibited from using alcohol for eight (8) hours and non-prescribed drugs for 32 hours after the accident and prior to testing.
6. If the employee is not tested within two (2) hours for alcohol, the supervisor must document the reason for the delay, and if test is not conducted in eight (8) hours, the supervisor must cease from having the alcohol test done and update the records as to the reason(s) why the test was not completed.
7. Pending the results of a drug test, the employee will be returned to his/her safety-sensitive position if, medically cleared to be returned to work.
8. If the employee is tested also for alcohol, and the test is negative, the employee will be returned to duty. If the alcohol test is positive (0.04% or greater), the employee must be removed from duty, without pay, referred to a SAP and provided a pre-termination hearing prior to termination. If the test is greater than or equal to 0.02% and less than 0.04%, the employee will be removed from duty for at least 8 hours and under Palm Tran authority, referred to the EAP counselor.
9. If the employee refuses to be tested, as defined in Section 7.1E, the employee will be removed from duty, without pay, referred to a SAP and provided a pre-termination hearing prior to termination.
10. The employee has 72 hours to request a test of the split sample if the initial drug test is positive.
11. Discipline for positive drug and/or alcohol tests will be imposed in accordance with current policies and practices.

## POST-ACCIDENT ALCOHOL AND DRUG TESTING CRITERIA

It should be noted that a post-accident test is given because the incident meets the criteria listed below. It is NOT a probable cause or reasonable suspicion test.

An accident (§655.4) is defined as an occurrence associated with the operation of a vehicle in which:

1. A fatality occurs.
2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident.
3. With respect to an occurrence in which the transit vehicle involved is a bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle and/or removed from revenue service. For purposes of this definition, "disabling damage," means damage, which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative.
4. In regards to fatal accidents, safety-sensitive employees not on the vehicle, (e.g., maintenance personnel), whose performance could have contributed to the accident (as determined by the supervisor using the best information available at the time of the accident) must be tested.
5. For non-fatal accidents any other safety-sensitive employee whose performance could have contributed to the accident, as determined by the supervisor using the best information available at the time of the accident.

## **RETURN-TO-DUTY AND FOLLOW-UP TESTING**

Before any employee can be allowed to return to duty to perform a safety-sensitive function following a verified random positive drug test, random positive breath alcohol test, or engaging in conduct prohibited by the regulations regarding alcohol misuse, the employee must decide to enter into a contract with Palm Tran referred to as the "Last Chance Agreement", be evaluated by the SAP and pass a return-to-duty test within thirty (30) days of the appointment with the SAP. The employee will pay for the cost, of the return-to-duty test.

### **Return-to-Duty Testing**

1. Collection procedures will follow those established for Random Testing #2-14.
2. If an employee tests positive (greater or equal to 0.02% and less than 0.04%) for alcohol, the employee will be removed from his or her safety-sensitive position and under Palm Tran authority, referred to the EAP counselor.
3. If an employee tests positive (0.04% or greater) for alcohol or positive for prohibited drugs, the employee will be referred to a SAP and removed from his or safety-sensitive position
4. The employee is allowed by Palm Tran to enter into a "Last Chance Agreement" contract, which clearly states the employee's commitment to remain free of prohibited substances and comply with the SAP's recommendations and treatment. It also states the consequences if he or she does not comply.
5. If the employee refuses to enter into the contract with Palm Tran or fails to adhere to the provisions of the contract, the employee is terminated.
6. All Return to Duty Testing takes place under direct observation.

### **Follow-Up Testing**

Once allowed to return-to-duty, an employee shall be subject to unannounced follow-up testing for a minimum of 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months.

1. The SAP will notify Palm Tran, in writing, of its recommendations for the frequency and duration of follow-up testing.
2. Collection procedures will follow those established for Random Testing #7-12.
3. If an employee tests positive, (0.04% or greater) for alcohol or positive for prohibited drugs, the employee will be removed from his or her safety sensitive position immediately and terminated.
4. If the employee, at any time during his/her employment tests positive a second time for drugs and/or alcohol he/she will be terminated.
5. All Follow -Up Testing takes place under direct observation.

## PRE-EMPLOYMENT TESTING

The FTA regulations require that all applicants for employment in safety-sensitive positions or individuals being transferred to safety-sensitive positions must be given a pre-employment drug test.

1. Applicants will not be hired to a safety-sensitive position unless they pass a drug test.
2. Applicants must be informed in writing of the testing requirements prior to conducting the test. Palm Tran will require the applicant to sign a form acknowledging that they know that their urine will be tested for Cocaine, PCP, Amphetamines, Marijuana, and Opiates.
3. The employee must be made aware that their employment is contingent upon a negative test result.
4. It is the responsibility of the applicant to report to the collection site immediately after receiving notification.
5. Positive test results must be reviewed by the MRO.
6. Applicants are notified by the MRO and are given an opportunity to discuss the results.
7. Applicants who test positive are referred to a SAP.
8. Applicants who test positive will not be allowed to apply for one year and at that time show proof of a successful SAP referral, evaluation and treatment.
9. Applicants who result in a positive drug test, but dilute, the test is treated as a verified positive drug test. If the test is reported as a negative drug test, but dilute, Palm Tran will direct the applicant to perform another drug test immediately. Such recollections will not be collected under direct observation, unless there is another basis or if directed by the MRO. The drug test must be a verified non-dilute negative result before the applicant can continue through the hiring process.
10. An applicant, whose pre-employment test results are negative, will continue through the safety-sensitive hiring process.



**EMPLOYEE REQUESTED TESTING PROCEDURES**

1. At the time of collection, the urine specimen is split and poured into two specimen bottles, one of 30ml and one of 15ml.
2. Both specimens are sent to the contracting Department of Health and Human Services (DHHS) Laboratory but only the larger 30ml sample is analyzed. The 15ml or split sample is stored in case the employee requests that the 15ml or split sample be analyzed.
3. The employee has the option of having an analysis of the split sample if an employee tests positive. The split sample analysis is performed at a separate DHHS laboratory.
4. The employee has 72 hours after being notified by the MRO of a verified positive sample to request a test of the split sample.
5. The employee notifies the MRO that he/she wants to have the split sample tested.
6. Palm Tran will provide a list of one or more acceptable DHHS laboratory location(s), from which the employee may choose.
7. The cost of the split sample testing will be the responsibility of the employee. The employee is not required to pay for the test before the test takes place. Nevertheless, the test must be done within 15 days, and cannot be delayed due to an inability to pay for the test or due to a disagreement as to who will pay for the test. However, Palm Tran will seek reimbursement for the cost of the test once the test has been performed. This can be set up by payroll deduction.