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Drug and Alcohol Free Workplace	Human Capital Management	November 17, 2015	7.3.2

1.0 RESPONSIBILITY

Executive Vice President and Chief Human Capital Officer is responsible for the interpretation, administration, and approval of any exceptions to this policy.

2.0 PURPOSE

This policy demonstrates Amtrak’s commitment to ensure the safety of all employees and to promote productivity by creating a drug and alcohol-free workplace.

3.0 SCOPE

This policy applies to all Amtrak employees, contractors, and all applicants that have received a conditional offer of employment. By accepting employment with Amtrak, an employee will be deemed to have consented to drug and/or alcohol testing under applicable Federal regulations and Amtrak’s Drug and Alcohol Policy. The Executive Vice President and Chief Human Capital Officer is ultimately responsible for the administration and interpretation of this policy. Amtrak encourages employees with alcohol or drug dependencies to voluntarily obtain the earliest possible diagnosis and treatment of their problem. The Company supports such efforts through its Employee Assistance Program (EAP), which provides assessment, counseling and referral services for employees with substance abuse problems.

4.0 POLICY

Employees are an extremely valuable resource for Amtrak and their health and safety is of prime concern. Since drug misuse and alcohol abuse may pose a serious threat to the employee’s health and safety, Amtrak is committed to establishing and maintaining a drug- and alcohol-free workplace. Employees who come to the workplace (on or off-duty) with drugs and/or alcohol on their persons or in their bodies constitute an unacceptable hazard endangering the well-being of its employees, the customers it serves, threatens its operation, and compromises the safety of its services. Amtrak requires that all employees report for and remain on duty, alcohol-and-drug-free.

5.0 PROHIBITIONS

5.1.0 The following prohibitions apply to all Amtrak employees and contractors whenever they are working on or off company premises, are operating any company vehicle or equipment (or their own vehicle in furtherance of Amtrak business) or while wearing a uniform with company emblem or wearing insignia lanyard is prohibited.

5.1.1 **Prohibition 1.** The manufacture, distribution, dispensing, sale, possession, use or presence in the body of illegal drugs while on company premises or company business, in company supplied lodging, in vehicles while on or off duty, while wearing a uniform with company emblem or while wearing insignia lanyard is prohibited.

5.1.2 **Prohibition 2.** The manufacture, distribution, dispensing, sale, possession, use or presence in the body of alcohol is prohibited as follows:

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- on company premises or an Amtrak sponsored facility during working hours;
- in company vehicles while on or off duty;
- while wearing a uniform with company emblem or while wearing insignia lanyard; and
- while commuting on rail pass privileges to and from work.

5.1.3 **Prohibition 3.** The unauthorized use or presence in the body of any medications or combination of medications that may alter behavior, physical or mental responsiveness, or ability to perform ones job safely. (Note: For more information on prescribed or over-the-counter medication, please refer to “What You Should Know About the Amtrak® Policy on Prescribed and Over-the-Counter (OTC) Medications.”)

5.1.4 **Prohibition 4.** Violating any applicable Federal and/or State regulation or prohibition on controlled substance and alcohol use.

5.1.5 **Prohibition 5.** Refusing a drug and/or alcohol-testing event or otherwise engaging in conduct that clearly obstructs, manipulates or attempts to interfere with the testing process such as but not limited to diversion.

5.1.6 **Prohibition 6.** No employee may report for, or remain on duty, when that employee’s alertness, judgement, or coordination is adversely affected by any prescribed, or over-the-counter medication, including products containing alcohol.

5.1.6.1 Employee must consult a licensed physician or pharmacist to discuss whether a medication will adversely affect job performance. When consulting a physician or pharmacist, the employee must describe the specific tasks performed while on duty, not simply state a position title.

5.1.6.2 Submission of the Authorization to Work with Medications Form (NRPC 3133), should be submitted to Medical Services for review when a physician and/or pharmacist has advised that said medication, may interfere with safe job performance.

5.1.6.3 Employees may consult with Medical Services and/or the Corporate Medical Director to determine if a prescription or over-the-counter drug may create a risk if taken while on the job. Amtrak may change your work duties or restrict you from working while you are using a prescription or over-the-counter drug that creates such a risk of harm to yourself, co-workers or equipment.”

5.1.7 **Prohibition 7.** Possession of drug paraphernalia or alcohol can(s) and/or bottle(s), while on company premises, company business, in company supplied lodging, while wearing a uniform with company emblem or while wearing insignia lanyard is prohibited.

5.1.8 Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution (See 7.3).

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- 5.1.9 **Prohibition 8.** Refusing to adhere to the Employee Assistance Program (EAP) counselor or Substance Abuse Professional’s (SAP) recommended treatment or follow-up testing program.
- 5.1.10 An employee found to have violated any provisions of this policy, except for actually testing positive on a drug and/or alcohol test event or Prohibition 6, shall result in the employee’s termination from Amtrak in all capacities. An employee found to have actually tested positive on a drug and/or alcohol test event (and it is the employee’s first positive test with Amtrak) will have an opportunity for substance abuse rehabilitation, consistent with Employee Assistance Program, APIM 7.37 and any applicable legal requirement. Any subsequent actual positive drug and/or alcohol test result shall result in the employee’s termination from Amtrak in all capacities.
- 5.1.11 An employee found to be in violation of **Prohibition 6** of this policy will be temporarily medically disqualified for the time period necessary for the Amtrak Medical Director to review the employee’s medications history with the employee’s treating physician and make a determination of the employee’s readiness to work.
- 5.1.12 It is the responsibility of each employee to become familiar with the contents of this policy and all applicable Federal regulations. This policy is available to each employee and labor organization for review at each Amtrak Human Capital office and on Amtrak’s Intranet. It is also the employee’s responsibility to be thoroughly familiar with any substances they are taking since taking any substance without knowing its contents is not an acceptable explanation for violating this policy.
- 5.1.13 This policy does not supersede the applicability and enforceability of other agreements, rules, policies and regulations. Employees must comply with all agreements, rules, policies and regulations applicable to their employment and must at all times satisfy the performance standards applicable to their employment. This policy does not supersede Amtrak’s rights and obligations set forth in 49 C.F.R. §240, et seq., concerning the certification and procedures regarding revocation of certification of locomotive engineers and other federally certified employees. Notwithstanding this policy, Amtrak will comply in all respects with the provisions of 49 C.F.R. §240, et seq.
- 5.1.14 To assist in the implementation of this policy, Amtrak has developed a program of drug and/or alcohol testing as described in the “Amtrak’s Drug and Alcohol Policy Manual” booklet. In certain situations, Amtrak is mandated by the Federal Railroad Administration (FRA) 49 CFR Part 219 & 240 and the Federal Motor Carriers Safety Administration (FMCSA) 49 CFR Part 382 to conduct drug and/or alcohol testing on employees who perform Hours-of-Service (HOS) functions or hold a Commercial Driver’s License (CDL) respectively. Amtrak also conducts drug and/or alcohol testing on all employees in situations not mandated by Federal regulation. Tests required by Federal regulation are referred to as “Federal (DOT)” tests. Tests required by Amtrak policy, and not Federal Regulations, are referred to as “Company (Non-DOT)” tests.

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## 6.0 TESTING

Amtrak retains the right to require testing under applicable Federal regulations and Amtrak's Drug and Alcohol Policy (Contractors see 7.5).

**If a supervisor approaches an employee with the intent to undergo testing or if a supervisor informs an employee to undergo a Federal or Amtrak drug and/or alcohol test, the employee cannot mark off pursuant to Operation RedBlock in order to avoid testing or disciplinary action. They must follow the instructions of the supervisor and report directly to the designated collection site.**

- 6.1 Pre-employment. All applicants must successfully pass a drug test before beginning work. Refusal to submit or testing positive will result in disqualification of further employment consideration.
- 6.2 Reasonable suspicion. Reasonable Suspicion Testing is performed when a supervisor observes an employee is under the influence of drugs and/or alcohol, based on specific, articulable contemporaneous observations concerning the appearance, behavior, speech, or body odors of the employee.
- 6.3 Post-accident. Employees involved in work-related accidents are required to participate in drug and alcohol testing as required by federal, state, and local regulations, and in accordance with Amtrak policies.
- 6.4 Follow-up. An employee who has adhered to the stipulations of the Drug and Alcohol Waiver is subject to unannounced alcohol and/or drug testing.
- 6.5 Return to Duty. Employees returning after an absence of at least 30 days will be required to submit to drug testing (excluding vacation or jury duty). Any employee initially returning to work as a condition of the Drug and Alcohol Waiver will be required to submit to testing.
- 6.6 Random. Employees are subject to random testing in accordance with Amtrak's Drug and Alcohol Random Testing Program as well as state and federal laws.
- 6.7 Rule Violations. An employee who has been charged with an Amtrak rule violation for which alcohol and or drug testing is required per federal, state, local or company policy (see Rule Violations Alcohol/Drug Test Criteria Notification Form 3164).

## 7.0 CONSEQUENCES

- 7.1 Applicants who refuse to cooperate with testing, the testing process, or who test positive are not eligible for hire at Amtrak.
- 7.2 Employees who engage in any of the Prohibitions listed may be terminated. Agreement-covered employees will be charged and subject to discipline, up to and including termination.

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- 7.3 As required by the Federal Drug Free Workplace Act, employees are to notify Amtrak in writing if they are convicted of violating a criminal drug statute while on company premises no later than five calendar days after such a conviction.
- 7.4 If an employee is convicted of a drug or alcohol related crime, Amtrak will investigate all of the circumstances in accordance with the Federal Drug Free Workplace Act. As a condition of employment, an employee must notify their supervisor within 24-72 hours of any criminal drug or alcohol statute conviction for a violation which occurred on company premises, a job site, or off property.
- 7.5 Contractors. Any contractor, including but not limited to, those who perform an hours-of-service function, Commercial Driver’s License (CDL) or operates a qualifying commercial motor vehicle on behalf of Amtrak is responsible for maintaining an employee drug and alcohol-testing program, which complies with applicable Federal regulatory requirements. Any Amtrak required Request for Proposal (RFP) should contain the necessary language to ensure the contractor is compliant with the requirement. The RFP will also contain language to require the contractor to provide semi-annual reports to the contracting department to demonstrate their compliance with this requirement; as well as language to require the contractor to pay any liquidated damages because of the contractor’s non-compliance. No contract will be awarded to a vendor who does not satisfy this requirement.
- 7.5.1 At a minimum, the contractor’s policy will include alcohol and drug prohibitions, as well as pre-employment, random, for cause, reasonable suspicion, return to duty, post-accident and follow-up testing, in accordance with Federal Railroad Administration (FRA), Federal Motor Carrier Safety Administration (CDL) and/or their company policy testing procedures.
- 7.5.2 Amtrak reserves the right to audit the contractor’s compliance with its policy and suspend the contractor’s services for the period necessary for the contractor to remedy any identified deficiencies.
- 7.6 Employee Assistance Program (EAP). Amtrak offers an EAP program for those employees who are experiencing work-related or personal problems resulting from alcohol or drug use. Employees are encouraged to seek confidential assistance through the EAP when appropriate.

**DISCLAIMER**

This Drug and Alcohol Free Workplace policy supersedes any previous Drug and Alcohol policy as of the effective date of this Policy. Changes to this policy can be made at Amtrak’s discretion. Nothing in this policy prohibits Amtrak from taking administrative or disciplinary action, up to and including termination, with or without conducting drug and/or alcohol testing, when there is a violation of or reasonable belief of a violation of this Policy. Amtrak also expressly states that this policy does not create a contract, promise or contractual right, express or implied. Amtrak reserves the right to change this policy in whole or in part at any time.

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8.0 RELATED POLICIES, GUIDELINES, AND REGULATIONS

- Amtrak’s Drug and Alcohol Policy Manual
- Authorization to Work with Prescription/Over-The-Counter (OTC) Medication Form (NRPC 3133)
- What You Should Know About the Amtrak ® Policy on Prescribed and Over-the-Counter(OTC) Medications
- Drug and Alcohol Waiver(Rule G)
- Rule Violations Alcohol/Drug Test Criteria/Notification(NRPC 3164)
- Operation Red Block Program (Peer Prevention)
- Employee Assistance Program, APIM 7.37
- Employee Property Inspections, APIM 9.11
- Fitness for Duty
- Drug and Alcohol Program Training
- Health Services-Drug & Alcohol Testing (Random Test Plans)
- 49 CFR Part 40 - Procedures for Transportation Workplace Drug Testing Programs
- 49 CFR Part 219 – Control or Alcohol and Drug Use
- 49 CFR Part 240 - Qualification and Certification of Locomotive Engineers
- 49 CFR Part 242 – Qualification of Conductors
- 49 CFR Part 382 – Controlled Substance and Alcohol Use and Testing
- Consent/Release of Drug and Alcohol Information Previous Employer (NRPC3122)
- Controlled Substances Act, Title 21 United State Code Section 812

For additional information, contact Health Services Designated Employer Representative - Drug and Alcohol Programs at (202) 906-2255.

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