

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

- WHEREAS,** the White Mountain Apache Tribe, in 1991, established a Drug and Alcohol Free Workplace policy to promote a healthy and safe work environment for Tribal employees; and
- WHEREAS,** since that date the Tribe has adopted additional measures to strengthen its commitment to the health and well-being of its employees, and the benefits that a drug and alcohol free lifestyle can provide for employees, their families and communities; and
- WHEREAS,** the Tribal Council has authorized limited employee drug testing in selected Tribal departments and enterprises based upon the nature of the work and the potential impact from illegal drug or alcohol use; and
- WHEREAS,** the Tribal Council finds that these programs have been effective in promoting professionalism within the workplace, directing employees away from the temptation of illegal drug or alcohol use, and setting an example for others of the benefits of a healthy lifestyle; and
- WHEREAS,** the Tribal Council concludes that a Tribal-wide employee drug and alcohol testing program, including the limited random testing component, would be effective in further combating the harmful impacts from illegal drug and alcohol use seen in the workplace; and
- WHEREAS,** Tribal staff have prepared a proposed employee drug and alcohol testing program which they have reviewed with Tribal Council on this date; and
- WHEREAS,** the program would implement uniform standards throughout the Tribal employee base for drug and alcohol use which may impact employment; and
- WHEREAS,** the standards strictly prohibit illegal drug or alcohol use, but also direct those who have succumbed to illegal drug or alcohol use toward rehabilitative programs with the hope and expectation that they be able to return to productive status in the community; and
- WHEREAS,** the policies authorize random testing of employees for Tribal employees holding "critical high risk for safety" positions, such positions including all law enforcement personnel, all positions impacting public health or safety through the operation of machinery or other dangerous equipment, other similar positions impacting public safety requiring a high degree of trust, and all employee positions which authorize the use of a Tribal vehicle; and
- WHEREAS,** in addition to the limited random testing, the policies authorize and require pre-employment testing, and post-accident testing and testing for cause; and

WHEREAS, the Tribal Council concludes that these policies will help address the impacts of illegal drug and alcohol use and send a strong and beneficial message to the community against illegal drug and alcohol use.

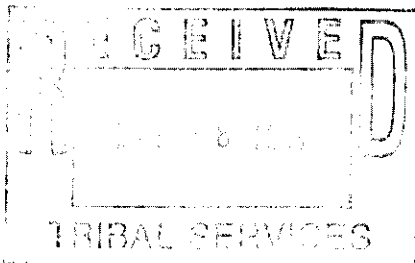
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby adopts on an interim basis the attached White Mountain Apache Tribe Employee Drug and Alcohol Testing Program for a sixty (60) day period in order to solicit and collect comments and suggested modifications to the plan prior to final adoption, including identification of positions for the "Critical High Risk for Safety" designation.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that after the sixty (60) day period the Tribal staff shall return to the Council with the plan and proposed comments and modifications for final review and adoption by the Council at that time, and in the event the Council review does not occur within the sixty (60) day time period, the policies approved this date shall remain in effect as written until changed or modified by the Tribal Council.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it directs the Human Resources Director to notify all enterprises, departments and programs of the interim policies, advising them that they are effective as of this date, but that they shall be subject to the sixty (60) day period for review and potential modification, and to collect such statements and suggested changes for review by the Council.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the new policies shall apply to all Tribal departments and programs which do not already have in place employee drug and alcohol testing policies authorized by the Tribal Council.

The foregoing resolution was on April 21, 2003 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), (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).



ACTING Stanley J. ...
Chairman of the Tribal Council

ACTING Jesslyn Burnette
Secretary of the Tribal Council

WHITE MOUNTAIN APACHE TRIBE

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. On April 21, 2003, the Tribal Council, in Resolution 04-2003-127, authorized this drug and alcohol testing program on a trial basis to enforce the Drug and Alcohol Free Workplace Policy for all employees of the Tribe. This action was taken in response to growing concerns about substance abuse and 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 standards for employment with the White Mountain Apache Tribe. Test results are used for employment purposes only and shall not be released to any law enforcement agency. Violation of these Policies shall subject employees to mandatory disciplinary measures, described herein; however, in addition, the Tribe may take other lawful actions and disciplinary measures to respond to drug-related behavior or activities by employees.

In adopting these Policies, the Tribe acts to restore and strengthen the health and well-being of its members, families, and communities, by promoting healthy conduct through promulgation and enforcement of mandatory workplace standards. Although these Policies are mandatory and to be strictly construed, these Policies are not intended to be punitive in nature, but instead are adopted to promote healthy behavior and to provide for rehabilitation and recovery for individuals who fall victim to illegal drug or alcohol use. These Policies incorporate the White Mountain Apache Tribe Drug and Alcohol Free Workplace Policy and Tribal Council Resolution 04-2003-127. They apply to all Tribal employees except those whose department, program, or enterprise enforces separate policies authorized by the Tribal Council.

SECTION TWO SUMMARY OF TESTING PROGRAM

All Tribal employees 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. Additional testing components and conditions may apply to employees within specific departments and programs. The pre-employment test is required of any person seeking employment with the Tribe.

WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

Anyone who fails the pre-employment test shall be ineligible for employment for six months. The random test is administered to employees holding safety sensitive positions, identified as "critical high risk for safety" positions. 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 tests are based upon urinalysis conducted by an independent certified medical laboratory. Test samples are collected at a medical facility in Pinetop or on-site collection facility, and sent to Phoenix for analysis. In addition, alcohol testing may be conducted on premises 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 the employee's supervisor 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 the Tribe 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

WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

at the Collection and Testing Facility which authorizes the Facility to release the laboratory test results to the Human Resources Department, 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 the Tribe to collect samples from employees and perform drug and alcohol screens.

6. “**Critical High Risk for Safety Position**” means any position which includes the operation or maintenance of heavy equipment or machinery, or is held by an employee who is authorized to operate a Tribal vehicle. The term also includes any other position involving law enforcement, security, the protection of life and property, public health and safety, or other functions requiring a high degree of trust, as established under the White Mountain Apache Tribe Drug and Alcohol Free Workplace Policy. Employees holding Critical High Risk for Safety Positions shall be notified in writing of that designation prior to their participation in Random Testing.

7. “**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. The White Mountain Apache Tribe shall, as appropriate, make changes to the list of substances which will be screened.

8. “**Employee**” means any employee of the White Mountain Apache Tribe, including its departments, programs, and enterprises. The term does not include an individual who is an applicant for employment.

9. “**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.

10. “**Positive test result**” means a drug screen result at a measurement reading equal to or greater than the levels established in Attachment A, which indicates abuse of drugs, in violation of these Policies.

11. “**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.

12. “**Test**” or “**Testing**” means the drug screen performed at the Collection and Testing Facility. The term can also include the Breathalyzer test performed on the premises at the place of employment.

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, Human Resources Department 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, Breathalyser Test.*

2. Covered Group

All applicants seeking employment with the Tribe.

3. Procedure

Selection Applicants who are considered for employment in a specific position and who have passed an initial screening to be considered for employment 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.

Reporting Test results are sent directly from the Collection and Testing Facility to, and kept in the sole custody of, the Human Resources Department. In the event of a positive test result, the Human Resources Department will inform the department for which the application is pending that the applicant is ineligible for employment.

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 with the White Mountain Apache Tribe for a period of 12 months. For any candidate who is currently employed by the Tribe, a positive test result, or failure to abide by the pre-employment test provisions while seeking new employment with the Tribe shall be treated as a violation of the Random Testing provisions, regardless of whether the employee's position required Random Testing.

B. RANDOM TESTING

1. Test Type

Urine Drug Screen.

* Breathalyser Test required at the hiring supervisor's discretion only.

2. Covered Group

All employees holding Critical High Risk for Safety positions shall be subject to testing on a random basis, with not more than 60 % of employees holding such positions actually tested 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. Those employees who report to work at a time when the Testing Coordinator is unavailable shall be personally notified by their immediate supervisor. In addition to personal notification, each employee shall also receive written notification of his or her 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 during the 72 hour period following receipt of the roster. 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 report to the Collection and Testing Facility within 24 hours of the time of notification. The employee must immediately notify the Testing Coordinator if the employee is unable to get to the Collection and Testing Facility. Employees shall be excused only under very limited and exceptional circumstances, such as the employee's severe illness, or a death in the employee's immediate family.

Reporting The Collection and Testing Facility will provide the test results to the Human Resources Department within 48 hours from time that the sample is collected. In the event of a positive result, the Human Resources Department shall, within 24 hours, notify the employee's supervisor who shall then inform the employee. Negative test results are not reported to the Human Resources Department 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 one week. 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. Immediately upon returning to work the employee will be placed on probation for a period of 90 days. During this period the employee's name shall be entered in a separate pool which will substantially increase the likelihood that the employee will be random selected for additional testing during the 90 day period.

Second violation Any employee who has at any time been found to have

WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

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; or

b) causes an accident which results in injury to any person 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.

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 Human Resources Department which, within 24 hours, notifies the employee's supervisor. Breathalyser test results are immediately available at the location where such test is conducted.

4. Test Findings

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 .02% or more, but less than .10% 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 probable cause 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 supervisor can require the employee to submit to a drug screen. In addition to or in lieu of a drug screen, a supervisor having probable cause 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 the Human Resources Department which shall notify the employee's supervisor. Breathalyser test results are immediately available at the location where such testing is conducted.

4. Test Findings

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 .02% or more, but less than .10% 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.

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 shall report to office of Sonora Laboratory, the Collection Facility, in Pinetop, except for Breathalyser tests conducted at the work location, or such other location as identified by the employee's supervisor. 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 to the testing facility in Phoenix.

B. Testing

Samples shall be tested for indications of the drugs identified in **Attachment A**. Any sample

**WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM**

which tests positive is retested by the Facility to verify the results. Test results are provided to the Human Resources Department 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 cannot 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 pursuant to these Policies and shall be ineligible for consideration for employment for a period of 12 months.

SECTION SEVEN EMPLOYEE ASSISTANCE

A. Evaluation and Treatment

Drug and alcohol abuse evaluation and treatment at the Rainbow Treatment Center shall be provided for all employees who are required to seek such treatment under these Policies. Subject to approval by the employee's supervisor, 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 the employee's supervisor.

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 Employee 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

WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

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, shall be obtained from the testing authorized under these Policies. The Human Resources Department shall be permitted to maintain a file on any disciplinary action or other action affecting employment which occurs pursuant to these Policies.

WHITE MOUNTAIN APACHE TRIBE
EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM

ATTACHMENT A

DRUG SCREEN

Amphetamines	1000ng/mL
Cocaine	300ng/mL
Cannabinoids	50ng/mL
Opiates	2000ng/mL
Phencyclidine (PCP)	25ng/mL