ANTRIM COUNTY TRANSPORTATION
DRUG AND ALCOHOL TESTING POLICY

Adopted by the Antrim County Board of Commissioners
August 14, 2008

The Antrim County Transportation (ACT) Drug and Alcohol Testing Policy is established to comply with United States Department of Transportation (DOT) regulations, specifically 49CFR Parts 40 and 655. This policy also complies with the Americans with Disabilities Act and the Drug Free Workplace Act of 1988. Any provisions set forth in this policy that are included under the sole authority of ACT and are not provided under the authority of the above named Federal regulations are underlined.

The purpose of this policy is to maintain a safe, healthful and efficient working environment for our employees; to protect ACT property, equipment and operations and to protect the motoring public from the effects of alcohol, illegal drugs or drugs taken for non-medical purposes. In view of these issues, ACT clearly states its intent to accurately detect and to deter the use of drugs and alcohol in our work environment either through testing, cessation of use or termination of employment.

In order to maintain a safe and healthy work environment, ACT has established the following policy regarding use, possession, sale and/or distribution of drugs and alcohol:

A. ANTI-DRUG AND ALCOHOL MISUSE POLICY

ACT strictly prohibits the manufacture, distribution, dispensation, possession, or distribution of illegal drugs, unauthorized prescriptive drugs, controlled substances including but not limited to controlled substances as listed under 655.21(b) and alcohol by its employees on ACT premises (including parking lots or while driving, operating or in an ACT vehicle) or any time when the employee is working for ACT, regardless of location. For purposes of this policy:

- 'Covered Employee' means any employee who performs a safety sensitive duty.
- 'Safety sensitive duty' means an employee who:

1. Operates revenue service vehicles including when not in revenue service.

2. Operates non-revenue service vehicles that requires drivers to have Commercial Driver Licenses (CDL).

3. Dispatches or controls revenue service vehicles.

4. Maintains revenue service vehicles.

- 'Driver' means an employee who is required by the employer to operate an ACT vehicle.

- 'Company premises' includes but is not limited to all property, whether owned or leased or used by ACT. This policy also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment.

- 'Prohibited substances' as defined under 49CFR 655.21(b) include: marijuana, cocaine, opiates, amphetamines, phencyclidine and alcohol.

- 'Under the influence of any prohibited substance' means any detectible level of a prohibited substance in an employee's system above the NIDA cut off limits.

- 'Under the influence of alcohol' means a blood alcohol level of .04% percent or greater. A positive alcohol test means a blood alcohol level of .02% percent or greater.

- 'Reasonable suspicion' is based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee.

- 'Reportable accident' - FTA defines an accident as any incident:

  1. Involving death.

  2. Injury requiring immediate medical treatment away from the scene of the accident.

  3. The transit vehicle involved is a bus, van or automobile in which one or more vehicles incurs

disabling damage as the result of the occurrence and is transported from the scene by a tow truck or other vehicle.

- 'Disabling damage' means damage that 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, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

- 'Follow-up testing' - A covered employee who returns to safety-sensitive duty will be subject to follow-up testing as specified in 49CFR Part 40, subpart O.

- ACT policy prohibits:

1. Use, possession, sales or distribution of illegal drugs, unauthorized prescriptive drugs, controlled substances, and alcohol on ACT premises or while working for ACT.

2. Being under the influence, impaired, or otherwise affected by illegal drugs, controlled substances or alcoholic beverages while on ACT premises, while working for ACT, or while operating or in physical control of an ACT vehicle.

3. Bus drivers and other covered employees are prohibited from committing a disqualifying offense as defined by 49CFR Part 655.33(a) and 655.34 including:
   (a) Driving an ACT vehicle while under the influence of alcohol:
      (1) Where the person's alcohol concentration is 0.02% or more; or
      (2) Consuming alcohol regardless of its alcohol content within four (4) hours of reporting to work.
      (3) Per 49CFR 655.34, consuming alcohol within eight (8) hours following an accident or until a post - accident

alcohol test is administered, whichever comes first.

(4) Refusing to undergo testing as required by the FTA.

(b) Driving a motor vehicle under the influence of a controlled substance;

(c) The use of an ACT vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance;

(d) Leaving the scene of an accident while operating an ACT vehicle; or

(e) Commission of a felony involving the use of a motor vehicle.

B. PRESCRIPTION DRUGS

Anyone taking medication by a physician's order must have this verified to ACT by a licensed physician who must also verify that the medication poses no hazard to the individual or to others. Violation of this policy may result in discipline up to and including discharge.

C. DRUG AND ALCOHOL TESTING

1. Anyone offered employment with ACT in a safety-sensitive position is required to submit to a pre-employment drug test. If the prospective employee fails to produce a negative drug test result, they will not be hired. In the event the pre-employment drug test is cancelled, it must be rescheduled because only a negative drug test result is acceptable.

2. Reasonable suspicion testing will occur when one or more trained ACT officials can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior and speech or body odors of the covered employee. ACT's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee. A supervisor or other ACT official who is trained in detecting the signs and symptoms of drug use and alcohol misuse will make the required observations. If an alcohol test required by this section is not administered within two hours following the reasonable suspicion determination, a record of the reasons the alcohol test was not

promptly administered must be prepared and maintained on file. If the alcohol test is not administered within eight hours following the reasonable suspicion determination, attempts to administer an alcohol test must cease and the reasons for not administering the test must be included in the record.

3. An existing employee being transferred to a safety-sensitive position must provide a negative drug test result.

4. Per 49CFR Part 655.41(d), when a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason and the employee has not been in the employers random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a negative result.

5. The selection of covered employees for random drug and alcohol testing shall be made by a scientifically valid method such as a random number table or computer-based random number generator that is matched with the employee's Social Security numbers, payroll identification numbers or other comparable identifying numbers. The pool of ACT covered employees is updated each calendar quarter and the MRO provides the random employees' names using the Drug Pak computer software. Random tests will be spread throughout the calendar year and will be conducted on all days and hours of ACT safety-sensitive operations and functions. Random tests will be unannounced and employees will be instructed to proceed immediately to the collection site. Also, covered employees will have an equal chance of being tested each time selections are made. The program will be administered in an unbiased manner and there is no discretion as to who will be selected or tested.

D. TESTING PROCEDURES

The Federal Authority for and requirements of the testing process and technical procedures are established by 49CFR Part 40. A copy of 49CFR Part 40 is available for employees to review. Any test required under this policy will be conducted with due regard to the privacy of the individual being tested. All sample collections will be labeled, documented and maintained so as to reasonably

prevent the possibility of erroneous identification, contamination or alteration.

DRUG TESTING

Covered employees are subject to federally-required random and reasonable suspicion drug testing for the five drugs specified under 655.21(b) anytime they are on duty without regard to whether or not they may be called upon to perform a safety sensitive function in the near future. All drug collections will be split samples. A Medical Review Officer (MRO) will review all drug tests.

1. Availability of test results: The results of any drug test and records connected with the testing procedure will be made available to the individual tested upon written request. A licensed physician who has the knowledge of substance abuse disorders reviews the results of the tests themselves. If the tests are positive the individual tested will be advised of the results and the type of drug or drugs discovered. The individual tested will be given the opportunity to discuss the test results with the licensed physician prior to the time the test results are made available to the Employer. After notification of the MRO's final positive determination, the employee has 72 hours to request a test of the `split specimen' at another DHHS certified laboratory. The documentation of the results of the test will not be made available to other parties except upon written request of the individual tested, or when an applicable DOT regulation requires such disclosure, or if in the MRO's reasonable judgment the information could result in the employee being medically unqualified to perform their duties, or if the information would cause a safety risk.

2. Re-testing of Original Split Specimen: The employee may request of the MRO in writing to have the 'split specimen' of a positive test retested at another DHHS certified laboratory selected by the employee. The employee will be required to pay for the retest in advance, and a check must accompany the written request. Should the results of such retest be negative, the Employer shall reimburse the employee for all costs related to such retesting of the split specimen. Further, the employee shall not suffer any discipline as a result of the initial positive test and will be made whole for any lost time or benefits suffered as a

result of preliminary actions taken by the Employer based on the initial positive test results.

3. In the event the MRO informs ACT that a random, reasonable suspicion, pre-employment, post accident, return-to-duty or follow-up drug test was dilute negative, the covered employee will be directed to take another test immediately. The re-test will not be taken under direct observation unless the MRO determines there is another basis for use of direct observation. The result of the second test becomes the test of record for purposes of this part. An applicant or employee with a dilute negative test result, having a Creatinine level grater than 5mg/dL, but less than 20mg/dL, will be directed to take another test immediately, but the recollection will not be under direct observation unless authorized under 49CFR Part 40. (see section 1.8 herein.) No third collection is authorized if the second collection is dilute; it become the test of record.

ALCOHOL TESTING

Per 49CFR Part 655.45(i), a covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions or just after the employee has ceased performing such functions.

All alcohol tests will be administered using a DOT approved evidential breath testing device and conducted by a trained breath alcohol technician. ACT does not require applicants to undergo pre-employment alcohol testing in addition to pre-employment drug testing.

Any substance abuse test that occurs during or immediately before or after the employee's regular work schedule shall be deemed work time for the purposes of compensation and benefits. ACT will pay for the cost of all substance abuse tests it requires, including, if necessary, the cost of transportation, if the testing is conducted at a place other than the work place.

E. POST ACCIDENT TESTING

ACCIDENT: FATALITY

As soon as possible following an accident involving the loss of human life, drug and alcohol tests will be

conducted on each surviving covered employee operating the transit vehicle at the time of the accident. Drug and alcohol tests will also be conducted on any other employee whose performance cannot be completely discounted as a contributing factor to the accident.

ACCIDENT: NON-FATALITY

As soon as possible following an accident not involving the loss of human life, drug and alcohol tests will be conducted if the accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incur disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident. Drug and alcohol tests will be conducted on any other covered employee whose performance could have contributed to the accident as determined by the employer using the best information available at the time of the decision.

1. Time requirements for post accident testing:
   - For post accident drug tests, covered employees are required to be tested as soon as practicable but within 32 hours of the accident, at which time employer will cease attempts to administer the drug test and maintain a written record.
   - For post accident alcohol tests, covered employees are required to be tested within two (2) hours of the accident. If the test is not completed within two (2) hours the employer will prepare a written report stating reasons why the test was not promptly administered. Attempts to administer the test will continue up to eight (8) hours following the accident, at which time the employer will cease attempts to administer the alcohol test and maintain a written record.

2. Requirement to remain "readily available" for testing:
   - A covered employee who is subject to post accident testing who fails to remain readily available for such testing, including notifying the employer or employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing. However, nothing in this requirement shall be construed to require the delay of necessary medical attention for the injured

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

F. SUBSTANCE ABUSE PROFESSIONAL, RETURN TO DUTY AND FOLLOW-UP TESTS

The consequences for a covered employee who has a verified positive drug test result or confirmed alcohol test result with an alcohol concentration of .04 or greater or who refuses to submit to a test under this part, be removed immediately from his or her safety-sensitive function and be evaluated by a Substance Abuse Professional (SAP). Any employee or applicant who tests positive will be provided valid contact information for a USDOT qualified SAP. Where a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of .04 or greater, the employer, before returning the employee to duty to perform a safety-sensitive function, shall follow procedures outlined in 49CFR Part 40, subpart O.

49CFR Part 40.305 specifically states the employee must take a return-to-duty test. This test cannot occur until after the SAP has determined that the covered employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or and alcohol test with an alcohol concentration of less than .02 before resuming performance of safety-sensitive duties. A covered employee with an alcohol test showing an alcohol concentration of .02 or greater but less than .04 shall not perform a safety-sensitive function until the employee's alcohol concentration measures less that .02 or the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

G. TEST REFUSALS

1. Any employee refusing to take a drug or alcohol test when required under this policy will be subject to termination.

2. Employee behaviors that constitute a refusal and are equivalent to a positive drug or alcohol test are listed in 49CFR Part 40.191 and Part 40.261.

Such refusal constitutes a violation of ACT policy. The following are considered a refusal to test if the employee:

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- Fails to remain at the testing site until the testing process is complete (excluding pre-employment prior to commencement of the test)
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part40 or DOT agency regulations
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure
- Fails or declines to take a second test the employer or collector has directed the employee to take
- Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by designated employee representative as part of the "shy bladder" or "shy lung" procedure
- Fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- If the MRO reports that there is verified adulterated or substituted test result
- Failure or refusal to sign Step 2 of the alcohol testing form
- Tampering, adulterating or substituting a specimen
- Failure to appear for a pre-employment test does not constitute a test refusal
- Failure to remain at the testing site until

the testing process is complete for a pre-employment test does not constitute a test refusal

- Aborting the collection for a pre-employment test before the test commences does not constitute test refusal
- Refusing to take an ACT test does not constitute refusal to take a DOT test

3. Any prospective employee who refuses to take a drug test will not be hired.

H. ASSISTANCE TO EMPLOYEE UNDERSTANDING ALCOHOL/DRUG ABUSE

To assist employees in understanding alcohol and drug use and abuse, ACT has established an Employee Assistance Program (EAP). The EAP includes a training program for all personnel which consists of the following:

1. The effects and consequences of prohibited substance use on personal health, safety and the work environment;

2. The manifestation and behavioral causes that may indicate prohibited substance and/or alcohol use or abuse;

3. Review of company policy; and

4. Documentation of training given to all personnel.

I. EMPLOYEE ASSISTANCE PROGRAMS

ACT supports Employee Assistance Programs. This policy supports the treatment of employees for drug and alcohol abuse. ACT will supply employees with information about treatment programs on a timely basis. Depending on the circumstances, ACT may in its sole discretion offer employees who voluntarily request help with a drug or alcohol problem the option of rehabilitation in lieu of termination. Employees offered this option will be referred to a qualified professional or Employee Assistance Program. The employee will be expected as a condition of continued employment to sign a return to work agreement, to follow the counselor's advice, or any recommended program of rehabilitation, and to agree to follow-up testing. Failure to do so or any positive test result within a period up to 60 months after the completion of the rehabilitation program may result in discipline up to and including discharge.

J. CONDITION OF EMPLOYMENT

Compliance with ACT's Drug and Alcohol Testing Policy is a condition of employment. Failure or refusal of an employee to cooperate fully or submit to any inspection or drug test as provided will be grounds for termination. Any employee who tests positive on a drug or alcohol test will be subject to discipline up to and including discharge. In addition to the penalties imposed by the DOT, ACT reserves the right to impose disciplinary action, up to and including discharge, for any violation of the Drug and Alcohol Testing Policy.

K. CONTACT PERSON

The ACT Director is the designated contact person to answer any employee questions about this policy and the employer's anti-drug and alcohol misuse policy. Questions regarding the policy should be directed to the ACT Director.

DRUG-FREE WORKPLACE POLICY

ACT is committed to establishing and maintaining a drug-free workplace for the benefit of its employees and the community. In accordance with the Drug Free Workplace Act of 1988, ACT has adopted the following policy:

A. The unlawful manufacture, distribution, dispensation, possession or use of illegal drugs, unauthorized prescription drugs, controlled substances or alcohol by any employee while in an ACT facility or while performing assigned duties for ACT is prohibited. `Controlled substances' shall mean a controlled substance as found in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15. The term `controlled substances' shall also mean any controlled substance as defined in Michigan Public Health code, Article No. 7, Parts 71-75, MCLA 333.7101 et seq.

B. As a condition of employment, employees shall abide by the terms of this policy and notify the ACT Director of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction. The term `conviction' means a finding of guilt (including a plea of nolo contendere) or imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes. `Criminal Drug Statute' means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

C. Within ten calendar days after receiving notice that an employee has been convicted under a criminal drug statute for a violation occurring in the workplace, the ACT Director shall notify any federal agency from which ACT has received a grant to perform work on a site or any program where the drug violations giving rise to such conviction occurred.

D. Within thirty calendar days of receiving notice of a criminal drug statute conviction for a violation occurring in the workplace or otherwise in connection with the assignment of an employee, the

ACT Director shall take appropriate personnel action against such an employee, up to and including termination; or in appropriate cases, allow such an employee the opportunity to participate satisfactorily and complete a drug abuse assistance or rehabilitation program approved for such purposes by federal, state or local health, law enforcement or other appropriate agencies. Such rehabilitation shall be undertaken at no direct cost to ACT unless otherwise approved by the ACT Director. The ACT Director shall develop and maintain for employee reference a current list of all drug counseling, rehabilitation and employee assistance programs available throughout the community.

E. The ACT Director shall establish a drug-free awareness program to inform employees about the danger of substance abuse in the workplace; the ACT policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation and employee assistance programs; the penalties that may be imposed upon employees for substance abuse violations occurring in the workplace and referral for prosecution; and that disciplinary sanction may include the completion of an appropriate rehabilitation program and work re-entry program.

F. The ACT Director shall take all necessary steps to ensure that all ACT employees are aware of and understand the terms of this policy. The ACT Director shall assure the distribution of this policy to all employees and post copies of this policy in appropriate places in work site settings. Any employee who requests assistance for controlled substance counseling or rehabilitation of work re-entry program shall contact the ACT Director.