

NESHOBA COUNTY, MISSISSIPPI'S POLICY
REGARDING DRUG AND ALCOHOL TESTING OF EMPLOYEES

Overview of Policy. Neshoba County, Mississippi, is adopting this drug and alcohol testing policy for Covered Employees, as defined in this policy. You are advised that the County has implemented this policy and will conduct testing pursuant to Miss. Code Ann. § 71-7-1 through 71-7-33, Mississippi's Drug and Alcohol Testing Act, and you are hereby advised of the existence of that Act (the "Act"). The County, job applicants and Covered Employees have certain rights and obligations that are specified in the Act. No testing for drugs or alcohol under this policy shall be conducted until 30 days after the date this notice is first posted and made available to County employees.

The County finds that, as a matter of policy, County employees should not use, possess or sell illegal drugs and should not be under the influence of alcohol while on duty. Any County employee who violates this policy, by testing confirmed positive for drugs or alcohol or otherwise, shall be terminated from County employment.

Each Covered Employee and job applicant will be required to review this policy and to sign a consent form, agreeing to be bound by this policy, as a condition of continued or initial employment. Any employee or job applicant who has questions about any aspect of this policy should ask a supervisor or Benjie Coats, who will serve as director of the County's drug and alcohol testing program.

Covered Employees. For purposes of this policy, job applicant and Covered Employees will be subject to drug and alcohol testing. Covered Employees shall include the following: Truck Drivers; Tractor Operators; Motor Grader Operates; Heavy Equipment Operators, including bulldozer, backhoe, trac-hoe, and pothole patcher; Sanitation Workers; Mechanics; Maintenance Workers (all locations); Road Crew Foreman; Bushhog Operators; Boom Ax Operators; 911 Telecommunicators; Jailers; and Deputy Sheriffs. This policy shall not apply to any County employee who is subject to mandatory testing under Federal Department of Transportation Regulations. Moreover, as noted below, only Covered Employees determined by the County to be in safety sensitive positions will be subject to neutral selection (random) drug and alcohol testing.

Circumstances Under Which Testing Will Occur. The following is a description of the circumstances under which the County will conduct drug and alcohol testing.

- a. Pre-employment Testing. The County will require all applicants for County employment positions to submit to a pre-employment drug and alcohol test as a condition of the employment application. Refusal to submit to the test will be grounds for denial of the application and a confirmed positive test result will also be a basis for denial of the application.
- b. Reasonable Suspicion Testing. The County will conduct reasonable suspicion drug and alcohol testing, which is testing based on a belief that an employee is using or has used drugs and/or alcohol in violation of this policy. The employer's belief of reasonable suspicion to test will be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things, the following:
 - 1) observable phenomena, such as direct observation of drug and alcohol use

and/or physician symptoms or manifestations of being under the influence of a drug or alcohol;

- 2) abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance;
- 3) a report of drug use provided by reliable and credible sources and which has been independently corroborated;
- 4) evidence that an individual has tampered with a drug and alcohol test during his employment with the County;
- 5) information that an employee has caused or contributed to an accident while at work; and
- 6) evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs or alcohol while working or while on the County's premises or while operating any County vehicle, machinery, or equipment.

c. Neutral Selection/Random Testing. Neutral selection/random testing will be conducted by the County on two categories of Covered Employees. First, if a Covered Employee, in the course of his employment with the County, enters a drug abuse rehabilitation program, that Covered Employee will thereafter be subject to random testing for a period of five years. Second, the County will conduct neutral selection tests of all Covered Employees who are engaged in safety sensitive functions, as determined by the County. The Covered Employee will be considered to be in a safety sensitive position to the extent the employee:

- 1) is engaged in law enforcement;
- 2) has national or state security responsibility;
- 3) has drug interdiction responsibility;
- 4) has authorization to carry fire arms;
- 5) has access to sensitive information;
- 6) requires a security clearance;
- 7) engages in activities affecting public health or safety, including, but not limited to, sanitation and maintenance; or
- 8) drives and/or operates any equipment owned by the County.

The County has determined that the following categories of Covered Employees are in safety sensitive positions and will therefore be subject to neutral selection testing: Truck Drivers; Tractor Operators; Motor Grader Operates; Heavy Equipment Operators, including bulldozer, backhoe, trac-hoe, and pothole patcher; Sanitation Workers; Mechanics; Maintenance Workers (all locations); Road Crew Foreman; Bushhog

Operators; Boom Ax Operators; 911 Telecommunicators; Jailers; and Deputy Sheriffs.

Substances Tested For. The County's drug and alcohol testing will test for the following substances: alcohol, marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP or Angel Dust).

Effect of a Positive Test. Any Covered Employee or applicant who has a confirmed positive test result for any of the substances listed above or who otherwise violates this policy shall be immediately terminated. For purposes of this policy, refusal to submit to a test when requested to do so will be treated as a positive test result and will likewise result in immediate termination. An applicant who has a confirmed positive test will not be hired.

Drug and Alcohol Testing Procedures. The County has contracted with the MEA Drug Testing Consortium, a service of the MEA Medical Clinic System. MEA will conduct all the County's drug and alcohol testing services, including specimen collection, chain of custody procedures, obtaining necessary laboratory results, medical review officer services, and any other services incident to the drug testing program. Appendix "A" to this policy sets forth in detail the procedure to be used for drug and alcohol testing. Covered Employees and applicants should review this detailed information and ask any questions that they may have about it. Questions may be directed to the employee's supervisor or to Benji Coats, who has been designated by the County as the person in charge of the drug and alcohol testing program. Employees should carefully review Appendix A and report to the county any instances where they believe MEA has failed to comply with the procedures set forth in Appendix A.

Covered Employees and job applicants for County employment positions shall be allowed to provide notice to the County, through MEA, of currently or recently used prescription or non-prescription drugs at the time of the taking of the specimen to be tested, and such information shall be placed in writing upon the employer's drug and alcohol testing custody and control form (maintained by MEA) prior to initial testing.

Confidentiality. All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the County (or MEA on its behalf) through its drug and alcohol testing program are confidential communications except under certain circumstances as allowed by Mississippi's Drug and Alcohol Testing Act. All information obtained, however, shall be the property of the County. The County will not release to any person other than the covered employee or job applicant, or employer medical, supervisory or other personnel, as designated by the County on a need to know basis, information related to drug and alcohol test results unless:

- 1) the employee/job applicant has expressly, in writing, granted permission for the employer to release such information;
- 2) it is necessary to introduce a positive confirmed test result into an administrative or judicial proceeding, where the information is relevant to the hearing or proceeding, or if the information must be disclosed to a federal or state agency or other unit of the State or United States government as required under law, regulation or order or in accordance with compliance requirements of a state or federal government contract or disclosed to a drug abuse rehabilitation program for the purposes of evaluation or treatment of an employee; or
- 3) there is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk is

immediate, a court order permitting the release shall be obtained prior to the release of the information.

Contesting a Test Result. A covered employee or job applicant who receives a confirmed positive drug and/or alcohol test result may contest the validity of that result or explain it. A Covered Employee or job applicant who has a confirmed positive test result will be informed in writing by the County within five (5) working days along with the consequences of the positive test and the options available to them. The Covered Employee will be suspended without pay. The application of the person will be stayed. The Covered Employee or job applicant then has ten (10) working days to submit a written explanation as to why the test is invalid and may request a retest of the specimen at his or her own expense. If the Covered Employee's explanation is unsatisfactory or if the employee fails to submit a timely written explanation, the test is considered final and the Covered Employee is terminated. If the job applicant's explanation is unsatisfactory or if the applicant fails to submit a timely written explanation, the test is considered final and the application is rejected.

THE TERMS "COVERED EMPLOYEE" AS USED IN APPENDIX "A" ATTACHED HERETO SHALL INCLUDE JOB APPLICANTS FOR NESHOPA COUNTY EMPLOYMENT POSITIONS.

APPENDIX "A"

TESTING PROCEDURES AND SAFEGUARDS

Introduction: The County has contracted with MEA Medical Clinics Drug Testing Consortium to provide all the County's drug and alcohol testing services, including our MRO's. This APPENDIX will outline the procedures a Covered Employee can expect when called upon to give a drug and/or alcohol test specimen. If you believe that a test was conducted in a manner other than as specified in these procedures, please inform your supervisor immediately. These procedures are specifically designed to safeguard a Covered Employee's privacy during the testing process and to assure accurate test results.

MEA provides complete alcohol and drug testing resources at its clinics and at other locations throughout the State, and also has the capability to conduct testing using mobile units. For controlled substances testing, MEA provides urine specimen collection services, transportation to and receipt of results from federally certified laboratories, and qualified physicians to serve as Medical Review Officers or other consulting physicians to review and evaluate drug testing results. For alcohol testing, MEA uses federally approved and certified evidential breath testing devices ("EBTs") and Breath Alcohol Technicians ("BATs") trained in a program approved by the National Highway Traffic Safety Administration. Under requirements of Mississippi law, if the breath alcohol test is positive, it must be confirmed by a blood alcohol test.

Initial Presentation: A person required to give a drug or alcohol testing specimen at an MEA facility will be treated courteously and with individualized attention to minimize any stress or anxiety associated with the testing procedure. The MEA employee conducting the drug testing specimen collection process is called a Collection Site Person ("CSP") and the MEA employee who conducts initial alcohol testing is called a Breath Alcohol Technician ("BAT"). MEA's BATs and CSPs will not use language that might be considered offensive or accusatory, but will strive to be courteous at all times to the person to be tested. In addition, MEA's BATs and CSPs

will follow the procedures outlined in this policy and procedure statement to assure the integrity and quality of the alcohol and drug testing process, thereby maximizing accurate test results.

A particular CSP or BAT works with only one person to be tested at a time. Prior to beginning the testing process, each person must show proof of identification through a Covered Employee's license or other picture-bearing identification card. If positive proof of identification is not possible, MEA will not proceed with specimen collection or any aspect of alcohol or controlled substance testing.

DRUG TESTING

Since the procedures for alcohol testing are different from those for drug testing they will be discussed separately. Covered Employees are subject to both types of tests and will be informed by MEA personnel whether the test is for alcohol, drugs or both.

Specimen Collection Process: After a Covered Employee has presented proper proof of identification, the CSP will conduct a short interview to document the relevant information about the person to be tested. (Throughout this policy Appendix, the person to be tested is referred to as the "Covered Employee". The term "Covered Employee" as used herein includes applicants for County employment). Relevant information from this interview and from the complete specimen collection process is documented on a carbonless custody and control form, which identifies the specimen donor, the particulars of the collection process, and the transfer of the specimen to the appropriate lab or other facility for testing. A Covered Employee taking prescription or other medication may inform the CSP of this and ask her to note it on the control form. In addition, the Covered Employee will be provided a consent form to sign, giving written consent to the testing procedure. If an employee refuses to consent or revokes his consent at any point, MEA will not proceed with the process and the County will consider this a Refusal to Submit and a violation of the County's policy the employee will be terminated.

After the initial interview, the Covered Employee will be requested to remove any coat or any other unnecessary outer garments that might conceal materials that could be used to alter or

affect the specimen to be given. In any event, the Covered Employee will be allowed to retain his or her wallet during the process of urine collection or, if they prefer, their wallet can be securely locked in a storage compartment at the clinic.

The specimen is collected in a clean, single use, sealed and securely wrapped container. MEA keeps a supply of these containers on hand. Before giving the specimen collection container to the Covered Employee, the CSP will allow the Covered Employee to wash and dry his or her hands in the view of the CSP. The CSP will remain with the Covered Employee and observe him to make certain that the Covered Employee has no access to water or other substances that might be used to alter the specimen.

The CSP will then give the specimen collection container to the Covered Employee and place him in the privacy of the collection room, where the Covered Employee will fill the collection container with at least 45 milliliters of urine. If the Covered Employee is unable to urinate or is unable to provide the required minimum urine amount of 45 ml, the specimen collection process must be begun again, and the CSP will assist the employee by providing fluids to drink. Any urine sample collected that is less than 45 ml will be discarded since MEA does not combine urine from two collections to reach the required volume. The Covered Employee will be allowed a reasonable time (not to exceed two hours) to consume fluids (not to exceed 24 ounces) and provide a specimen. If the Covered Employee is unable to provide a specimen in two hours, a physician will evaluate him to determine if his problem is a medical one or constitutes a refusal to cooperate. The physician will report the results of this evaluation to the County. (NOTE: There will be no such medical evaluation for pre-employment tests unless the County agrees in advance to it.)

Unless circumstances require (as outlined below), there will be no direct observation of the Covered Employee while he is providing the urine specimen. All aspects of the collection process are designed to maintain the modesty and privacy of the Covered Employee. No unauthorized persons shall be allowed to be present in the specimen collection area at any time

during the procedure. After the Covered Employee returns with the specimen in the collection container, he will be allowed to wash and dry his hands.

After the Covered Employee delivers the containerized specimen to the CSP, the specimen will remain in the view of the Covered Employee at all times until it is split into two separate specimen containers, labeled and sealed. The Covered Employee will observe the sealing and labeling of the specimen containers by the CSP and the Covered Employee will initial the identification labels on the bottles to certify that they contain his specimen. The specimen containers are then sealed in the appropriate transport container and remain under the control and supervision of the CSP at all times until the package is prepared for shipment to the laboratory. After the container has been sealed and initialed by the Covered Employee, and the custody and control form has been completed by the CSP, the urine specimen collection process is complete.

Split Specimen Collection: Using two separate containers for the Covered Employee's urine specimen is known as the split specimen collection method. With this method, the specimen is split by the CSP into a "primary" specimen consisting of at least 30 ml and a second "split" specimen containing at least 15 ml of urine. Both are labeled and forwarded to a federally certified lab as outlined in the preceding section. All initial and confirmation testing conducted by the certified laboratory will be conducted on the primary specimen only. However, the laboratory must also maintain the split specimen in secure storage.

If the result of this drug test is positive, the split specimen will be maintained by the laboratory for at least 90 days. This allows the Covered Employee to request a retest as part of any challenge to the test pursuant to the County's drug and alcohol testing policy. Any test of the split specimen pursuant to a Covered Employee's request will be at the expense of the Covered Employee.

If the Covered Employee makes a proper request for a split sample test, the MRO will inform the lab in writing and the lab must immediately forward the split specimen to a second

certified laboratory (which the Covered Employee may specify), with the seal intact and with proper chain of custody documentation, as well as a copy of the MRO's request. The second lab will perform the split specimen test and will report the results to the MRO. If the split test does not confirm the results of the first test, the test is cancelled. However, the County need not await the results of the split specimen test to initiate administrative action provided for in the County's drug and alcohol testing policy.

Other Security Precautions: In addition to the security precautions inherent in the specimen collection and Covered Employee identification system outlined above, the following additional precautions are used by MEA to maximize the integrity and accuracy of the drug testing specimen collection process:

A. Toilet bluing agents are used to tint the water in the toilet located in the collection room where the Covered Employee provides the actual specimen. All other sources of water in that area are secured so that the Covered Employee cannot obtain access to them. In addition, the Covered Employee is not allowed to flush the commode while in the collection room, because flushing may be used to dispose of evidence of materials used to contaminate or tamper with the specimen. If the seal on the commode that secures it against flushing is broken or if flushing sounds are heard from the specimen collection room, that specimen will be considered questionable and the Covered Employee must submit to a retest.

B. While the CSP will remain courteous and respectful of the Covered Employee at all times, any unusual or suspicious actions or behavior on the part of the Covered Employee will be noted on the custody and control form.

C. Within four minutes after collection of the specimen, the temperature of the specimen will be measured to make certain that it is within the acceptable range of 32.5° to 37.7° centigrade (90.5°-99.8° Fahrenheit). In addition, the CSP will check the color of the urine specimen and look for any evidence of contamination or tampering. Any unusual appearance of the urine or unusual temperature will be noted on the custody and control form.

D. In any instance where the CSP suspects that the specimen was tampered with, the test specimen will still be sent to the laboratory, but a new test will be scheduled, including a test under direct observation if the County consents to direct observation. (Direct observation testing is discussed below).

E. After the specimen has been split, sealed, labeled, and placed in the mailing envelope or other shipping container, it will either be shipped immediately or stored securely in a locked space under the control of MEA and the appropriate CSP. The completed custody and control form, including the chain of custody portions, will be completed and certified by the CSP and placed in the shipping container with the specimen which is being shipped or stored for shipping.

F. From the time the Covered Employee is initially identified until the specimen has been collected, split, labeled, initialed, and sealed, the CSP is not allowed to leave the specimen collection area at any time. If it becomes necessary due to emergency or other unavoidable circumstances for the CSP to leave, any collection begun at that point will be nullified and the test must be begun again.

Direct Observation Testing: Since the MEA drug testing specimen collection process seeks to protect the privacy and modesty of all Covered Employees tested, direct observation of the person giving the specimen during the time they are provided it is not part of the normal collection procedure. However, under certain circumstances, direct observation specimen collection may be necessary to assure the integrity of the drug testing process. Whenever direct observation testing is required under the guidelines set forth below, the person observing the Covered Employee giving the specimen will be of the same gender as the Covered Employee. The following guidelines will be used in determining whether direct observation collection is necessary and, **in all cases,** the decision to conduct direct observation collection will be made only after consultation with and approval by the County or a higher-level supervisor of the CSP.

The following circumstances are the **exclusive** grounds for direct observation testing:

A. The Covered Employee has presented a urine specimen that falls outside the acceptable temperature range (32.5° to 37.7° celsius; 90.5°-99.80° Fahrenheit) **and** (a) the Covered Employee declines to provide a measure of oral body temperature; **or** (b) body temperature is measured and it varies by more than one degree celsius or 1.8° Fahrenheit from the temperature of the specimen;

B. The last urine specimen provided by the Covered Employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and Creatinine concentration below .2g/L;

C. The CSP observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the specimen (for example, substitute urine in plain view, blue dye in specimen presented, etc.); **or**

D. The Covered Employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as part of follow-up testing.

Medical Review Officer: MEA clinics are staffed with qualified physicians who serve as Medical Review Officers ("MRO") who evaluate laboratory results of drug testing. An MEA physician will interview Covered Employees who test positive. A report on each person tested will be sent to the MRO by the laboratory. This report will identify the drugs tested for, whether positive or negative results were obtained, the specimen number assigned, and the drug testing laboratory specimen identification number.

A positive laboratory test result does not automatically identify a Covered Employee as having used drugs in violation of County policy. Instead, the MRO reviews the laboratory results along with the circumstances of the tested employee to determine whether the test is in fact a "confirmed positive". This review will be performed prior to reporting the test results to the County's administrative officials. The MRO, being a licensed physician with knowledge of substance abuse disorders, examines alternate medical explanations for any positive laboratory

test results. This generally includes conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors revealed by the Covered Employee.

Prior to making a final decision to verify a positive test result for an individual, the MRO gives the individual an opportunity to discuss the test results. The MRO may verify a test as positive without having communicated directly with the Covered Employee about the tests in two circumstances:

1. The Covered Employee expressly declines the opportunity to discuss the test; or
2. More than five days have passed since the date the Covered Employee was contacted by a designated County representative and informed to contact the medical review officer as soon as possible.

If the MRO is unable to reach the individual directly,, the MRO will contact the designated official of the County who, in turn, will contact the employee. In the case where the Covered Employee has failed to contact the MRO for more than five days since the date the Covered Employee was contacted by the designated County representative, the MRO may report the test results as "confirmed positive". However, the MRO may still reopen the verification process if the Covered Employee contacts the MRO and presents information that his delay in getting in touch with the MRO resulted from serious illness, injury or other unavoidable circumstances.

The purpose of the MRO interview is to allow the Covered Employee to present information concerning a legitimate explanation for the positive laboratory test. If after such action, the medical review officer concludes that there is a legitimate explanation of the positive test, the medical review officer may declare the test to be negative. Otherwise, the result will be verified as a "confirmed positive". Following verification of a positive test result, the medical review officer will refer the case to the County's designated management official empowered to recommend or take administrative action.

The medical review officer is the only person authorized to order a re-analysis of the

original sample or a test of the split specimen. Authorization for a split specimen test may be made by the Covered Employee as part of a challenge to a positive test. (See section above regarding "Split Specimen Analysis").

The medical review officer will not disclose to any party **any** medical information provided by the individual as part of the testing verification process. There is an exception to this rule where, in the MRO's reasonable medical judgment, the information indicates that continued performance by the individual of his or her function could pose a significant safety risk. Before obtaining medical information from any individual as part of the verification process, the MRO explains to the Covered Employee that any information provided may be disclosed to third parties if continued performance by the Covered Employee of his or her safety-sensitive function could pose a significant safety risk.

Blind Sampling: Blind testing is a quality control measure designed to assure the accuracy of lab results. MEA submits to the lab certain pre-tested specimens to verify laboratory accuracy. To insure that the laboratory cannot tell the blind specimen from any other real specimens, MEA will submit the blind sample under an assumed name.

ALCOHOL TESTING

As noted earlier, alcohol testing is different from drug testing because it involves testing breath with a machine for the initial test and a blood test to confirm any initial positive tests. This section will explain the alcohol testing procedures.

The Testing Machine/EBT: The testing apparatus for initial testing for alcohol is a breath machine, referred to as an EBT (evidential breath testing device).

The BAT: The person who conducts the initial alcohol testing is called a breath alcohol technician or BAT and this person is the functional equivalent of the CSP who collects drug testing specimen. The MEA BATs are trained on the type of EBT to be used.

Testing Procedures: The procedures for alcohol testing are similar to drug testing. For example, the BAT must initially confirm the identity of the person to be tested and the BAT must explain the testing procedure to the employee. The BAT is to work with only one employee at a time. The testing is to be conducted at a location and in a manner that ensures sound and visual privacy. A mobile testing unit (i.e., van) may be used but must meet the privacy requirements. The only exception to the privacy requirement arises in the case of accident scene or other emergency testing, and in the event, MEA will assure that Covered Employees are provided as much privacy as the situation will allow.

Initial Screening: After the BAT has identified the Covered Employee and had explained the testing procedure, the next step is to fill out the first part of the Breath Alcohol Test form, which includes the Covered Employee's consent to be tested. (If the Covered Employee refuses to sign, this constitutes a refusal to be tested and is treated as a positive test would be.) After consenting, the Covered Employee watches the BAT open an individually wrapped and sealed mouthpiece, which is then attached to the EBT. The Covered Employee is instructed to blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates a valid sampling amount has been obtained.

The EBT will then provide the results of the initial test and the BAT will share these with

the employee. If the test is a breath alcohol concentration of less than .02, the test is considered negative and the Covered Employee and BAT complete the remainder of the form, sign it and report the result to the County.

Confirmation Testing: If the result of the initial screening is .02 or greater, it will be necessary to conduct a confirmation test. This second test to confirm the initial positive must be a blood test, according to state law. The blood will be drawn only by qualified medical personnel and will be analyzed at laboratories certified to perform such tests by State or Federal law.

If the EBT confirmation test result is different from the initial test result, the confirmation test result controls. The result of the confirmation test will be reported to the employee. To be considered positive and in absolute violation, a Covered Employee's confirmed alcohol level must be .04 or greater.

Reporting Results: The County has designated its Drug and Alcohol Testing Coordinator to communicate with MEA on alcohol testing matters. If test results are initially communicated other than in writing, the County's representative will inform the Covered Employee in writing.

Miscellaneous Provisions: As with drug testing, any suspicious behavior, failure to cooperate, inability to provide a specimen or other behavior which makes completion of an alcohol test impossible shall terminate the test and shall be documented by the testers. Similarly, if a test is interrupted or events occur which would render the test invalid, the test must be aborted and started over using new materials and new forms.

If a Covered Employee is unable to provide a specimen of air suitable for testing, the County shall be so informed and the County will select a physician to evaluate whether the failure to provide enough air is medically explainable. This is the same requirement as the "shy-bladder" evaluation performed by the MRO under the drug testing regulations and, as in drug testing, the physician's report to the County must be in writing. If there is no valid medical explanation for the failure to provide the specimen, it is treated as a refusal to co-operate and thus

a positive test. (NOTE: This medical evaluation will not be conducted if the test is a pre-employment test.)

APPENDIX "A"

TESTING PROCEDURES AND SAFEGUARDS

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MEA provides complete alcohol and drug testing resources at its clinics and at other locations throughout the State, and also has the capability to conduct testing using mobile units. For controlled substances testing, MEA provides urine specimen collection services, transportation to and receipt of results from federally certified laboratories, and qualified physicians to serve as Medical Review Officers or other consulting physicians to review and evaluate drug testing results. For alcohol testing, MEA uses federally approved and certified evidential breath testing devices ("EBTs") and Breath Alcohol Technicians ("BATs") trained in a program approved by the National Highway Traffic Safety Administration. Under requirements of Mississippi law, if the breath alcohol test is positive, it must be confirmed by a blood alcohol test.

Initial Presentation: A person required to give a drug or alcohol testing specimen at an MEA facility will be treated courteously and with individualized attention to minimize any stress or anxiety associated with the testing procedure. The MEA employee conducting the drug testing specimen collection process is called a Collection Site Person ("CSP") and the MEA employee who conducts initial alcohol testing is called a Breath Alcohol Technician ("BAT"). MEA's BATs and CSPs will not use language that might be considered offensive or accusatory, but will strive to be courteous at all times to the person to be tested. In addition, MEA's BATs and CSPs

will follow the procedures outlined in this policy and procedure statement to assure the integrity and quality of the alcohol and drug testing process, thereby maximizing accurate test results.

A particular CSP or BAT worked with only one person to be tested at a time. Prior to beginning the test process, each person must show proof of identification through a Covered Employee's license or other picture-bearing identification card. If positive proof of identification is not possible, MEA will not proceed with specimen collection or any aspect of alcohol or controlled substance testing.

DRUG TESTING

Since the procedures for alcohol testing are different from those for drug testing they will be discussed separately. Covered Employees are subject to both types of tests and will be informed by MEA personnel whether the test is for alcohol, drugs or both.

Specimen Collection Process: After a Covered Employee has presented proper proof of identification, the CSP will conduct a short interview to document the relevant information about the person to be tested. (Throughout this policy Appendix, the person to be tested is referred to as the "Covered Employee"). Relevant information from this interview and from the complete specimen collection process is documented on a carbonless custody and control form, which identifies the specimen donor, the particulars of the collection process, and the transfer of the specimen to the appropriate lab or other facility for testing. A Covered Employee taking prescription or other medication may inform the CSP of this and ask her to note it on the control form. In addition, the Covered Employee will be provided a consent form to sign, giving written consent to the testing procedure. If an employee refuses to consent or revokes his consent at any point, MEA will not proceed with the process and the County will consider this a Refusal to Submit and a violation of the County's policy.

After the initial interview, the Covered Employee will be requested to remove any coat or any other unnecessary outer garments that might conceal materials that could be used to alter or affect the specimen to be given. In any event, the Covered Employee will be allowed to retain

his or her wallet during the process of urine collection or, if they prefer, their wallet can be securely locked in a storage compartment at the clinic.

The specimen is collected in a clean, single use, sealed and securely wrapped container. MEA keeps a supply of these containers on hand. Before giving the specimen collection container to the Covered Employee, the CSP will allow the Covered Employee to wash and dry his or her hands in the view of the CSP. The CSP will remain with the Covered Employee and observe him to make certain that the Covered Employee has no access to water or other substances that might be used to alter the specimen.

The CSP will then give the specimen collection container to the Covered Employee and place him in the privacy of the collection room, where the Covered Employee will fill the collection container with at least 45 milliliters of urine. If the Covered Employee is unable to urinate or is unable to provide the required minimum urine amount of 45 ml, the specimen collection process must be begun again, and the CSP will assist the employee by providing fluids to drink. Any urine sample collected that is less than 45 ml will be discarded since MEA does not combine urine from two collections to reach the required volume. The Covered Employee will be allowed a reasonable time (not to exceed two hours) to consume fluids (not to exceed 24 ounces) and provide a specimen. If the Covered Employee is unable to provide a specimen in two hours, a physician will evaluate him to determine if his problem is a medical one or constitutes a refusal to cooperate. The physician will report the results of this evaluation to the County. (NOTE: There will be no such medical evaluation for pre-employment tests unless the County agrees in advance to it.)

Unless circumstances require (as outlines below), there will be no direct observation of the Covered Employee while he is providing the urine specimen. All aspects of the collection process are designed to maintain the modesty and privacy of the Covered Employee. No unauthorized persons shall be allowed to be present in the specimen collection area at any time during the procedure. After the Covered Employee returns with the specimen in the collection

container, he will be allowed to wash and dry his hands.

After the Covered Employee delivers the containerized specimen to the CSP, the specimen will remain in the view of the Covered Employee at all times until it is split into two separate specimen containers, labeled and sealed. The Covered Employee will observe the sealing and labeling of the specimen containers by the CSP and the Covered Employee will initial the identification labels on the bottles to certify that they contain his specimen. The specimen containers are then sealed in the appropriate transport container and remain under the control and supervision of the CSP at all times until the package is prepared for shipment to the laboratory. After the container has been sealed and initialed by the Covered Employee, and the custody and control form has been completed by the CSP, the urine specimen collection process is complete.

Split Specimen Collection: Using two separate containers for the Covered Employee's urine specimen is known as the split specimen collection method. With this method, the specimen is split by the CSP into a "primary" specimen consisting of at least 30 ml and a second "split" specimen containing at least 15 ml of urine. Both are labeled and forwarded to a federally certified lab as outlined in the preceding section. All initial and confirmation testing conducted by the certified laboratory will be conducted on the primary specimen only. However, the laboratory must also maintain the split specimen in secure storage.

If the result of this drug test is positive, the split specimen will be maintained by the laboratory for at least 90 days. This allows the Covered Employee to request a retest as part of any challenge to the test pursuant to the County's drug and alcohol testing policy. Any test of the split specimen pursuant to a Covered Employee's request will be at the expense of the Covered Employee.

If the Covered Employee makes a proper request for a split sample test, the MRO will inform the lab in writing and the lab must immediately forward the split specimen to a second certified laboratory (which the Covered Employee may specify), with the seal intact and with

proper chain of custody documentation, as well as a copy of the MRO's request. The second lab will perform the split specimen test and will report the results to the MRO. If the split test does not confirm the results of the first test, the test is cancelled. However, the County need not await the results of the split specimen test to initiate administrative action provided for in the County's drug and alcohol testing policy.

Other Security Precautions: In addition to the security precautions inherent in the specimen collection and Covered Employee identification system outlined above, the following additional precautions are used by MEA to maximize the integrity and accuracy of the drug testing specimen collection process:

A. Toilet bluing agents are used to tint the water in the toilet located in the collection room where the Covered Employee provides the actual specimen. All other sources of water in that area are secured so that the Covered Employee cannot obtain access to them. In addition, the Covered Employee is not allowed to flush the commode while in the collection room, because flushing may be used to dispose of evidence of materials used to contaminate or tamper with the specimen. If the seal on the commode that secures it against flushing is broken or if flushing sounds are heard from the specimen collection room, that specimen will be considered questionable and the Covered Employee must submit to a retest.

B. While the CSP will remain courteous and respectful of the Covered Employee at all times, any unusual or suspicious actions or behavior on the part of the Covered Employee will be noted on the custody and control form.

C. Within four minutes after collection of the specimen, the temperature of the specimen will be measured to make certain that it is within the acceptable range of 32.5° to 37.7° centigrade (90.5°-99.8° Fahrenheit). In addition, the CSP will check the color of the urine specimen and look for any evidence of contamination or tampering. Any unusual appearance of the urine or unusual temperature will be noted on the custody and control form.

D. In any instance where the CSP suspects that the specimen was tampered with, the

test specimen will still be sent to the laboratory, but a new test will be scheduled, including a test under direct observation if the County consents to direct observation. (Direct observation testing is discussed below).

E. After the specimen has been split, sealed, labeled, and placed in the mailing envelope or other shipping container, it will either be shipped immediately or stored securely in a locked space under the control of MEA and the appropriate CSP. The completed custody and control form, including the chain of custody portions, will be completed and certified by the CSP and placed in the shipping container with the specimen which is being shipped or stored for shipping.

F. From the time the Covered Employee is initially identified until the specimen has been collected, split, labeled, initialed, and sealed, the CSP is not allowed to leave the specimen collection area at any time. If it becomes necessary due to emergency or other unavoidable circumstances for the CSP to leave, any collection begun at that point will be nullified and the test must be begun again.

Direct Observation Testing: Since the MEA drug testing specimen collection process seeks to protect the privacy and modesty of all Covered Employees tested, direct observation of the person giving the specimen during the time they are providing it is not part of the normal collection procedure. However, under certain circumstances, direct observation specimen collection may be necessary to assure the integrity of the drug testing process. Whenever direct observation testing is required under the guidelines set forth below, the person observing the Covered Employee giving the specimen will be of the same gender as the Covered Employee. The following guidelines will be used in determining whether direct observation collection is necessary and, **in all cases**, the decision to conduct direct observation collection will be made only after consultation with and approval by the County or a higher-level supervisor of the CSP.

The following circumstances are the **exclusive** grounds for direct observation testing:

A. The Covered Employee has presented a urine specimen that falls outside the

acceptable temperature (32.5° to 37.7° celsius; 90.5°-99.80° Fahrenheit) **and** (a) the Covered Employee declines to provide a measure of oral body temperature; **or** (b) body temperature is measured and it varies by more than one degree celsius or 1.8° Fahrenheit from the temperature of the specimen;

B. The last urine specimen provided by the Covered Employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and Creatinine concentration below .2 g/L;

C. The CSP observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the specimen (for example, substitute urine in plain view, blue dye in specimen presented, etc.); **or**

D. The Covered Employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as part of follow-up testing.

Medical Review Officer: MEA clinics are staffed with qualified physicians who serve as Medical Review Officers ("MRO") who evaluate laboratory results of drug testing. An MEA physician will interview Covered Employees who test positive. A report on each person tested will be sent to the MRO by the laboratory. This report will identify the drugs tested for, whether positive or negative results were obtained, the specimen number assigned, and the drug testing laboratory specimen identification number.

A positive laboratory test result does not automatically identify a Covered Employee as having used drugs in violation of County policy. Instead, the MRO reviews the laboratory results along with the circumstances of the tested employee to determine whether the test is in fact a "confirmed positive". This review will be performed prior to reporting the test results to the County's administrative officials. The MRO, being a licensed physician with knowledge of substance abuse disorders, examines alternate medical explanations for any positive laboratory test results. This generally includes conducting a medical interview and review of the

individual's medical history, or review of any other relevant biomedical factors revealed by the Covered Employee.

Prior to making a final decision to verify a positive test result for an individual, the MRO gives the individual an opportunity to discuss the test results. The MRO may verify a test as positive without having communicated directly with the Covered Employee about the tests in two circumstances:

1. The Covered Employee expressly declines the opportunity to discuss the test; or
2. More than five days have passed since the date the Covered Employee was contacted by the designated representative and informed to contact the medical review officer as soon as possible.

If the MRO is unable to reach the individual directly, the MRO will contact the designated official of the County who, in turn, will contact the employee. In the case where the Covered Employee has failed to contact the MRO for more than five days since the date the Covered Employee was contacted by the designated County representative, the MRO may report the test results as "confirmed positive". However, the MRO may still reopen the verification process if the Covered Employee contacts the MRO and presents information that his delay in getting in touch with the MRO resulted from serious illness, injury or other unavoidable circumstances.

The purpose of the MRO interviews is to allow the Covered Employee to present information concerning a legitimate explanation for the positive laboratory test. If after such action, the medical review officer concludes that there is a legitimate explanation of the positive test, the medical review officer may declare the test to be negative. Otherwise, the result will be verified as a "confirmed positive." Following verification of a positive test result, the medical review officer will refer the case to the County's designated management official empowered to recommend or take administrative action.

The medical review officer is the only person authorized to order a re-analysis of the original sample or a test of the split specimen. Authorization for a split specimen test may be

made by the Covered Employee as part of a challenge to a positive test. If the retest or split specimen test is negative, the medical review officer will cancel the test. (See section above regarding "Split Specimen Analysis").

The medical review officer will not disclose to any party **any** medical information provided by the individual as part of the testing verification process. There is an exception of this rule where, in the MRO's reasonable medical judgment, the information indicates that continued performance by the individual of his or her function could pose a significant safety risk. Before obtaining medical information from any individual as part of the verification process, the MRO explains to the Covered Employee that any information provided may be disclosed to third parties if continued performance by the Covered Employee of his or her safety-sensitive function could pose a significant safety risk.

Blind Sampling: Blind testing is a quality control measure designed to assure the accuracy of lab results. MEA submits to the lab certain pre-tested specimens to verify laboratory accuracy. To insure that the laboratory cannot tell the blind sample specimen from any other real specimens, MEA will submit the blind sample under an assumed name.

ALCOHOL TESTING

As noted earlier, alcohol testing is different from drug testing because it involves testing breath with a machine for the initial test and a blood test to confirm any initial positive tests.

This section will explain the alcohol testing procedures.

The Testing Machine/EBT: The testing apparatus for initial testing for alcohol is a breath machine, referred to as an EBT (evidential breath testing device).

The BAT: The person who conducts the initial alcohol testing is called a breath alcohol technician or BAT and this person is the functional equivalent of the CSP who collects drug testing specimen. The MEA BATs are trained on the type of EBT to be used.

Testing Procedures: The procedures for alcohol testing are similar to drug testing. For example, the BAT must initially confirm the identity of the person to be tested and the BAT must explain the testing procedure to the employee. The BAT is to work with only one employee at a time. The testing is to be conducted at a location and in a manner that ensures sound and visual privacy. A mobile testing unit (i.e., van) may be used but must meet the privacy requirements. The only exception to the privacy requirement arises in the case of accident scene or other emergency testing, and in that event, MEA will assure that Covered Employees are provided as much privacy as the situation will allow.

Initial Screening: After the BAT has identified the Covered Employee and has explained the testing procedure, the next step is to fill out the first part of the Breath Alcohol Test form, which includes the Covered Employee's consent to be tested. (If the Covered Employee refuses to sign, this constitutes a refusal to be tested and is treated as a positive test would be.) After consenting,, the Covered Employee watches the BAT open an individually wrapped and sealed mouthpiece, which is then attached to the EBT. The Covered Employee is instructed to blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates a valid sampling amount has been obtained.

The EBT will then provide the results of the initial test and the BAT will share these with

the employee. If the test result is a breath alcohol concentration of less than .02, the test is considered negative and the Covered Employee and BAT complete the remainder of the form, sign it and report the result to the County.

Confirmation Testing: If the result of the initial screening test is .02 or greater, it will be necessary to conduct a confirmation test. This second test to confirm the initial positive must be a blood test, according to state law. The blood will be drawn only by qualified medical personnel and will be analyzed at laboratories certified to perform such tests by State or Federal law.

If the EBT confirmation test result is different from the initial test result, the confirmation test result controls. The result of the confirmation test will be reported to the employee. To be considered positive and in absolute violation, a Covered Employee's confirmed alcohol level must be .04 or greater.

Reporting Results: The County has designated its Drug and Alcohol Testing Coordinator to communicate with MEA on alcohol testing matters. If test results are initially communicated other than in writing, the County's representative will inform the Covered Employee in writing.

Miscellaneous Provisions: As with drug testing, any suspicious behavior, failure to cooperate, inability to provide a specimen or other behavior which makes completion of an alcohol test impossible shall terminate the test and shall be documented by the testers. Similarly, if a test is interrupted or events occur which would render the test invalid, the test must be aborted and started over using new materials and new forms.

If a Covered Employee is unable to provide a specimen of air suitable for testing, the County shall be so informed and the County will select a physician to evaluate whether the failure to provide enough air is medically explainable. This is the same requirement as the "shy-bladder" evaluation performed by the MRO under the drug testing regulations and, as in drug testing, the physician's report to the County must be in writing. If there is no valid medical explanation for the failure to provide the specimen, it is treated as a refusal to co-operate and thus a positive test. (NOTE: This medical evaluation will not be conducted if the test is a pre-

employment test.)