

*Forward Air, Inc.,
FAF, Inc., Forward
Air Solutions, Inc. &
Company Affiliates*

**Alcohol &
Substance Abuse
Policy & Procedures**

January 2009

FORWARD AIR CORPORATION

Effective 1/1/09

Subject: POSSESSION, USE, AND TESTING FOR DRUGS AND ALCOHOL

I. POLICY

The Company prohibits all employees from reporting to work having used illegal or unauthorized drugs or reporting under the influence of alcohol as determined by abnormal behavior and/or a positive drug-alcohol screening test, regardless of when or where the prohibited substance entered the person's system. The possession, use, consumption or sale of alcoholic beverages, illegal or unauthorized drugs or other controlled substances while on the Company's premises is strictly prohibited as well.

Additionally, all applicants and employees will be required as a condition of employment to submit to requested drug-alcohol testing from time to time. Such testing will be performed in accordance with this policy and within the requirements of applicable law.

II. REASON FOR THIS POLICY

The Company is committed to maintaining a work environment that is safe for our employees and other people having business with the Company, and is conducive to attaining high work standards. With the equipment and type of jobs at our Company, the use of illegal or unauthorized drugs and alcoholic beverages are a critical threat to our safety program and overall working environment. We must also keep in mind that, federal regulations require that we have a mandatory drug testing program for certain employees.

It is not our intention to catch an individual doing something wrong. Rather, our intention is to discourage the use and possession of these prohibited substances in order to protect the life, health, and property of everyone working here. It is only those who abuse this policy that need to be concerned. In implementing this policy, the Company will be sensitive to the legitimate concerns of our many law-abiding employees who are always in compliance with our policies, but are worried about having their personal belongings searched or privacy violated.

III. PROHIBITED ITEMS AND SUBSTANCES

The items and substances prohibited by this policy include, but are not limited to illegal drugs or other mind or mood-altering substances which

can affect or hamper the senses, emotions, reflexes, judgment, or other physical or mental activities, alcoholic beverages, "look-alike" substances, inhalants, prescription drugs that have not been authorized as set forth below, and equipment, paraphernalia or literature related to illegal drug or substance use.

IV. PRESCRIPTION DRUGS

- A. Employees may maintain prescription drugs on Company premises provided the following conditions have been met:
 - 1. The drugs have been prescribed by a licensed physician for the person in possession of the drugs;
 - 2. The drugs are kept in their original container; and
 - 3. The employee has notified his or her supervisor concerning the prescription drugs and has returned a "medication authorization" form completed by the employee's physician to the employee's supervisor.
- B. If an employee is taking a prescription drug that may affect the employee's ability to safely function on the job, then the employee should notify his or her supervisor, regardless of whether or not the employee maintains the drug on Company premises. Any drugs found in an employee's possession that have not been reported pursuant to these procedures will be deemed unauthorized.

V. ENFORCEMENT OF THIS POLICY

Every employee is expected to comply with this policy for his or her own safety, for the safety of other employees and for the good of the Company. Therefore, in order to ensure compliance with this policy, the Company will from time to time take one or more of the following steps:

- A. Searches of Company premises and property, including employees and others on the Company's premises, and the personal effects and vehicles of such persons;

(The term Company premises as used in this policy covers all company owned or leased property and facilities, including all docks, parking lots, offices, desks, lockers, trucks and trailers or other vehicles engaged in Company operations.)

- B. Confiscation of prohibited items and substances, and where appropriate, delivery of such items to law enforcement authorities;

- C. Urine drug screen tests, breath tests, blood tests, and other investigative examinations of such persons involved in accidents on or off the premises, and as part of routine pre-employment physical examinations;
- D. Urine drug screen tests, breath tests and/or blood tests of applicants post offer of employment but prior to commencing employment.
- E. Urine drug screen tests when the Company has a reasonable suspicion that alcohol, illegal drugs, or other prohibited substances may be present. 'Reasonable suspicion' is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:
 - 1. Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
 - 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 - 3. A report of substance abuse provided by a reliable and credible source;
 - 4. Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;
 - 5. Information that an employee has been involved in, has caused or contributed to an accident while at work; or
 - 6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
- E. Urine drug screen tests conducted on a random, unannounced basis.

- F. Urine drug screen tests and other investigative examinations of persons who have previously tested positive for drugs or alcohol usage in violation of this policy or refused to submit to testing.

VI. EMPLOYEES FOUND IN VIOLATION OF THIS POLICY

Any employee found in possession of any of the items or substances prohibited by this policy will be removed from Company premises and will be subject to disciplinary action, up to and including discharge. Any employee who, as a result of testing, is found to have identifiable levels of a prohibitive drug or substance in his or her system, regardless of when or where the drug or substance entered the employee's system, will be considered in violation of this policy, will be removed from Company premises, and will be subject to disciplinary action, including discharge.

VII. REFUSAL TO COMPLY WITH SEARCH, TEST OR INVESTIGATION

Any employee who refuses to comply with a search, test or otherwise cooperate with an investigation concerning this policy will be subject to removal from Company premises and to disciplinary action up to and including discharge.

VIII. REPORTING TO WORK UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES OR AFTER HAVING USED ILLEGAL DRUGS OR OTHER PROHIBITED SUBSTANCES

Any employee who reports to work under the influence of alcoholic beverages or after having used illegal drugs or other prohibited substances will be subject to removal from Company premises and to disciplinary action, including discharge.

IX. CONTRACTORS AND THIRD PARTIES

All contractors or third parties on Company premises will be subject to this policy. Any such individual found in violation of this policy will be subject to immediate removal from the premises. Furthermore, violation of this policy by a contractor or vendor may cause the cancellation of the contract or services agreement between the Company and the contractor/vendor.

X. DRUG AWARENESS PROGRAM

All employees and supervisory personnel will participate in the Company's Employee Drug Awareness Program. The Employee Drug Awareness Program includes education and training on drug and alcohol use. The program will include information on the following:

- A. The effect and consequences of drug and alcohol use on personal health, safety, and work environment;

- B. The manifestations and behavioral cues that may indicate drug and alcohol use and abuse; and
- C. The display and distribution of informational material; display and distribution of a community service hot line telephone number for employee assistance; and display and distribution of a summary policy statement regarding drug and alcohol use in the workplace.

XI. ADMINISTRATION OF THIS POLICY

The Safety Department will be responsible for the administration and enforcement of this policy. All questions about enforcement or other related problems or situations, including possible violations of this policy, are to be directed to the Vice President of Safety at 1-800-347-0071, extension 3212.

XII. CONFIDENTIALITY

All actions taken in connection with this policy will be handled in a confidential manner and with due regard for an individual's right to privacy. Only those individuals with a genuine "need to know" will be advised of action taken. Violators of this "confidentiality" provision are subject to disciplinary action up to and including discharge. Records of and relating to testing will be maintained in the employee's medical file.

XIII. EXHIBITS: EAP, SUPPORTING DOCUMENTS, AND ADDITIONAL TERMS

Exhibit A -- "Medication Authorization" form for employee's physician to complete in appropriate circumstances.

Exhibit B -- Supervisory guidelines concerning legally prescribed drugs.

Exhibit C -- Definition of drug paraphernalia.

Exhibit D -- Additional terms specific to truck drivers/DOT-regulated employees.

Exhibit E -- "Employee Assistance Program" (EAP).

EXHIBIT A
MEDICATION AUTHORIZATION

TO: _____
(Supervisor)

_____ (employee's name), is taking medication with possible reactions that may impede his/her ability to perform his/her job duties safely and effectively. A description of the possible physical or psychological effects said medication may have on this person is provided below.

POSSIBLE PHYSICAL
OR PSYCHOLOGICAL EFFECTS

EXPECTED DURATION THAT
MEDICATION WILL BE TAKEN

1. _____

2. _____

3. _____

4. _____

DATE: _____

PHYSICIAN SIGNATURE: _____

PHYSICIAN NAME: _____ (please print)

I accept responsibility for the possession and proper use of the medication listed above.

EMPLOYEE SIGNATURE: _____

DATE: _____

EXHIBIT B

GUIDELINES CONCERNING LEGALLY PRESCRIBED DRUGS

1. Legally prescribed drugs may be allowed in the workplace provided the supply does not exceed the prescribed amount required for the duration of the normally appropriate work day or other work cycle.
2. Each prescription is to be recorded with the employee's immediate supervisor along with the prescribed dosage. It is not necessary that the employee identify the specific medication.
3. Supervisors are to observe those employees on prescribed medication and be alert for any indication that suggests abuse or that the effect of the medication may present a safety or health hazard to the employee and his or her co-workers.
4. Prescription drugs must be kept in the original container as issued by the pharmacist in the prescribed amount required for the duration of the normally appropriate work day or other work cycle.
5. Employees can only be in possession of their own prescribed medication. No one, unless licensed, is allowed to dispense medication, e.g., a wife is not allowed to give her husband (our employee) her diet pills. If the husband is overweight, he needs to get a prescription in his own name from his physician.
6. To prevent confusion, drugs and medication that can be obtained over-the-counter must also be kept in their proper container.

EXHIBIT C
DEFINITION OF ILLEGAL OR UNAUTHORIZED DRUG PARAPHERNALIA

These items include, but are not limited to:

1. Blenders, bowls, containers, spoons, mixing devices used or intended for use in compounding controlled substances.
2. Capsules, balloons, envelopes, and other containers used or intended for use or concealing in packaging small quantities of controlled substances.
3. Hypodermic syringes, needles, or other objects designed or intended for injecting controlled substances into the human body.
4. Objects used or intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, etc., into the human body such as:
 - a. metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - b. water pipes;
 - c. carburetion tubes and devices;
 - d. smoking and carburetion masks;
 - e. roach clips or other objects used to hold smoking materials such as a marijuana cigarette that has become too small or too short to be held by hand;
 - f. chamber pipes;
 - g. electric pipes;
 - h. air-driven pipes;
 - i. chillums;
 - j. bongs;
 - k. ice pipes;
 - l. rolling paper (e.g., zig-zag, E-Z wider, Bamba, Job, Joker, etc.) not associated specifically with tobacco products;
 - m. cocaine freebase kits.

EXHIBIT D

TERMS SPECIFIC TO PERSONS OPERATING COMMERCIAL MOTOR VEHICLES

1. PURPOSE.

The Company is dedicated to the health and safety of its drivers. Drug and/or alcohol use may pose a serious threat to driver health and safety and the safety of the Company's operations. Therefore, it is the policy of the Company to prevent the use of unauthorized drugs and the abuse of alcohol from having an adverse effect the Company's drivers and operations. The Federal Motor Carrier Safety Administration's ("FMCSA") regulations requiring the Company to implement an alcohol and Controlled Substances (as defined herein) testing program, the Company has adopted this policy and is committed to maintaining a drug-free workplace.

It is the policy of the Company that the use, sale, purchase, transfer, possession, or presence in one's system of any Unauthorized Drug (as defined herein) by any driver while on the Company premises, engaged in company business, operating company equipment, or while under the authority of the Company is strictly prohibited. Disciplinary action will be taken as necessary to enforce this policy.

Neither this policy nor any of its terms are intended to create a contract of employment or contain the terms of any contract of employment. The Company retains the sole right to change, amend, or modify any term or provision of this policy without notice. This policy **is effective January 1, 2009**, and will supersede all prior policies and statements relating to alcohol or drugs.

2. REGULATORY REQUIREMENTS.

All drivers who operate commercial motor vehicles that require a commercial driver's license under 49 CFR Part 383 are subject to the FMCSA's drug and alcohol regulations, 49 CFR Part 382. The Federal Motor Carrier Safety Regulations ("FMCSRs") set the minimum requirements for testing. The Company's policy in certain instances may be more stringent. The Company's alcohol and drug program administrator who is designated to monitor, facilitate, and answer questions pertaining to these procedures is:

Safety Department
800-347-0071, ext. 3518
Groveport, OH

3. DEFINITIONS.

Below are important definitions of terms referred to in this policy:

- A. “Commercial Motor Vehicle”** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
1. Has a gross combination weight rating of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
 2. Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
 3. Is designed to transport 16 or more passengers, including the driver; or
 4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).
- B. “Confirmed Drug Test”** means a confirmation test result received by an MRO from a laboratory.
- C. “Controlled Substances”** mean those substances identified in 49 CFR Section 40.85.
- D. “Designated Employer Representative” (“DER”)** means an individual identified by the Company as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.
- E. “Disabling Damage”** means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.
- F. “Driver” or “driver”** means any person who operates a Commercial Motor Vehicle as defined above. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; independent, owner-operator contractors who are either directly employed by or under lease to the motor carrier or who operates a Commercial Motor Vehicle at the direction of or with the consent of the motor carrier.
- G. “Medical Review Officer” (“MRO”)** means a person who is a licensed physician (Doctor of Medicine or Osteopathy) and who is

responsible for receiving and reviewing laboratory results generated by the Company's drug testing program and evaluating medical explanations for certain drug test results.

- H. **“Performing a Safety-Sensitive Function”** means any period when a driver is actually performing, ready to perform, or immediately available to perform any Safety-Sensitive Functions (as defined herein).
- I. **“Prescription Medications”** means the use (by a driver) of legally prescribed medications issued by a licensed health care professional familiar with the driver's work-related responsibilities.
- J. **“Refusal to Submit to an Alcohol or Controlled Substances Test”** means that a driver:
 - 1. Fails to appear for any test (except pre-employment) within a reasonable time, as determined by the Company, consistent with applicable DOT regulations, after being directed to do so by the Company;
 - 2. Fails to remain at the testing site until the testing is complete (except pre-employment if the driver leaves before the testing process begins);
 - 3. Fails to provide a urine specimen for any DOT required drug or alcohol test (except pre-employment if the driver leaves before the testing process begins);
 - 4. In the case of a directly observed or monitored collection in a drug or alcohol test, fails to permit the observation or monitoring of the driver's provision of the specimen;
 - 5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - 6. Fails or declines to take a second test the employer or collector has directed the driver to take;
 - 7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER (in the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment);
 - 8. Fails to cooperate with any part of the testing process; or
 - 9. Is reported by the MRO as having a verified adulterated or substituted test result.
- K. **“Safety-Sensitive Function”** means all time from the time a driver begins to work or is required to be in readiness to work until the

time he/she is relieved from work and all responsibility for performing work.

Safety-Sensitive Functions include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the Company;
2. All time inspecting equipment as required by 49 CFR Secs. 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR Sec. 393.76);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- L. **“Unauthorized Drugs”** shall mean any substance, other than Prescription Medication, which is, or has the effect on the human body of being a narcotic, depressant, stimulant, hallucinogen or cannabinoid, their precursors, derivatives or analogues, and includes, but is not limited to, Controlled Substances, inhalants, “designer drugs”, “look-a-likes”, and hemp products or products derived from hemp.

4. **ALCOHOL AND DRUG PROHIBITIONS**

- A. **Alcohol Prohibitions.** The Company prohibits any alcohol misuse that could affect performance of Safety-Sensitive Functions. The prohibitions on the use or misuse of alcohol include:

- use of alcohol while performing Safety-Sensitive Functions;
- use of alcohol during the 4 hours before performing Safety-Sensitive Functions;
- reporting for duty or remaining on duty to perform Safety-Sensitive Functions with a blood alcohol concentration of 0.02% or greater;

- use of alcohol for up to 8 hours following an accident or until the driver undergoes a post-accident test; or
- refusal to take a required test to detect the presence of alcohol.

B. Drug Prohibitions. The Company prohibits any drug use that could affect the performance of Safety-Sensitive Functions. The prohibitions on the use of drugs include:

- use of any Unauthorized Drug;
- use of any Prescription Medications except when administered to a driver by, or under the instructions of, a licensed medical practitioner, who has advised the driver that the substance will not affect the driver's ability to safely operate a commercial motor vehicle. (The use of marijuana under California Proposition 215 or the use of any Schedule I drug under Arizona Proposition 200 is not a legitimate medical explanation. Under federal law, the use of marijuana or any Schedule I drug does not have a legitimate medical use in the United States.);
- testing positive for any Unauthorized Drugs; or
- refusing to take a required drug test.

All drivers must inform the Safety Department and their local manager of any Prescription Medication prior to performing a Safety-Sensitive Function. He/she may be required to present written evidence from a health care professional which describes the effects such Prescription Medications may have on the driver's ability to perform his/her tasks.

5. **TESTING**

A. Pre-Employment Testing (49 CFR Sec. 382.301): All drivers must pass a Controlled Substance test prior to performing any Safety Sensitive Functions. These functions will not be assigned until the Company has received a negative test result. An employee of the Company transferring to a driving position is also subject to and must pass a Controlled Substance test as a condition of the transfer.

B. Reasonable Suspicion Testing (49 CFR Sec. 382.307): If the driver's supervisor or another supervisor or manager of the Company believes a driver is under the influence of alcohol or drugs, the driver will be required to undergo a drug and/or alcohol test.

1. *Standard.* "Reasonable Suspicion" is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.

Reasonable suspicion alcohol testing is only authorized if the observations are made during, just preceding, or after the driver's performance of a Safety Sensitive Function.

2. *General Procedures.*

- (a) If "Reasonable Suspicion" exists, the driver's supervisor or another company official will immediately remove the driver from any and all Safety-Sensitive Functions and take the driver or make arrangements for the driver to be taken to a testing facility.
- (b) A written record of the observations leading to an alcohol or Controlled Substance reasonable suspicion test, signed by the supervisor or company official who made the observation, will be completed within 24 hours of the observed behavior or before the results of the alcohol or Controlled Substances test are released, whichever is first.
- (c) A driver awaiting the results of a reasonable suspicion drug test will be suspended without pay.

3. *Additional Procedures for Reasonable Suspicion Alcohol Testing.*

- (a) Any alcohol test revealing a blood alcohol level of .02% or more will be considered a failed alcohol test. Disciplinary action will be taken up to and including termination.
- (b) If an alcohol test is not administered within two hours following a reasonable suspicion determination, the supervisor will prepare and maintain a record stating the reasons why the test was not administered within 2 hours.
- (c) If the test was not administered within 8 hours after a reasonable suspicion determination, all attempts to administer the test shall cease. A record of why the test was not administered must be prepared and maintained.

C. Post-Accident Testing (49 CFR Sec. 382.303): Drivers are to notify personnel in the Company's dispatch department at the Company's Groveport, Ohio (CMH) location as soon as possible if

they are involved in an accident. The contact information for CMH dispatch is included in the permit book each driver is required to carry.

1. *Standard.* A driver must submit to post-accident drug and alcohol testing if the accident involved:
 - a fatality,
 - bodily injury with immediate medical treatment away from the scene *and* the driver received a citation, or
 - Disabling Damage to any motor vehicle requiring tow away *and* the driver received a citation

2. *General Procedures.*
 - (a) The driver will be tested for drugs and alcohol as soon as possible following the accident. The driver must remain readily available for testing. If the driver isn't readily available for alcohol and drug testing, he/she may be deemed as refusing to submit to testing. A driver involved in an accident may not consume alcohol for eight (8) hours after the accident or until testing is completed.
 - (b) If the alcohol test is not administered within two (2) hours following the accident a company representative will prepare a report and maintain a record stating why the test was not administered within two hours.
 - (c) If the alcohol test is not administered within eight (8) hours following the accident, all attempts to administer the test will cease. A report and record of why the test was not administered will be prepared and maintained.
 - (d) The drug test must be administered within 32 hours of the accident. If the test could not be administered within 32 hours, all attempts to test the driver will cease.
 - (e) The Safety Department will prepare and maintain a record stating the reasons why the test was not administered within the allotted time frame.

D. Random Testing (49 CFR Sec. 382.305): The Company conducts random testing for all drivers using a Company-wide selection

process based on a scientifically valid method. The random testing will be spread reasonably throughout the calendar year. All random alcohol and drug tests will be unannounced, with each driver having an equal chance of being tested each time selections are made. A driver may only be tested for alcohol while he/she is performing a Safety-Sensitive Function, just before performing a Safety-Sensitive Function, or just after completing a Safety-Sensitive Function. Once notified that he/she has been randomly selected for testing, the driver must proceed immediately to the assigned collection site.

E. Refusal to Submit to Testing.

In accordance with 49 CFR Sec. 382.211, a driver may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or Controlled Substances test required by the regulations. A refusal to submit is treated the same as a failed alcohol or positive drug test.

F. Diluted Specimens.

If the MRO informs the Company that a positive drug test was diluted, the Company will treat the test as a verified positive test. The Company will only conduct a recollection if the MRO directs the Company to do so.

G. Controlled Substance Test Results.

1. *Testing.* Urinalyses will be conducted to detect the presence of the following substances:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP).

Detection levels requiring a determination of a positive result shall be in accordance with the guidelines adopted by the FMCSA in accordance with the requirements established in 49 CFR Section 40.87.

2. *Procedures.*

- (a) According to FMCSA regulation, the laboratory must report all test results directly to the Company's MRO.

- (b) The MRO is responsible for reviewing and interpreting all Confirmed positive, adulterated, substituted, or invalid drug test results. The MRO must determine whether alternate medical explanations could account for the test results. The MRO must also give the driver who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the MRO will notify the Company's DER.
- (c) If the MRO, after making and documenting all reasonable efforts, is unable to contact a tested driver, the MRO shall contact the DER instructing him/her to contact the driver.
- (d) The MRO may verify a positive, adulterated, substituted, or invalid drug test without having communicated with the driver about the test results if:
- the driver expressly declines the opportunity to discuss the results of the test;
 - neither the MRO or DER has been able to make contact with the driver for 10 days; or
 - within 72 hours after a documented contact by the DER instructing the driver to contact the MRO, the driver has not done so.
- (e) *Split Sample:* The MRO must notify each driver who has a positive, adulterated, or substituted, drug test result that he/she has 72 hours to request the test of the split specimen. If the driver requests the testing of the split, the MRO must direct (in writing) the lab to provide the split specimen to another certified laboratory for analysis. The driver will pay for the testing of the split specimen. If the analysis of the split specimen fails to reconfirm the results of the primary specimen, or if the split specimen is unavailable, inadequate for testing, or unstable, the MRO must cancel the test and report the cancellation and the reasons for it to the DER and the driver.

H. Confidentiality/Recordkeeping. All driver alcohol and Controlled Substance test records are considered confidential. Driver alcohol and Controlled Substance test records will only be released in accordance with 49 CFR Sec. 382.405. All records will be retained for the time period required in 49 CFR Sec. 382.401.

5. **TRAINING.**

- A. **Driver Education and Training:** All drivers will be given information regarding the requirements of 49 CFR Part 382 and this policy. Drivers will receive in person training prior to starting any safety sensitive duties.
- B. **Supervisor Training:** According to FMCSA regulation, all employees of the Company designated to supervise drivers will receive training on this program.
- C. **Referral, Evaluation, and Treatment:** A letter providing a resource list for substance abuse professionals (“SAP”) will be provided to all drivers who fail an alcohol test or test positive for drugs. The driver will be responsible for paying for SAP evaluation and any treatment required.

6. **VOLUNTARY REQUEST FOR ASSISTANCE.**

The Company will not take disciplinary action against a driver who makes a voluntary admission of alcohol misuse or Controlled Substance use if:

- the admission is made prior to notification of a required test;
- the driver does not self-identify in order to avoid 49 CFR Part 382 testing;
- the driver makes the admission of alcohol misuse or Controlled Substances use prior to performing a Safety-Sensitive Function; and
- the driver does not perform a Safety-Sensitive Function until the Company is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

The driver may be considered for return to Safety-Sensitive Functions upon successful completion of an education or treatment program, as determined by a drug and alcohol abuse evaluation expert. Also, the driver must undergo a return-to-duty test with a result indicating an alcohol concentration of less than 0.02%; and/or a Controlled Substances test with a verified negative test result.

7. **DISCIPLINARY ACTION.**

- A. **Controlled Substance Positive Test Result:** Upon notification that a driver has a drug test result of positive, adulterated, or substituted, the driver will be given the option of requesting a test of the split sample within 72 hours. If the driver has requested a test of

the split sample, the driver will be suspended without pay until the results of a split sample test are obtained.

If the driver doesn't request a split sample test or the split sample test confirms the initial positive, adulterated, or substituted, drug test result, disciplinary action will be taken up to and including termination.

- B. Refusal to Test:** A driver's refusal to test for alcohol or Controlled Substances will be considered a positive test result. A driver whose conduct is considered a refusal to test will be the same as the action taken for a failed alcohol or positive drug test.
- C. Failed Alcohol Test Result:** Upon notification that a driver has failed an alcohol test (0.02% BAC or greater), disciplinary action will be taken up to and including termination.
- D. Additional Actions.** Additionally, the following events will result in immediate removal of an employee or contract driver from a Safety-Sensitive Function and disqualify him or her from operating a commercial motor vehicle in the Company's service:
 - 1. A conviction relating to consumption, use or being under the influence of illegal drugs or Controlled Substances.
 - 2. A conviction for possession or transportation of illegal drugs or Controlled Substances.
 - 3. A conviction relating to consumption, sale or being under the influence of alcohol.
 - 4. Possession of alcoholic or intoxicating beverages and/or illegal drugs or drug paraphernalia in a motor vehicle.

Any pending charge relating to the possession, use, sale, purchase, transfer, distribution, transportation of alcohol, illegal drugs or Controlled Substances, whether vehicle related or not, may be cause for suspension from driving until such time as a final adjudication has been entered.

A driver who fails to pass any alcohol or Controlled Substance test whether administered under the FMCSR or other state or local governing entities may be subject to disciplinary action up to and including disqualification/termination.

EXHIBIT E
EMPLOYEE ASSISTANCE PROGRAM (EAP)

Employees who voluntarily request assistance in dealing with a personal drug or alcohol problem may participate in Forward Air, Inc's Employee Assistance Program (EAP) without jeopardizing their continued employment with the Company. Similarly, the Company may recommend that an employee consult with representatives of the Company's EAP when a drug or alcohol problem is suspected. However, participation in the EAP will not prevent disciplinary action for a violation of the Company's drug policy or other forms of misconduct or performance problems. The EAP is available to all employees and their immediate families. Coverage is extended to an employee's immediate family because a behavioral problem of a family member may also affect an employee's work and general well-being. The scope of the Company's EAP is to provide help for alcohol or other drug abuse problems. Problems regarding promotions, transfers, wage increases or disputes with supervisors are not handled by EAP.

EAP assistance is available by telephone or by a confidential office consultation. For EAP assistance, please call the telephone number listed in the Company's current benefit guide.

An EAP staff person will advise you of available alternatives for treatment, counseling or help and will assist you in arranging an appointment. When you request assistance, you decide whether or not you want to pursue the recommendation.

Family members, supervisors and co-workers who are concerned about a troubled employee can also receive confidential consultation.

In many instances, the Company's health plan offers coverage for treatment provided by outside resources in connection with EAP. If, however, you need to be referred to services which are not covered by the Company's health plan, you will be responsible for all fees. For specific plan coverage please consult the appropriate benefit plan, your Group Health Insurance Department, the EAP, or the Corporate Benefits Specialist.

Confidentiality. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no EAP matters will be entered in an employee's personal file. A request for evaluation, diagnosis, information or treatment has no effect on job security or advancement.

This certifies that I have received, read and understand the Company's **POSSESSION, USE, AND TESTING FOR DRUGS AND ALCOHOL Policy**. My signature certifies that I have been provided access and opportunity to read this Policy. I agree to abide by the rules and regulations contained in this Policy.

(Print Name)

(Date)

(Signature)

SS#

Policy effective date 1/1/09