



Standard Administrative Procedure – Number 105-A 2010 Version

“Non-DOT Alcohol, Substance Abuse & Contraband Policy”

Section 1: Introduction & Background ...

The Occupational Safety & Health Administration, in association with the National Institute for Drug Abuse (and the medical community at large) has concluded that individuals under the influence of drugs and/or alcohol are incapable of working in a safe and productive manner. Studies conducted by these, and other organizations having an interest in this subject, have also determined that the financial and physical impact of injuries linked to an individuals abusive life style can be staggering ... not only for the injured worker, but for the organizations that employ them.

In consideration of our desire to both preserve, and promote the health and safety of all workers, and in consideration of our willingness to accept the overwhelming evidence on this subject, Riggs Distler & Company, Inc. has elected to design, develop and implement this Substance Abuse & Contraband Policy in order for us to control those unwanted liabilities.

Section 2: Applicability ...

This policy shall apply – without exception – to all employees and applicants at all locations, and under all circumstances regardless of rank or affiliation. Employees that are additionally required to participate in any Federally mandated testing program (such as, but not limited to: the US Department’s of Transportation, Energy, and Defense) will be notified of those additional requirements in advance of their assignment. Such shall be the case with our Maryland based – BGE contracted Utility Department personnel ... who shall be governed by the Research & Special Programs Administration (RSPA) plan developed, and managed by that organization. Employees affected by other policies and programs shall not only need to abide by the regulations applicable to those programs, but to those appearing in this document as well.

Subcontractors shall be required to adhere to the same standards and provisions cited within this program at their own expense. Subcontractors shall be required to supply the names of all workers that have achieved a negative test for drugs and/or alcohol within 72 hours of their arrival. Individuals not having met this requirement within the time allotted shall be barred from the site until that information is made available. Site Superintendents (and/or Project Managers) shall be responsible for enforcing this regulation.

Section 3: Definitions ...

As a matter of policy, the Company strictly prohibits the unlawful use, sale, attempted sale, manufacture, possession, conveyance, purchase, attempted purchase, distribution, cultivation, transfer, or dispensing of any illicit substance under all work related conditions. This prohibition shall

include the use, or possession, of prescription medications for which the employee is unable to produce a valid prescription and/or medical records from his/her licensed health care provider.

For the purposes of clarification, the following terms appearing in this document shall be understood to mean the following:

- ❑ ***The Term "Controlled Substance"*** ... shall refer to any drug, medication, or physical compound such as – but not limited to – those specified in Schedule I or Schedule II of the Controlled Substances Act of 1987 (specifically: marijuana, cocaine, opiates, phencyclidine, amphetamines & methamphetamines), or any other substance having the capacity to interfere with one's ability to think clearly or to spontaneously react to emergency situations. This same definition shall apply to any other substance or material known, or reasonably suspected of having an intoxicating effect – whether legally, or illegally obtained.
- ❑ ***The Term "Alcohol"*** ... shall refer to any distilled liquid hydroxyl compound having the same intoxicating effects of a Controlled Substance.
- ❑ ***The Term "Under The Influence"*** ... shall refer to the confirmed presence of any intoxicating substance (as determined by way of the testing procedures described in this policy) while on duty.
- ❑ ***The Term "On Duty"*** ... shall refer to any hour of any day in which an employee is being compensated for performing any company related activity regardless of location. This shall include, but not be limited to, driving company owned or leased vehicles, operating company owned or leased equipment and/or apparatus, commuting to or from any job site, or other company related function.
- ❑ ***The Term "Medical Review Officer" or "MRO"*** ... shall refer to the Licensed Health Care and/or Substance Abuse Professional selected by the company to perform the confirmation and consultation services needed to comply with all laws and regulations applicable to this subject.
- ❑ ***The Term "Program Administrator"*** ... shall refer to the individual selected by the company to not only design, develop, implement, and manage all matters outlined in this policy, but to ensure that our program fully satisfies each of the laws and regulations on this subject.

Section 4: Program Administration ...

4.1 Program Administrator:

The Program Administrator shall not only bear full responsibility both for the quality of our program, but retain the authority to enforce each of the provisions outlined herein.

4.2 MRO Administrator:

In response to their demonstrated expertise in these matters, the company has elected to name National Diagnostics, Inc. of Charlotte, North Carolina as our Substance Abuse Contractor. The Company shall also rely on that same organization to provide effective "MRO" (Medical Review Officer) services as well. The Substance Abuse Contractor and their Medical Review Officer's shall retain full liability for the quality and reliability of all interpretations and reporting procedures.

Any dispute arising from errors or misinterpretations of test results shall be referred to the organization named herein for resolution, and shall in no way include, nor involve the Riggs Distler organization.

4.3 Prescription Medications:

Employees required to use prescription or “over-the-counter” medications that are known to have the capacity to impair one’s ability to perform their duties in a safe manner are responsible for notifying their immediate supervisor or the Program Administrator so that reasonable accommodations can be made in order to minimize the known, or reasonably anticipated concerns associated with those medications. Information pertaining to an employee’s use of such medications will be treated as confidential, and will only be shared with other Company administrators on a need-to-know basis.

It shall also be the responsibility of the employee to consult with their treating physician in order to determine whether the use of prescribed or over-the-counter medications could lead to impairment. Where impairment might be possible, the Company shall reserve the right to transfer, reassign, or – if necessary – place the employee on a leave of absence for whatever period of time might be required to reduce, or fully eliminate those risks.

4.4 Policy Regarding Contraband:

The Company also prohibits the use, possession, distribution, or sale of any drug paraphernalia, “look-alike” drugs, firearms, weapons, unauthorized explosives, stolen property, unauthorized photographic equipment, materials or substances intended or designed to adulterate substance or alcohol testing, or other contraband while on Company property, or while conducting Company business of any kind. “Contraband” shall be defined as any item ... the use, or possession of which ... is prohibited by Federal, Local, Company or Client laws and regulations. This rule shall equally apply to all job sites, Company owned or leased property, and Company owned or leased motor vehicles, Company or Client parking lots, and any other location under the control of the Company.

4.5 Searches:

The Company shall reserve the right to request that an employee submit to a search of his/her person, personal effects, vehicles, lockers, baggage and other “out-of-plain-view” facilities on those occasions when the Company has reasonable cause to suspect that an employee – or the employees of our on-site subcontractor(s) – are in possession of illegal drugs, alcohol, or contraband known to violate the intent of this, or any other policy on this subject. This shall include the right to conduct random searches of individuals entering, or leaving job sites that are under the control of the Company, or its Clients.

All searches shall be conducted by no less than two (2) Supervisory level personnel in the presence of the individual whose property or work area is being searched. Any suspected contraband discovered as a result of a legitimate search will be confiscated, and – if deemed appropriate – turned over to the law enforcement agency having jurisdiction over such matters. Any person whose property is confiscated as a result of a legitimate search shall be given a written receipt that includes a full description of the property that was confiscated. All written receipts will be composed by the Senior most Administrator conducting that search. All written receipts shall include the name, address, and telephone number of the agency to whom all confiscated item(s) may have been turned over to as well.

An individual is deemed to have consented to the search procedures explained above by entering into, or being present at a job site while on company time, or while representing the company in any way. If an individual is asked to submit to a search, and refuses, that individual shall be considered insubordinate and will be disciplined in accordance with the company's Progressive Discipline Policy.

4.6 Federal Drug-Free Workplace Act Of 1988:

In order to fulfill the Company's obligations under the Federal Drug-Free Workplace Act of 1988, all employees working directly, or indirectly on any Federal Government project shall be required to submit to the Company a written notice of their being convicted of any drug related crime that occurred in the workplace within five (5) days of that conviction. The Company shall fulfill its own requirement to then notify the appropriate government agency of that conviction within ten (10) days.

4.7 Awareness Training & Education:

The Company's commitment to encouraging our employees to become, or to remain drug and/or alcohol free shall (on an on-going basis) include the availability of up-to-date information and training on the effects of drug and alcohol abuse. The Environmental Health & Occupational Safety Department will work with others to coordinate additional training regarding the hazards associated with the use of drugs or alcohol in the workplace. The Company will also provide periodic training to all supervisory personnel that will enable them to recognize the behavioral and psychological signs of potential alcohol and drug abuse in a manner consistent with the on duty "For Cause/Reasonable Suspicion" testing requirements described in Sections 5.0, and 6.2 of this policy.

Section 5: Alcohol & Substance Abuse Testing ...

All employees shall – as a condition of their employment – agree to submit the substance abuse and/or alcohol testing procedures outlined below, whenever called for.

- Pre-Employment
- Random
- For Cause
- Post Incident

Note ... It shall be understood that all offers of employment are contingent upon the candidates ability to pass the drug and/or alcohol testing required for the position for which they are being considered.

5.1 Definitions:

- ***The Term "Pre-Employment" ...*** shall be used to define the procedures that will be followed in order to either confirm, or rule out the presence of drugs and/or alcohol in an individual currently under consideration for employment.
- ***The Term "Random" ...*** shall refer to a regularly occurring cycle of unannounced test aimed at confirming, or ruling out the presence of drugs and/or alcohol involving a pre-determined number of existing employees. The manner and number of individuals selected to participate in this program shall be established by the Company's Substance Abuse Contractor – AMCT.

- ***The Term “For Cause” or “Reasonable Suspicion”*** ... shall be used to define the testing procedures that will be followed on those occasions where:
 - no less than two (2) trained observers have concluded that there is a substantially sound basis for requiring an individual to submit to a drug and/or alcohol test, or,
 - to either prove, or disprove credible allegations of abuse that have been brought to our attention by other employees, the public, or our clients.
- ***The Term “Post Incident”*** ... shall refer to testing procedures that are carried out in order to determine whether the presence of drugs and/or alcohol had, or could have had, an influence in any personal injury, property damage, or near-miss event.

Section 6: Testing Methods & Procedures ...

6.1 Test Methods & Chain Of Custody:

For Non-DOT regulated forensic drug screen testing, the company shall accept results gathered either by the use of Rapid Drug Screen (EMIT) field test devices, Rapid Screen Saliva (oral) testing, or those collected and derived from a traditional laboratory testing facility. Field or Laboratory testing shall only be performed by individuals having met the required training and certification standards established by law.

Alcohol testing shall be performed by way of either a fully calibrated breathalyzer test performed by an individual certified in the use of that device (i.e. a BAT or equivalent), or by way of a blood alcohol test performed in a recognized health care setting by an individual equally certified to perform those procedures.

Individuals participating in any drug test will be asked to provide urine or saliva test sample by the collection technician duly authorized to carryout the test. Procedures for the collection of urine samples shall include reasonable accommodations for privacy – however – the Company shall reserve the right to require the submission of a witnessed (observed) sample where it is reasonable for us to suspect that the individual may alter, or substitute the specimen needed to complete the test. Urine samples will be tested for temperature, adulterants, and subjected to other validation procedures as deemed appropriate by the individual performing the test. The duly authorized collection technician – and the individual being tested – shall maintain “face-to-face” contact at all times in order to ensure that all “chain-of-custody” issues have been followed. The collection technician shall also ensure that all of the mandated collection procedures developed and/or endorsed by the U.S. Department of Transportation are followed from start to finish during each test.

6.2 Testing Procedures:

General Policies ...

With exception of an individual’s right to challenge the results of initial testing (See Section 13), the Company shall agree to pay all costs related to the testing procedures described throughout this policy.

No drug and/or alcohol test will be administered, collected, or analyzed without the written consent of the individual being tested. An individual's refusal to submit to a properly conducted test procedure will result in the termination of that individual.

- ❑ ***Pre-Employment Testing*** ... will be carried out by either of the methods described in the preceding section – the written results of which must be made available to the Program Administrator (or designee) within the first five (5) days of employment. Individuals not having met this requirement will either be prohibited from becoming employed, and/or suspended from continuing to work for the Riggs Distler organization until such time those results are received. Individuals refusing to participate in this program "shall not" be considered for employment. Job applicants who test positive for drugs or alcohol will not be hired.
- ❑ ***Exemption From Pre-Employment Testing*** ... shall be granted only to those individuals being transferred from another Riggs Distler job location, or returning to their same job location within 30 days of their original, or most recent test. Individuals not having met this requirement will be viewed as a new employee, and will therefore be required to retest under the conditions specified by this policy.
- ❑ ***Random Testing For Full Time Employees*** ... shall be performed by either of the methods described in Section 6.1 within two (2) hour of being notified of their requirement to participate. The names of employees chosen to participate in a Random Test shall have been electronically selected from a pool of all eligible employees by our Substance Abuse Contractor (National Diagnostics, Inc). Unless otherwise required, the total number of annual participants appearing in a Random pool shall be equal to no less than 25% of the total number of eligible employees. Unless amended otherwise, Random testing shall be performed on a "prorated" monthly basis sufficient to meet the 25% per annum requirement.
- ❑ ***Random Testing For Contracted Project (Field) Personnel*** ... shall be performed by either of the methods described in Section 6.1 within two (2) hours of being notified of their requirement to participate. The names of employees chosen to participate in a Random Test shall have been electronically selected from a pool of eligible employees by our Substance Abuse Contractor (National Diagnostics, Inc.) at each individual location. Unless otherwise required, the total number of participants shall be equal to no less than 10% of the total number of eligible employees at each location. Random testing shall be performed on a monthly basis in a manner that will satisfy the 10% requirement for the life of each project. (Example: 40 employees working a 3 month project will require that 4 Random Test be performed on 4 randomly selected individuals per month for each of the 3 months).
- ❑ ***For Cause Testing (a.k.a. Reasonable Suspicion)*** ... shall be performed by either of the methods described in section 6.1 within two (2) hour of the decision to test. For Cause testing "shall not" be carried out unless, and until two (2) fully trained and certified supervisors have – on the basis of direct observation – concluded that a reasonable basis for such testing exist. A detailed written report outlining the observations that led to the decision to perform any "For Cause" drug or alcohol test shall be completed and signed by the affected employee, and both supervisors, and immediately forwarded to the Program Administrator. The Program Administrator shall forward a copy of that document to our MRO for his/her review and consideration as well.

The Company shall reserve the right to increase the number and percentage of employees – up to 100% - to be tested at a particular site if deemed necessary in order to accommodate special

circumstances, such as, but not necessarily limited to, reasonable suspicions of abuse that potentially involve multiple employees at a specific location. Under those circumstances, the Program Administrator shall take command of the situation by ordering, and arranging for that/those test to be carried out under the following conditions:

1. The Program Administrator shall notify the Chief Executive Officer and Department Head of his/her intent to carryout a project specific widespread test of all personnel at that site as well as the rationale for ordering those test. The Program Administrator shall also indicate the date that has been established for carrying out those procedures.
2. The Program Administrator shall – as a matter of courtesy – communicate with the Business Agent for the particular trade(s) affected by this order to test. The purpose of that call shall not only be to explain the purpose and rationale for conducting the test, but to extend an invitation for them to be present at the time of the test to witness its outcome.
3. The Program Administrator shall report to the site prepared to conduct the test in accordance with all testing procedures. The Program Administrator shall – in the presence of the Administrators noted above – conduct a meeting with all of the individuals scheduled to participate in the testing process – the purpose of which will be to review all of the events and circumstances that lead to our decision to perform this special random test.
4. As soon as the notification process begins (in the presence of all parties), no person included in the testing process will be allowed to leave the area – for any reason – until the test has been performed on that individual.

The results of every test will be handled in accordance with Section 7.0 of this document.

- ❑ ***Post Incident & Near Miss Testing*** ... shall – if deemed appropriate – be performed by either of the methods described in section 6.1 under the following conditions. Test to determine the presence of alcohol must be performed within eight (8) hours of the incident, while test to determine the presence of a controlled substance must be performed within thirty six (36) hours.
- ❑ ***Employee's Right To Refuse Testing*** ... Employees shall reserve the right to refuse an order to participate in any Random, For Cause, or Post Incident test for the presence of drugs or alcohol. On those occasions, however, it shall be a matter of policy that an employee's decision to refuse testing within the time allotted shall be construed as a "*presumption of positive findings*", and will result in the immediate termination of the employee.
- ❑ ***Maximum Allowable Time For Specimen Collection.*** Individuals required to participate in any of the substance abuse testing procedures described herein shall be afforded a maximum period of two (2) hours from the time they appear before the collection technician to produce the required specimen. Those unable to comply with this requirement shall, in the absence of any medical conditions described and documented by a licensed health care professional, be deemed to have refused to comply with this testing program, and shall then to be terminated for their failure to meet our conditions of employment.

Section 7: Results Of Testing ...

Positive drug or alcohol test shall have been deemed to have occurred when the presence of either has been revealed by the method used to perform the test. Confirmation of positive results shall have been deemed to have occurred only after the results of that test have been re-analyzed (by way of GC/MS testing) and confirmed by an approved laboratory, and submitted to our MRO for review.

Individuals found to have tested positive under our Pre-Employment testing procedures will be immediately excluded from any further consideration, or removed from the site if already working on a conditional waiver.

On those occasions where the individual affirms that the positive test is the result of their taking prescribed medications, the individual will be allowed to complete the application process, but prohibited from working at the site until the confirmation procedures outlined within this document have been completed. On those occasions where it has been confirmed that the concentration of medications are within the therapeutic range for the substance(s) under review, the official result of the test shall be considered reversed, and the individual will be eligible for employment ... assuming that the position continues to exist. Under those circumstances, an individual returning to the job on a prescription based reversal shall be entitled to compensation equal to that individuals regular straight time hourly rate – up to, but never exceeding forty (40) hours, regardless of the schedule they would have been assigned to during that confirmation period. On the other hand, if it has been determined that the concentration of their prescription medications exceeds the therapeutic range, the official results will remain positive, and the individual will not be hired ... nor will they be eligible for any lost wages that accrued during the confirmation period.

Upon the discovery, or notification of a positive or adulterated Random, For Cause, or Post Incident drug or alcohol test, the employee shall be immediately suspended without pay until such time that our MRO has verified those findings. Where those positive findings are once again alleged, or believed (by the employee) to be the result of his/her use of prescribed medications, the MRO shall take whatever measures are required to confirm those findings by comparing the treating physicians medical records against the therapeutic ranges for the medications found. Where it has been determined that the therapeutic range for the substance(s) under review has been exceeded, the test shall be read as "positive", and the employee will be immediately terminated.

Negative results in any category, regardless of the procedure used, shall be accepted at face value, and will require no further action.

Section 8: Employee Notification Procedures ...

Positive drug and/or alcohol test results shall be forwarded to the MRO of record from the laboratory performing those tests. Upon receipt, the MRO shall contact the employee at his/her earliest possible convenience to not only discuss the character and extent of those findings, but to advise the employee of the actions that will be required in order to bring this matter to closure. Upon the completion of all efforts and/or procedures associated with the confirmation process, the MRO shall compose a written letter notifying the Program Administrator of all final determinations made in regards to every matter under review. No mention of the substance detected, nor its concentration shall be made within that written document.

All technical questions regarding the procedures used to obtain the results, or the quality of those test, shall be referred to the MRO of record, while all other questions pertaining to the administrative actions that were taken in response to those findings will be addressed by the Program Administrator. All communications on this subject shall be considered highly confidential.

Section 9: Records & Record Retention ...

- ❑ All records pertaining to drug and/or alcohol testing shall be considered highly confidential – regardless of their outcome.
- ❑ With the exception of all other independent programs that might affect a specific group of employees, all records pertaining to drug and/or alcohol testing shall be forwarded to the Program Administrator who shall not only take custody of those records, but ensure that they are retained in a secured location accessible to no other person, under any circumstance.
- ❑ All records pertaining to the results of drug and/or alcohol test that are being forwarded to, or from any outside testing or consultation organization shall be clearly marked “Personal & Confidential”. Any unauthorized person found to have intentionally gained access to those records shall be immediately terminated.
- ❑ The Program Administrator shall maintain a separate secured file containing the names, social security numbers, and dates of all positive test results.

Section 10: Employee Assistance Programs ...

In response to the value we have placed on our employees, it shall be a matter of policy that the company shall provide whatever assistance may be required on all matters pertaining to drug and/or alcohol abuse issues. Regular Full Time employees of the Company found to be under the influence of either substance shall be referred to an agency approved by our employee health insurance carrier for counseling and rehabilitation services.

Because of the uniqueness of the contract relationship with our field personnel, however, it shall be a matter of policy that all Union, or Contract employees determined to have tested positive for drugs and/or alcohol shall:

1. Be immediately terminated, and,
2. Referred back to their own Union Hall in order to access the services provided by the Joint Labor/Management Remedies therein.

No employee – regardless of their affiliation – shall be allowed to return to work unless, and until evidence of their successful completion of a fully recognized counseling and/or rehabilitation program has been forwarded to the Program Administrator ... “AND” ... our MRO for their review and approval.

Section 11: Return To Duty Testing ...

Although the Company recognizes the benefits and rights of an employee to participate in a recognized counseling or rehabilitation program, the Company will reserve its right to reject the re-employment of

any individual found to have tested positive for drugs and/or alcohol (under any category) for a period of one (1) calendar year from the date of discovery. It shall also be a matter of policy that all individuals returning from such a program shall agree to be randomly tested – “At Will” – for a period of six (6) months after a return to duty has been granted by the Program Administrator and MRO. The discovery of a second positive test (regardless of the circumstances) within that time period will be grounds for immediate termination. Under those conditions, the employee understands that no further counseling or rehabilitation benefits will be made available by the Company, nor will there be any consideration given to our re-employing that individual at any time in the future.

Section 12: Notifications ...

In regards to the legal issues pertaining to an employees right to confidentiality, the Program Administrator and MRO shall refrain from discussing the results of any drug and/or alcohol test to any other person ... other than on an absolute “need-to-know” basis. In all cases where it becomes necessary to remove an employee from their position for reasons of testing positive for drugs and/or alcohol, the Program Administrator shall meet with the Senior Company Manager(s) only to advise them that the employee was released, or removed, for reasons of their not being able to meet the company’s eligibility requirements.

On those occasions where we are contractually obligated to reveal the identity of those individuals to our Clients, the Program Administrator shall limit the information being supplied to include nothing more than the individual’s name, social security number, and the fact that they failed to meet the requirements of the job. At no time, or under any circumstance will the Program Administrator, or MRO, include the identity or concentration of the substance found to any other person, regardless of the demands made.

Section 13: Rights Of An Employee To Contest Our Findings ...

Any employee deemed to have tested positive for drugs and/or alcohol shall reserve the right to contest those findings. Employees shall reserve the right to request that additional testing be performed either at the same, or another facility of their choosing. It shall be a matter of policy that all such request for secondary testing must be performed on the same sample from which the original results were obtained. It shall also be a matter of policy that any additional testing will be done at the employee’s expense - whether performed at the same laboratory having custody of their specimen, or at an alternate laboratory of their choosing.

Where the results of test performed on the same sample conflict, both MRO’s shall consult with one another to determine which of the two (2) results will be agreed upon. Their decision on this matter shall be considered final, regardless of the outcome. Where it has been agreed that the initial positive results are to be overturned, the company shall agree to offer the individual re-employment opportunities at the earliest possible convenience. Under those circumstances, the Company shall once again agree to reimburse the donor up to a maximum of forty (40) hours of lost pay that would have been regularly earned, but not for the cost of the additional testing that were performed.

Section 14: Repeat Offense Penalty ...

As indicated earlier in Section 11, Riggs Distler shall reserve the right to reject the re-employment of any individual found to have tested positive – under any category – for a period of one (1) calendar year from the date of discovery.

The Company shall also reserve the right to permanently exclude any individual from all re-employment opportunities upon the discovery of a second positive test ... regardless of the amount of time separating the tests that were performed and found positive.