

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

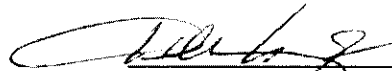
5/18/99

- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe, in Resolution 02-91-043 approved the implementation of the Drug and Alcohol Free Workplace Policy to promote public safety and a healthy work environment; and
- WHEREAS,** the Policy authorizes the mandatory random drug and alcohol testing of employees holding "Critical High Risk for Safety Positions"; and
- WHEREAS,** employees holding these positions are called upon to perform safety sensitive duties requiring a high degree of trust by the Tribe and the public; and
- WHEREAS,** all Fort Apache Timber Company employees hold "Critical High Risk for Safety Positions" by their proximity to dangerous conditions; and
- WHEREAS,** the employees of the Fort Apache Timber Company are responsible for cutting, milling, and processing millions of board feet of lumber each year; and
- WHEREAS,** these employees are often involved in high risk activities such as milling, processing and delivering lumber on public roads; and
- WHEREAS,** the safety of these employees and the public would be unduly jeopardized if any employee was working under the influence of drugs or alcohol; and
- WHEREAS,** the Tribal Council concludes that a random drug testing program would be the most effective means to safeguard against any potential illegal drug or alcohol use by Fort Apache Timber Company employees; and
- WHEREAS,** the Tribal Council has reviewed a drug and alcohol testing policy proposed for the Fort Apache Timber Company which establishes pre-employment testing, random testing, post-accident testing, and testing for cause; and
- WHEREAS,** the Fort Apache Timber Company Drug and Alcohol testing policy's application to all Fort Apache Timber Company employees would allow for mandatory random drug and alcohol testing, pursuant to the Tribal Drug and Alcohol Free Workplace Policy.

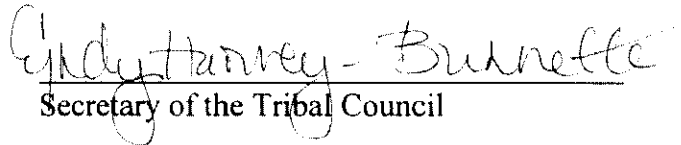
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that for the reasons stated above, it hereby designates all employees of the Fort Apache Timber Company as holding "Critical High Risk for Safety Positions" pursuant to the Tribal Drug and Alcohol Free Workplace Policy, and that such designation shall include all Fort Apache Timber Company management, who may be called upon to conduct dangerous and high safety risk functions while employed.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it authorizes the mandatory random drug and alcohol testing, as well as other drug and alcohol testing measures, proposed for the Fort Apache Timber Company.

The foregoing resolution was on May 12, 1999 duly adopted by a vote of seven for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (h), (i), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

FORT APACHE TIMBER COMPANY

EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

SECTION ONE PURPOSE AND POLICY STATEMENT

The White Mountain Apache Tribe, in 1991, established a Drug and Alcohol Free Workplace Policy to ensure a healthy and safe work environment for Tribal employees. The drug and alcohol testing program set forth below incorporates and enforces the Drug and Alcohol Free Workplace Policy and is intended to send a clear message to employees that the following conduct is prohibited:

1. Consumption of alcohol while at work.
2. Use of illegal drugs, whether on or off the job.
3. Reporting to work under the influence of drugs or alcohol.
4. Use of prescription drugs in any manner contrary to a valid prescription.

The testing program set forth in these Policies enforces employment standards at Fort Apache Timber Company. Test results are used for employment purposes only and shall not be released to any law enforcement agency unless required by law. Violation of these Policies shall subject employees to mandatory disciplinary measures, described herein; however, in addition, the Tribe or Fort Apache Timber Company management may take other lawful actions and disciplinary measures to respond to drug-related behavior or activities by employees.

SECTION TWO SUMMARY OF TESTING PROGRAM

All employees of Fort Apache Timber Company are subject to the drug testing program established under these Policies. The testing program, described in greater detail in the following pages, consists of four components: 1) pre-employment testing, 2) random testing, 3) post-accident testing, and 4) testing for cause. The pre-employment test is required of any person seeking work at Fort Apache Timber Company. Anyone who fails the pre-employment test shall be ineligible for employment for twelve months. The random test is administered to all employees at least once each year. The actual time of selection is determined at random and not subject to control by any person. An employee who fails the random test shall be given the opportunity to seek treatment and return to work. A second violation of the random testing policies will result in immediate termination from employment. The post-accident test and test for cause are administered only in the event of certain circumstances specified in Section Four. Failure of

either test will result in immediate termination from employment.

Drug and alcohol tests are based upon urinalysis conducted by an independent certified medical laboratory. Test samples are collected on-site or at a medical facility in Pinetop and sent to Phoenix for analysis. In addition, under certain circumstances, alcohol testing may be conducted on-site by Fort Apache Timber Company Management using a breathalyser machine.

SECTION THREE DEFINITIONS

In these Policies, unless the context indicates otherwise:

1. "Abuse of Drugs or Alcohol" means:
 - a. The use of illegal drugs, whether or not such use occurs during working hours; or
 - b. The consumption of alcohol while at work, or reporting to work or any appointment for the purposes of securing employment while under the influence of alcohol. For the purposes of these Policies, any individual with a blood alcohol level of .02% or more shall be conclusively deemed to be under the influence of alcohol; or
 - c. The use of prescription drugs in any manner or quantity, except as directed and authorized by a valid prescription; or
 - d. Engaging in work without prior notification to Primary Management of any prescription drug use or therapy which could reasonably be expected to impair an employee's judgment or work performance.
2. "Breathalyser" means a machine maintained by Fort Apache Timber Company which is calibrated to measure an individual's blood alcohol level. Procedures for the use of the breathalyser are provided in **Attachment C** to these Policies.
3. "Chain of Custody Collection Procedure" means the written procedures established by the Collection and Testing Facility and shown in **Attachment B** to these Policies, governing the collection, handling and custody of urine samples.
4. "Chain of Custody Requisition Form" means the form signed by the employee or applicant at the time of collection which authorizes the Facility to release the laboratory test results to Fort Apache Timber Company and which verifies that the preliminary chain of custody functions have been performed.
5. "Collection and Testing Facility" or "Facility" means the independent certified laboratory contracted by Fort Apache Timber Company to collect samples from employees and

perform drug and alcohol screens.

6. "Drug Screen" or "Urine Drug Screen" means the laboratory urinalysis performed to indicate the abuse of drugs or alcohol. The specific substances which are screened are identified in Attachment A to these Policies. Fort Apache Timber Company shall, as appropriate, make changes to the list of substances which will be screened.
7. "Employee" means any employee of Fort Apache Timber Company, and its related operations. The term does not include an individual who is an applicant for employment.
8. "Negative test result" means a drug screen result prepared by the Collection and Testing Facility which finds no indication of abuse of drugs or alcohol.
9. "Positive test result" means a drug screen result prepared by the Collection and Testing Facility which indicates abuse of drugs or alcohol, in violation of these Policies.
10. "Random Selection" means the process of selection of employees for a urine drug screen which assures that each employee has an equal chance of being selected for testing.
11. "Primary Management" means the Fort Apache Timber Company General Manager, Fort Apache Timber Company Sales Manager and Fort Apache Timber Company Timber Manager.
12. "Test" or "Testing" means the drug screen performed by the Collection and Testing Facility. The term can also include the breathalyser test performed on-site at Fort Apache Timber Company.
13. "Testing Coordinator" means the official assigned to notify employees of their selection for random drug testing and to serve as a liaison between the Risk Manager, Primary Management and the employees.
14. "Risk Manager" means the independent contractor hired to perform the random selection of employees for drug screening and to receive drug screen results from the Collection and Testing Facility.

SECTION FOUR TESTING PROGRAMS

A. PRE-EMPLOYMENT TESTING

1. Test Type

Urine Drug Screen.

2. Covered Group

All applicants seeking employment with the Fort Apache Timber Company.

3. Procedure

Selection Applicants who are considered for employment in a specific position shall be required to report to the Collection and Testing Facility at the specified time.

Collection Applicants are responsible for reporting to the Collection and Testing Facility in Pinetop. Fort Apache Timber Company shall pay the Facility for the test, however, each applicant must reimburse Fort Apache Timber Company for the test cost.

Reporting Test results are sent directly from the Collection and Testing Facility to the Fort Apache Timber Company Personnel Office.

4. Test Findings

Failing to report for testing, or testing positive for the abuse of illegal drugs or alcohol shall make the candidate ineligible for employment. The candidate shall remain ineligible for consideration for employment for twelve months.

B. RANDOM TESTING

1. Test Type

Urine Drug Screen.

2. Covered Group

All employees shall be tested at least once on a random basis within a one year period. New hires shall not be subject to testing until after 30 days of employment.

3. Procedure

Selection The Risk Manager shall conduct a random selection of employees approximately once each month. The roster of names of employees selected for the drug screen shall be provided to the Testing Coordinator, who shall personally notify each identified employee upon the employee's arrival to work. In addition to personal notification, each employee shall also receive written notification of his or her selection for testing. Employees shall not be given advance notice of their selection for testing. The Testing Coordinator shall

notify the Risk Manager of any employee who is not scheduled to report to work or is otherwise unavailable for testing. The names of employees who are unavailable for testing shall be returned to the testing pool for random selection at a later date.

Collection Employees selected for testing shall be directed to the designated collection site at Fort Apache Timber Company, which on that day shall be staffed by personnel from the Collection and Testing Facility.

Reporting The Collection and Testing Facility will provide the test results to the Risk Manager approximately 48 hours after the sample is collected. In the event of a positive result, the Risk Manager shall, within 24 hours, notify the Testing Coordinator who shall notify Primary Management. The employee shall be informed of the test results by Primary Management. The employee's immediate supervisor shall be informed that the employee will become unavailable for work for a violation of these Policies. Negative test results are not reported to the Testing Coordinator and are not reported to the employee.

4. Test Findings

First violation Any employee who fails to report for testing or who tests positive for abuse of illegal drugs or alcohol will be suspended from work without pay for two weeks. Employees who test positive for the presence of illegal drugs or alcohol must also complete drug and alcohol abuse screening and treatment. Failure to complete the prescribed treatment shall result in the employee's termination of employment. In addition, any employee who tests positive for abuse of illegal drugs or alcohol will be subject to transfer or suspension from work without pay until the successful completion of the screening and treatment, depending upon the nature of his or her work responsibilities. Immediately upon returning to work the employee will be placed on probation for a period of 90 days and shall be required to submit to retesting at least once within the 90 day period.

Second violation Any employee who has at any time been found to have committed a prior violation of this policy and who fails to report for testing when required or tests positive for abuse of drugs or alcohol shall be immediately terminated from employment.

C. POST-ACCIDENT TESTING

1. Test Type

Urine Drug Screen and/or Breathalyser.

2. Covered Group

Any employee who:

a) Is involved in an accident while operating a moving vehicle for the Fort Apache Timber Company; or

b) Causes an accident which results in injury to any person, including self, requiring treatment by a medical professional; however, if the resulting injury is minor, drug screen or breathalyser testing is required only at the discretion of the employee's supervisor with the approval of one member of Primary Management.

3. Procedure

Collection An employee involved in an accident as described above shall be transported to the Collection and Testing Facility, or administered a breathalyser test, as appropriate.

Reporting Drug Screen results are sent from the Collection and Testing Facility to the Risk Manager who, within 24 hours, notifies the Primary Management. Breathalyser test results are immediately available at Fort Apache Timber Company.

4. Test Findings

A positive test result or a breathalyser reading of .05% or more shall result in the immediate termination from employment of any employee required to take a drug screen or breathalyser test pursuant to this Subsection. A breathalyser reading of more than .02%, but less than .05% shall result in a two week suspension from employment without pay and mandatory drug and alcohol abuse screening and treatment. Failure to complete the prescribed treatment shall result in the employee's termination of employment.

D. TESTING FOR CAUSE

1. Test Type

Urine Drug Screen and/or Breathalyser.

2. Covered Group

All employees, subject to the selection criteria provided below.

3. Procedure

Selection If a supervisor observes conduct sufficient to establish reasonable suspicion to believe an employee is using illegal drugs, whether on or off work, or is under the influence of drugs or alcohol at work, the employee can be required to submit to a drug screen, provided that two members of Primary Management also authorize the test. In addition to or

in lieu of a drug screen, a supervisor having reasonable suspicion to believe an employee is under the influence of alcohol at work, may require that the employee submit to a breathalyser test.

Collection An employee identified for testing under this Section shall be transported to the Collection and Testing Facility, or administered a breathalyser test, as appropriate.

Reporting Test results are sent to Risk Manager who notifies Primary Management. Breathalyser test results are immediately available at Fort Apache Timber Company.

4. Test Findings

First violation A positive test result or a breathalyser reading of .10% or more shall result in the immediate termination from employment of any employee required to take a drug screen or breathalyser test pursuant to this Subsection. A breathalyser reading of less than .10%, but more than .02% shall result in a two week suspension from employment without pay and mandatory drug and alcohol abuse screening and treatment. Failure to complete the prescribed treatment shall result in the employee's termination of employment.

Second violation Any employee who has at any time been found to have committed a prior violation of these Policies and who tests positive for abuse of drugs and alcohol or who obtains a breathalyser reading of .02% or more shall be terminated from employment.

SECTION FIVE COLLECTION AND TESTING

A. Collection

All employees shall sign a letter indicating their agreement to abide by the provisions of these Policies. The parent or guardian must sign for any employee who is under age 18. When selected for testing, the employee or applicant shall report to office of Sonora Laboratory, the Collection Facility, in Pinetop, except for breathalyser tests and random testing conducted at Fort Apache Timber Company. The employee must provide picture identification to the Facility personnel, sign the Chain of Custody Requisition Form and abide by the collection procedures established by Facility. At the end of the day the specimen is sent by air mail to the testing facility in Phoenix.

B. Testing

Samples shall be tested for indications of the drugs identified in Attachment A. Any sample which tests positive is retested by the Facility to verify the results. Test results are provided to the Risk Manager within 48 hours. The Facility will freeze and store for one year

the remaining portion of any positive sample, should retesting become necessary.

C. Inconclusive Test Results

In the event a specimen is unreadable, the employee shall be required to immediately return to the Collection and Testing Facility. In the event a second consecutive test is also unreadable, the employee, at the employee's own expense, shall be required to report to the Collection and Testing Facility for testing. If after three weeks the employee can not provide medically certified documentation verifying the employee's compliance with these Policies, the employee shall be terminated from employment.

SECTION SIX POLICY VIOLATIONS

The disciplinary actions resulting from a violation of these Policies are set forth in the description of the specific testing programs in Section Four. In addition, the failure to abide by the conditions of these Policies shall be grounds for termination from employment. Any employee who is terminated from employment pursuant to these Policies shall be ineligible for consideration for employment for a period of twelve months.

SECTION SEVEN EMPLOYEE ASSISTANCE

A. Evaluation and Treatment

Drug and alcohol abuse evaluation and treatment at the Rainbow Treatment Center is available for employees who are required to seek such treatment under these Policies. Subject to approval by Primary Management, employees may, at their own cost, arrange for evaluation and treatment at other licensed facilities. Approval for any alternate treatment program and facility shall be subject to the sole discretion of Primary Management.

B. Grievance Procedures

Employees who seek to appeal a drug screen result or resulting disciplinary action may file a grievance pursuant to the White Mountain Apache Tribe Grievance Procedures. For the sole and limited purpose of appeals arising from these Policies, the Grievance Procedures shall also be available to probationary employees. All grievance appeals, upon proper filing, shall be transferred to Step Two of the Grievance Procedures.

SECTION EIGHT CONFIDENTIALITY

Files or records reporting any test result provided pursuant to these Policies shall be

considered CONFIDENTIAL and kept separate from personnel and business records. Access to confidential drug test records shall be strictly limited to only those personnel having authorization and an essential need for such records, as provided under these Policies. Test results shall be used for employment purposes only and shall not be provided to any law enforcement agency, except if ordered under a valid court order. No medical information, other than the screen for the identified substances and breathalyser results, shall be obtained from the testing authorized under these Policies. The Fort Apache Timber Company Personnel Office shall be permitted to maintain a personnel file on any disciplinary action or other action affecting employment which occurs pursuant to these Policies.