

ALAMEDA COUNTY
D.O.T. CONTROLLED SUBSTANCE
AND
ALCOHOL USE AND TESTING
GUIDELINES

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ALAMEDA COUNTY
D.O.T. CONTROLLED SUBSTANCE AND ALCOHOL USE AND TESTING GUIDELINES
(January 2009)

Over the years, the misuse of alcohol and drugs in the workplace has become a serious problem. To address the problem, Congress adopted the Drug-Free Workplace Act of 1988. Later on, Congress adopted the Omnibus Transportation Employee Testing Act of 1991. To enforce these acts, various federal departments and agencies promulgated their own guidelines. The main agency that affects the County of Alameda is the U.S. Department of Transportation (DOT). Within the DOT, there are specialized agencies such as the Federal Motor Carrier Safety Administration (FMCSA). In addition to the DOT guidelines, the FMCSA has also promulgated its own guidelines.

The U.S. Department of Transportation has published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. Effective August 25, 2008, the US DOT revised 49 CFR Part 40, applicable to DOT-regulated testing, to make it difficult to circumvent the DOT drug tests and to put into place observed collection procedures to discourage tampering with specimens. The Federal Motor Carrier Safety Administration (FMCSA) published 49 CFR 382 which regulates commercial driver's license holders (CDL) who operate a commercial motor vehicle (CMV).

Following is a summary of the guidelines that affect the County of Alameda.

PURPOSE

The purpose of these guidelines is to establish an alcohol and controlled substance testing program as defined by the Omnibus Transportation Employee Testing Act of 1991, DOT guidelines (49 CFR Part 40), and FMCSA guidelines (49 CFR 382) to assure worker fitness for duty by restricting employees from working in safety-sensitive functions while under the influence of alcohol and/or controlled substance.

APPLICABILITY

Alameda County is committed to protecting the health and safety of individual County employee, their co-workers, and the public from the hazards caused by the misuse of drugs and alcohol by its employees. The safety of the public, as well as the safety of fellow County employees, dictates that individuals not be permitted to perform their duties while under the influence of drugs or alcohol.

These guidelines apply to all Alameda County employees (full- or part-time) who are performing safety-sensitive positions. It also applies to these employees while they are on offsite lunch periods or breaks when an affected individual is scheduled to return to work. Vendors and contracted employees performing safety sensitive positions are also governed by these guidelines. These guidelines are to ensure that covered employees

- 1) Shall not report to work with illegal drugs or alcohol (above .02% breath alcohol concentration) in their systems
- 2) Shall participate in a mandatory training program about the effects and consequences of prohibited drug use on personal health, safety and the work environment; and
- 3) Shall participate in the controlled substances and alcohol testing program.

COVERED EMPLOYEES/SAFETY SENSITIVE FUNCTIONS

These guidelines apply to all employees who perform a safety-sensitive function as defined by the DOT. These are employees that are required to obtain a commercial driver's license (CDL) and operate a commercial motor vehicle (CMV) as described below:

- A vehicle with a gross vehicle weight rating or a gross combination weight rating of 26,001 pounds or more; or
- A vehicle designed to transport 16 or more passengers, including the driver; or
- A vehicle of any size that used to transport hazardous materials which require the vehicle to be placarded. The list of materials is found in the Hazardous Materials Transportation Act.

EDUCATION AND TRAINING

Every employee shall receive a copy of these guidelines and shall have ready access to the corresponding federal regulations including 49 CFR Part 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel who are in a position to determine employee fitness for duty shall receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs and symptoms, health effects, social issues, and consequences of alcohol misuse is presented in the Alcohol Fact Sheet (see Appendix VIII).

PROHIBITED SUBSTANCES

Prohibited substances addressed by these guidelines include the following:

- Illegally used of controlled substance or drugs under the Drug-Free Workplace Act of 1988;
- All illegal drugs as defined by the California Health and Safety Code and all controlled substances taken without a prescription. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.
- Illegal use includes use of prescribed medication in excess of the prescribed dose or the use of prescription drugs for which the employee does not have a legally obtained prescription.
- Illegal use of over-the-counter medication for which the manufacturer has determined that such use would interfere with the employee's abilities to safely perform his/her safety sensitive duties.

Employee may use prescribed medication and/or over-the counter medication under the following conditions:

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a

licensed medical practitioner, as defined in §382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

(c) An employer may require a driver to inform the employer of any therapeutic drug use.

For prescribed medication:

- The medicine is prescribed by a licensed physician.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of employee's safety-sensitive duties.
- The substance is used at the dosage prescribed or authorized.
- If the employee is being treated by more than one physician, he/she must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has been determined that the use of the medications is consistent with the safe performance of your safety-sensitive duties.
- The employee shall provide physician's documentation to his/her supervisor prior to the start of his/her work shift.

For over-the-counter medication

- The employee shall provide manufacturer's documentation that such use is consistent with the safe performance of his/her safety sensitive duties. He/she shall provide such documentation to his/her supervisor prior to the start of his/her work shift.

Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

PROHIBITED CONDUCT

Consistent with the Drug-free Workplace Act of 1988, all County of Alameda employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place, anytime on duty, during rest or meal breaks, while representing the County after an assigned work shift or on any other County premises.

All covered employees are prohibited from being on-call to perform safety sensitive duties, reporting for duty, or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions.

The County departments shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol. Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive

functions while having a breath alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident as defined by these guidelines or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

When there is reasonable suspicion to believe an employee engaged in his or her duties is currently under the influence of alcohol or drugs he or she shall be prevented from engaging in further work and shall be assisted in being safely transported from the work site. Such employee will be on a paid administrative leave until the test results are received.

Covered employees who fail to pass a controlled substance or alcohol test shall remain off duty and be subject to disciplinary action up to and including termination. Employees shall be required to submit to an examination by a substance abuse professional that may require the employee to undergo treatment as a prerequisite to return to duty. The employees must submit to a return-to-duty controlled substance and/or alcohol test prior to returning to work and will be subject to unannounced follow-up testing for a period of time to be determined by the Substance Abuse Professional. All DOT safety-sensitive return-to-duty testing and follow-up drug testing will consist of observed collections. A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds as defined by federal regulations.

The decision to discipline or discharge will be carried out in conformance with County policies and/or applicable Memorandum of Understanding.

DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify his/her department management of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction. Failure to report may constitute a cause for serious disciplinary action up to and including termination.

SELF DISCLOSURE

The County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law. If an employee self-identifies its substance abuse problem PRIOR to violating any provisions of these guidelines, the employee shall be allowed to seek rehabilitation without being subject to disciplinary action.

CIRCUMSTANCES FOR TESTING

The Act requires the following types of tests to be performed under Federal Motor Carrier Safety Administration (FMCSA) guidelines:

1. **Post Offer/Pre-Placement Testing/Pre-Duty:** Testing is conducted after applicants are provided conditional offers of employment. It is also conducted when employees transfer from a non-safety sensitive position to a safety sensitive position.
2. **Post-accident Testing:** Post-accident testing is conducted
 - a. If the accident involved the loss of human life; or
 - b. If a covered driver receives a citation for the occurrence and if any individual immediately receives medical treatment away from the scene of the accident; or
 - c. If a covered driver receives a citation for the occurrence and if one or more vehicles incurred disabling damage and is required to be towed away from the scene
3. **Reasonable Suspicion Testing:** Conducted when at least one trained supervisor observes behavior or appearance that is characteristic of alcohol or substance use.

Supervisors who will be responsible for reasonable suspicion evaluations will receive at least one hour of training on drug use and recognition of physical, behavioral and performance indicators and at least one additional hour of similar training for alcohol evaluation.

4. **Random Testing:** For alcohol, random testing shall be conducted on a random, unannounced basis just before, during or just after performance of a safety-sensitive function. For drugs, random testing may be conducted at any time.
5. **Return-to-Duty and Follow-Up Testing:** Conducted when an individual who has violated the prohibited alcohol or controlled substance rules returns to duty. Follow-up testing is unannounced and at least six tests will be performed within 12 months after return to duty and may continue for up to 60 months.

TESTING REQUIREMENTS

All covered employees shall be subject to testing prior to employment, for reasonable suspicion and following an accident as defined in these guidelines. In addition, these employees are subject to random testing as defined in the DOT guidelines.

If the confirmatory test is positive, the employee must provide within 24 hours of request, a bona fide verification of a valid prescription by a physician for the drug identified in the drug screen. The prescription must be in the employee's name. If not, the employee will be subject to disciplinary action up to and including discharge.

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All employees shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and at random as in these guidelines, and if applicable, return to duty/follow-up testing. All return-to-duty and follow-up testing will consist of observed collections.

All employees who have tested positive for drugs or alcohol will be tested prior to returning to duty after completion of the Substance Abuse Professional's recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be at the discretion of the Substance Abuse Professional.

Any employee who refuses to comply with a rightful request for testing or who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be removed from duty immediately and subject to disciplinary action. Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical reason as well as a verbal declaration, obstructive behavior or physical absence after being given a rightful request to remain for testing, which results in the inability to conduct the test and obtain usable results.

All covered employees as defined by these guidelines shall be subject to random urine drug testing and breath alcohol testing as a condition of ongoing employment. Any employee who refuses to comply with a request for testing shall be removed from duty and subject to disciplinary action. Any employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal and will result in the employee's removal from duty and subjection to disciplinary action.

TESTING PROCEDURES

1. Alcohol Testing Procedures (See Appendix II)

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. A second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.02 or greater will be considered a positive alcohol test and in violation of these guidelines. A positive alcohol test may result in disciplinary action up to and including termination. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive under DOT guidelines, the employee shall still be removed from duty for at least 24 hours or for the duration of the work day

whichever is longer and will be subject to disciplinary action. An alcohol concentration of less than 0.02 will be considered a negative test, however, may be considered misconduct.

Alameda County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The use of Alcohol Testing Form (ATF) is required by 49 CFR Part 40, as amended (see Appendix IX). Failure of an employee to sign Step 2 of the ATF will be considered a refusal to submit to testing.

2. Drug Testing Procedures (See Appendix III)

The controlled substances and thresholds that will be tested for include marijuana or its metabolite (50 ng/ml), cocaine or its metabolite (300 ng/ml), opiates or its metabolite (2000 ng/ml), amphetamines or its metabolite (1000 ng/ml), and phencyclidine (PCP) at 25 ng/ml. An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. The confirmatory controlled substance test thresholds for a verified positive test result are those that are equal to or greater than 15 ng/ml for marijuana; 150 ng/ml for cocaine; 25 ng/ml for PCP; 2000 ng/ml for opiates and 500 ng/ml for amphetamines. The test will be considered positive if the controlled substance levels present are above the minimum thresholds established in these guidelines.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All DOT specimens will be tested for specimen validity (i.e., adulterants and urine substitutes) following HHS protocols. All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended for safety sensitive employees. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS-certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those split specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the County's Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken.

If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any employee who questions the results of a required drug test of these guidelines may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice by the MRO of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The employee is responsible for the cost of the split sample testing.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct the County to retest the employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

Observed Collections

1. Consistent with 49 CFR part 40.67, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to County that there was not an adequate medical explanation for the result; or

- ii. The MRO reports to County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation.
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
- v. The temperature on the original specimen was out of range.
- vi. Employees with prior positives and/or refusals.

In addition, County must direct a collection under direct observation of an employee if the drug test is a DOT safety-sensitive return-to-duty test or a follow-up test as referenced in the Return-To-Duty Testing and Follow-Up Testing sections.

Effective August 25, 2008, the Department of Transportation revised 49 CFR Part 40, applicable to DOT-regulated testing, to make it more difficult to beat DOT drug tests and to put into place observed collection procedures to discourage tampering with specimens. Directly observed collections will occur for DOT safety-sensitive employees when there is a specific reason to believe that an employee may be attempting, or have sufficient reason to evade the testing process. Observed collections will afford less privacy in order to guard against employee use of items designed to beat the testing process. When an observed collection is ordered, items such as prosthetic devices designed to carry clean urine will be checked for by observers with both male and female donors. The observer will have the employee raise and lower clothing, and then put it back into place for the observed collection.

3. Pre-Employment Testing

All applicants for safety-sensitive positions shall undergo urine drug testing and breath alcohol testing prior to performance of a safety-sensitive function for the County.

All offers of employment shall be extended conditional upon the applicant passing a drug and alcohol test. An applicant shall not be placed into a safety-sensitive position unless the applicant takes a drug test with verified negative results, and an alcohol test with a result of a breath alcohol concentration (BAC) below 0.02.

Non-safety sensitive employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with verified negative results and a test with a result of a BAC below 0.02.

If a covered applicant fails a pre-employment drug or alcohol test, the conditional offer of employment shall be rescinded.

When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, and/or a BAC above 0.02 the employee may be subject to disciplinary action.

If a pre-employment/pre-transfer test is canceled, the County will require the applicant to take and pass another pre-employment drug/alcohol test.

An applicant with a dilute negative test result will be required to retest.

Applicants for safety sensitive positions are required to report previous DOT covered employer drug and alcohol test results. Failure to do so will result in the employment offer being rescinded. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must then provide County proof of having successfully completed a referral, evaluation and treatment plan.

4. Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by at least one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Under Federal Regulations, a reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under the County's authority, a reasonable suspicion alcohol test may be performed any time an employee is on duty.

Any such trained employee requesting or ordering an employee to submit to a controlled substance or breath analysis shall, prior to the test, document in writing the facts constituting the employee's behavior that is characteristic of alcohol misuse or controlled substance abuse. In the event that extenuating circumstances prevent the trained employee from completing the written documentation prior to the test such employee shall complete the documentation as soon as possible but not later than 24 hours after the test. The documentation shall specify the extenuating circumstances. The County shall create a standard form to be used to document the basis for any request to test an employee.

Any such trained employee encountering another employee who refuses an order to submit to a controlled substance, breath analysis shall remind the employee that failure to comply is insubordination and may result in disciplinary action.

The standard form referred to above, shall have places to document the factors which constitute the objective basis for the request to test. For purposes of these guidelines, the form may include, but is not limited to, a critical incident which occurs while on duty for the County or at the employee's work location.

Examples of critical incidents may include:

- 1) An accident involving a County vehicle or equipment causing damage to property or persons;
- 2) Manifestation of mental or physical impairment sufficient to raise doubt that normal tasks can be safely or effectively performed;
- 3) Observation of the employee with an open container of alcohol or drug paraphernalia in work area or vehicle;
- 4) Documented objective facts and a reasonable inference drawn from those facts that an employee is under the influence of alcohol or a controlled substance.

County management shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending the test results. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action.

5. Post-Accident Testing

- a. Covered employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident while operating County vehicles or equipment if the accident results in loss of human life, if the covered driver receives a traffic citation and there are injuries requiring transportation to a medical treatment facility; or if the covered driver receives a traffic citation and one or more vehicles incurs disabling damage that requires towing from the site.
- b. Covered employees will be required to undergo urine and breath testing if they are involved in an accident with a service vehicle that results in a human fatality.
- c. The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours after the accident for alcohol, and within 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test be documented.
- d. Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.
- e. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

- f. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- g. In the rare event that County is unable to perform a drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), County may use drug and alcohol post-accident test results administered by law enforcement officials in lieu of the test. The law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with the law.
- h. Any employee who, having first been requested to submit to such test, leaves the scene of such accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to disciplinary action.

6. Random Testing

- a. Pursuant to 49 CFR, Part 40, as amended, employees working in the DOT safety-sensitive positions as defined in these guidelines shall be subject to randomly selected, unannounced testing. The random selection shall be conducted by a scientifically valid method.
- b. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations. Each employee shall have an equal chance of being tested each time selections are made. Employees shall be tested either just before, while performing, or just after performing a safety-sensitive duty or function.
- c. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- d. Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- e. Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- f. Employees are required to proceed immediately to the collection site upon notification of their random selection.

7. Return-To-Duty Testing (See Appendix IV & V)

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released

by the Substance Abuse Professional (SAP) before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety. All DOT return-to duty testing will consist of observed collections.

8. Follow-Up Testing (See Appendix IV &V)

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty after a positive drug/alcohol test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. The costs for follow-up testing shall be the responsibility of the employee. All DOT follow-up drug testing will consist of observed collections.

RESULT OF DRUG/ALCOHOL TEST

1. Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
2. A drug test with the result of negative dilute shall be retested.
3. A positive drug and/or alcohol test may also result in disciplinary action.
 - a. As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the County DER will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
 - b. The employee shall be referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.
 - c. Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in proposed termination. A test refusal includes the following circumstances:
 1. A covered employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests.
 2. A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
 3. A covered employee who provides false information in connection with a drug test.

4. A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within 5 days of the initial test attempt.
 5. A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame.
 6. A covered employee whose urine sample has been verified by the MRO as substitute or adulterated.
 7. A covered employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer.
 8. A covered employee fails to remain at the testing site until the testing process is complete.
 9. A covered employee fails to provide a urine specimen for any drug test required by 49 CFR Part 40 or DOT agency regulations.
 10. A covered employee fails to permit the observation or monitoring of a specimen collection.
 11. A covered employee fails or declines to take a second test the employer or collector has directed the employee to take.
 12. A covered employee 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 as part of the “shy bladder” or “shy lung” procedures.
 13. A covered employee fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector; behave in a confrontational way that disrupts the collection process).
 14. Failure to sign Step 2 of the Alcohol Testing Form.
4. The Employee shall be notified of proposed disciplinary action pursuant to the applicable section of the County Personnel Code or respective Memorandum of Understanding.
 5. The cost of any treatment or rehabilitation services shall be paid directly by the employee or their insurance provider. The employee shall be permitted to take accrued sick leave or administrative leave to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration. To clarify, an arbitrator is not permitted to overturn the medical judgment of the Medical Review Officer (MRO) that the employee failed to present a legitimate medical explanation for a positive, adulterated, or substituted test result of his or her specimen. The MRO under 49 CFR Part 40.149 (c) has sole authority to make the medical determination leading to a verified test result.

Except as specified in this section in the paragraph above, nothing in this section changes the rights of an employee with respect to the County disciplinary and appeal procedures.

INFORMATION DISCLOSURE

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder. The reports or test results may be disclosed to County management on a strictly need-to-know basis and to the tested employee upon request.

A log of persons accessing the folder shall be maintained in the folder detailing identity (name and position), specific purpose and date of access. Copies of this log shall be provided to the employee at any time, upon request. No copies of reports shall be made for any purpose other than identified below:

1. When the information is compelled by judicial or administrative process;
2. The information has been placed at issue in a formal dispute between the employer and employee;
3. The information is to be used in administering an employee benefit plan;
4. The information is needed by emergency medical technicians, or medical doctors for the emergency diagnosis or treatment of an employee who is unable to authorize disclosure.

Drug/alcohol testing records shall be maintained by the Designated Employer Representative and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.

Records of a verified positive drug/alcohol test result shall be released to the DER, Department Supervisor and Human Resources Director on a need to know basis.

Records will be released to a subsequent employer only upon receipt of a written request from the employee.

Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding. The information will only be released with binding stipulation from the decision maker that the results will be made available only to parties in the preceding. Records will be released to the National Transportation Safety Board during an accident investigation.

Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

1. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
2. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the County or the employee.

3. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of 49 CFR Part 40 as amended necessary legal steps to contest the issuance of the order will be taken.

CONSEQUENCES OF ALCOHOL OR DRUG MISUSE

ALCOHOL

Tested employees with an alcohol content of 0.02-0.039 shall be immediately removed from performing a safety-sensitive function and shall not be permitted to return to work for a period of 24 hours or until another breath test is administered and the result is less than 0.02 BAC.

Tested employees with an alcohol content greater than 0.04 shall be immediately removed from performing safety-sensitive functions and referred to a Substance Abuse Professional (SAP) who will determine what assistance, if any, the employee will require in terms of resolving problems associated with alcohol misuse. The SAP will determine if the employee has successfully complied with the recommendations prior to the employee's return to work. Before returning to duty, the employee will be required to undergo a return-to-duty alcohol test indicating an alcohol level of less than 0.02 BAC.

In addition, tested employees with a breath alcohol concentration of 0.04 or greater shall be subject to disciplinary action up to and including termination at the discretion of the appointing authority pursuant to applicable Civil Service Law and Rules and/or Memorandum of Understanding.

NOTE: An employee who refuses to comply with any required phase or step of alcohol testing shall be immediately removed from his/her position and shall be subject to disciplinary action up to and including termination

DRUGS

Tested employees who are found to have a positive test result for controlled substances shall be evaluated by a SAP who will determine what assistance, if any, the employee will require to resolve the substance use problem. The employee shall not be permitted to return to work until such time as the SAP has indicated that the employee has complied with the recommendations. An employee will be required to undergo a return-to-work drug test with negative results prior to being permitted to resume a safety-sensitive function.

In addition, tested employees who are found to have a positive test result for controlled substances shall be subject to disciplinary action up to and including termination.

NOTE: An employee who refuses to comply with any required phase or step of drug testing shall be immediately removed from his/her position and shall be subject to disciplinary action up to and including termination.

SYSTEM CONTACTS

Any questions regarding these guidelines or any aspect of the substance abuse policy should be directed to the Designated Employer Representative listed below:

County of Alameda
Michael Chan
Assistant Risk Manager
125 – 12th Street, 3rd Floor
Oakland, CA 94607

**APPENDIX
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V.	Substance Abuse Professional Evaluation: Alcohol Testing Process for Return to Duty and Follow-Up
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APPENDIX I **TERMS AND DEFINITIONS**

ACCIDENT: An occurrence associated with the operations of a vehicle if, as a result:

- There was a loss of human life;
- The driver receives a traffic citation and any individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
- If the driver receives a traffic citation and one or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle.

ADULTERATED SPECIMEN: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

ALCOHOL: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular-weight alcohols including methyl or isopropyl alcohol. Alcohol may be in any beverage, mixture, mouthwash, candy, food preparation or medication.

ALCOHOL USE: The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

ALCOHOL CONCENTRATION: Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

BREATH ALCOHOL TECHNICIAN (BAT) An individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing device.

CANCELED TEST: A drug test that has been declared invalid by a Medical Review Officer (MRO). A canceled test is neither positive nor negative.

CHAIN OF CUSTODY: Procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition. With respect to drug testing, these procedures shall require that an appropriate drug testing custody form be used from time of collection through the completion of all laboratory procedures.

CONFIRMATION (OR CONFIRMATORY) TEST: In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. (Gas chromatography/mass spectrometry [GC/MS] is the only authorized confirmation method for cocaine, marijuana opiates, amphetamines/methamphetamines, and phencyclidine.) In alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration is made.

COVERED EMPLOYEE: Drivers who are required to obtain a commercial driver's license (CDL) and who operates a vehicle as described below:

- A vehicle with a gross combination weight of 26,001 pounds or more;
- A vehicle with a gross vehicle weight of 26,001 pounds or more;

- A vehicle designed to transport 16 or more passengers, including the driver;
- A vehicle used to transport hazardous materials found in the Hazardous Materials Transportation Act.

The guidelines apply to any employee who engage in a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function.

DESIGNATED EMPLOYER REPRESENTATIVE (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DILUTE SPECIMEN: A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DISABLING DAMAGE: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors, or windshield wipers that makes them inoperative.

DOT: Department of Transportation; a department of the federal government which includes the Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

DRUG TEST: The laboratory analysis of a urine specimen collected in accordance with 49 CFR Part 40 and analyzed in a Department of Health and Human Services (DHHS) approved laboratory.

EBT OR EVIDENTIAL BREATH TESTING DEVICE: A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 through 0.04 alcohol concentration range and listed on the NHTSA's "Conforming Products List of Evidential Breath Measurement Devices".

FMCSA: Federal Motor Carrier Safety Administration

INITIAL TEST (also known as SCREENING TEST): An immunoassay screen to eliminate "negative" urine specimens from further consideration.

MEDICAL REVIEW OFFICER (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with his or her medical history and any other relevant bio-medical information.

NEGATIVE DILUTE: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

NEGATIVE TEST RESULT: The verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

ng/mL: Concentrations of illegal drugs/metabolites are expressed in nanograms per milliliter (ng/mL)

NON-NEGATIVE TEST RESULT: A test result found to be adulterated, substitute, invalid, or positive for drug/drug metabolites.

OBSERVED COLLECTION: Applicable to DOT-regulated testing only. A specimen collection under the direct observation of a collector for the purpose of minimizing the ability to adulterate or substitute a specimen.

PERFORMING A SAFETY-SENSITIVE FUNCTION: A covered employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

POSITIVE TEST RESULT: A verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40.87, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.02 BAC or greater.

POST-ACCIDENT TEST: A drug test administered to an employee when an accident (as previously defined) has occurred and the employee performed a safety-sensitive function that either contributed to the accident, or cannot be completely discounted as a contributing factor in the accident.

POST-OFFER/PRE-PLACEMENT/PRE-DUTY TEST: A drug test given to an applicant or employee who is being considered for a safety-sensitive position. The applicant or employee must be informed of the purpose for the urine collection prior to actual collection.

PROHIBITED DRUGS: Identified as marijuana, cocaine, amphetamines, methamphetamine, phencyclidine, and opiates (Codeine, Morphine, and Heroin) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended and all illegally used controlled substances as defined by the California Health and Safety Code.

RANDOM TEST: A drug test administered to a pre-determined percentage of employees who perform in safety-sensitive functions and who are selected on a scientifically defensible random and unannounced basis. At least 50% of the average number of County drivers covered will be tested each year.

REASONABLE CAUSE TEST: A drug test given to a current employee who performs in a safety-sensitive position and who is reasonably suspected by at least one trained supervisor of using a prohibited drug.

RETURN-TO-DUTY TEST: A test prior to return to duty and additional unannounced follow-up tests (for a period of up to 60 months) given to employees performing in safety-sensitive functions who previously tested positive and are returning to safety-sensitive positions.

SAFETY-SENSITIVE FUNCTIONS: Employee duties identified as the operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).

SCREENING TEST (or INITIAL TEST): In a drug testing, an immunoassay screen to eliminate "negative" urine specimens from further consideration. In an alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

SPLIT SPECIMEN: An additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive.

SUBSTANCE ABUSE PROFESSIONAL (SAP): A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

SUBSTITUTED SPECIMEN: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

TEST REFUSAL: The following are considered a refusal to test if the employee:

- (1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- (2) Fails to remain at the testing site until the testing process is complete;
- (3) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
- (5) Fails to provide a sufficient amount of urine (shy bladder) or breath (shy lung) when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;
- (6) Fails or declines to take a second test the employer or collector has directed you 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 as part of the "shy bladder" or "shy lung" procedures;
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- (9) If the MRO reports that there is verified adulterated or substituted test result; or
- (10) Failure or refusal to sign the alcohol and/or drug testing form(s);
- (11) During an invalid result MRO review, an employee admits that the specimen was adulterated or that a substitute specimen was submitted;
- (12) Fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process;
- (13) The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or
- (14) The employee refuses to wash his/her hands – after being directed to do so.

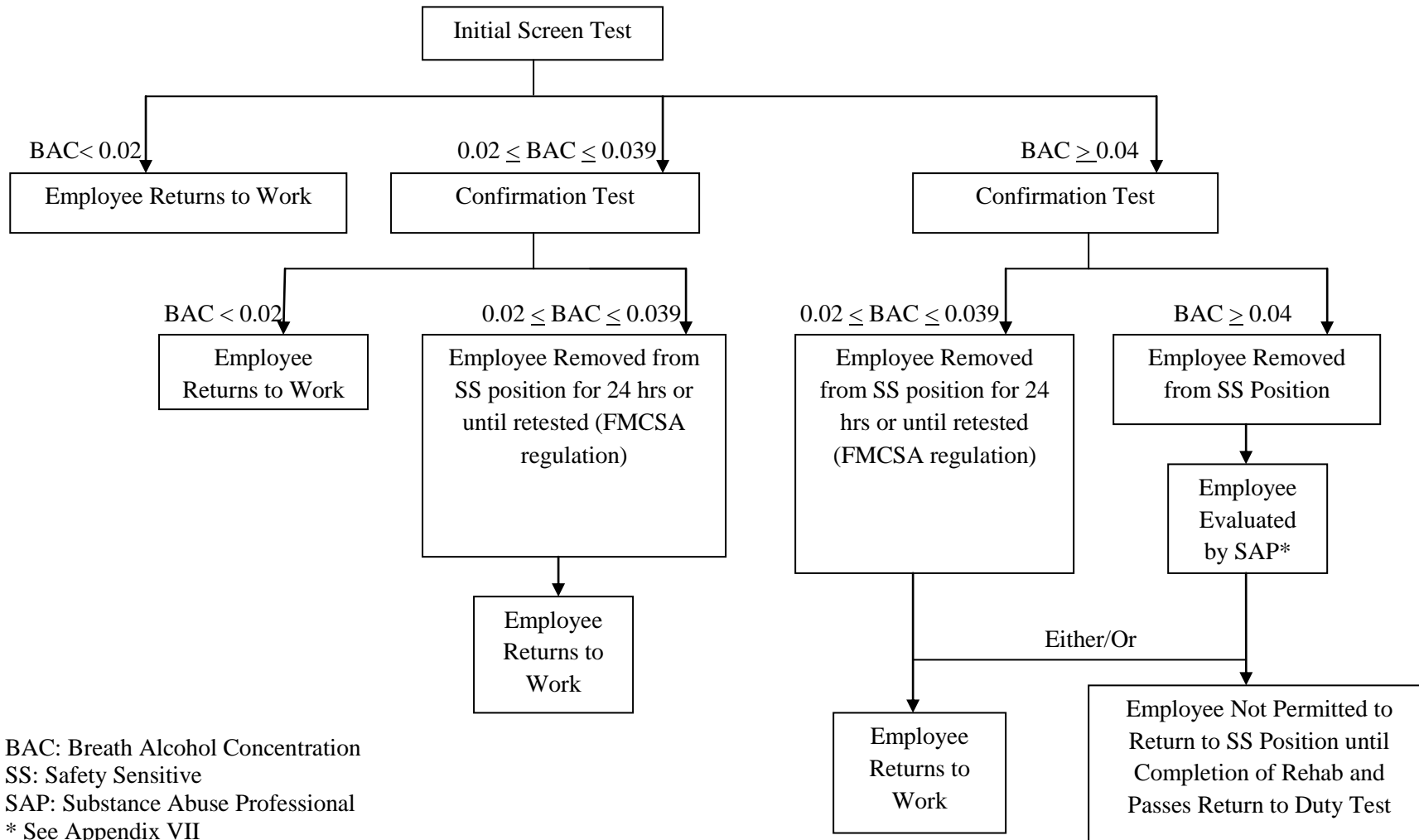
Verified Negative Test: A drug test result reviewed by a MRO and determined to have no evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as revised established by

the Department of Health and Human Services (HHS).

Verified Positive Test: A drug test result reviewed by a MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**APPENDIX II
EMPLOYEE ALCOHOL TESTING PROCESS**



BAC: Breath Alcohol Concentration

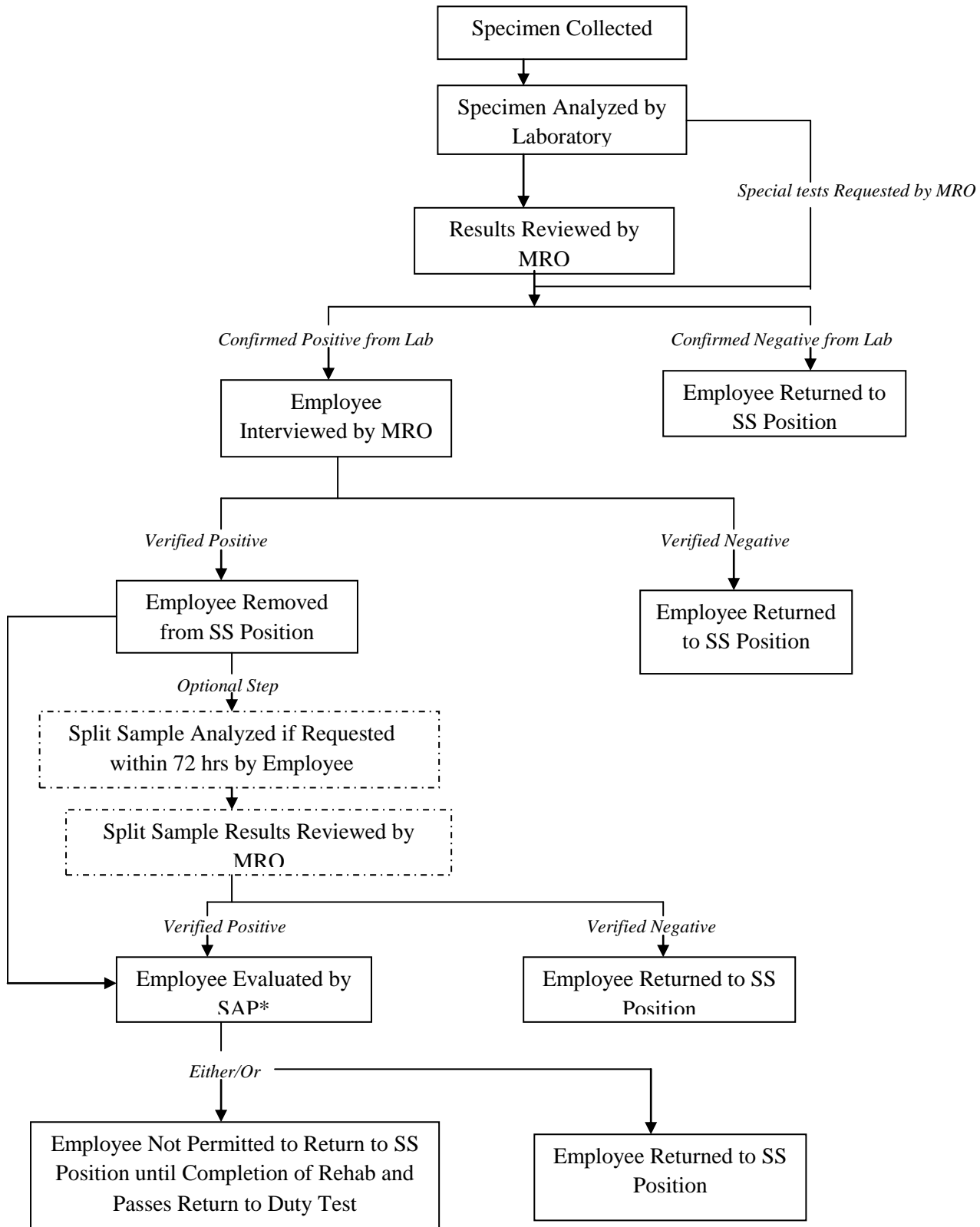
SS: Safety Sensitive

SAP: Substance Abuse Professional

* See Appendix VII

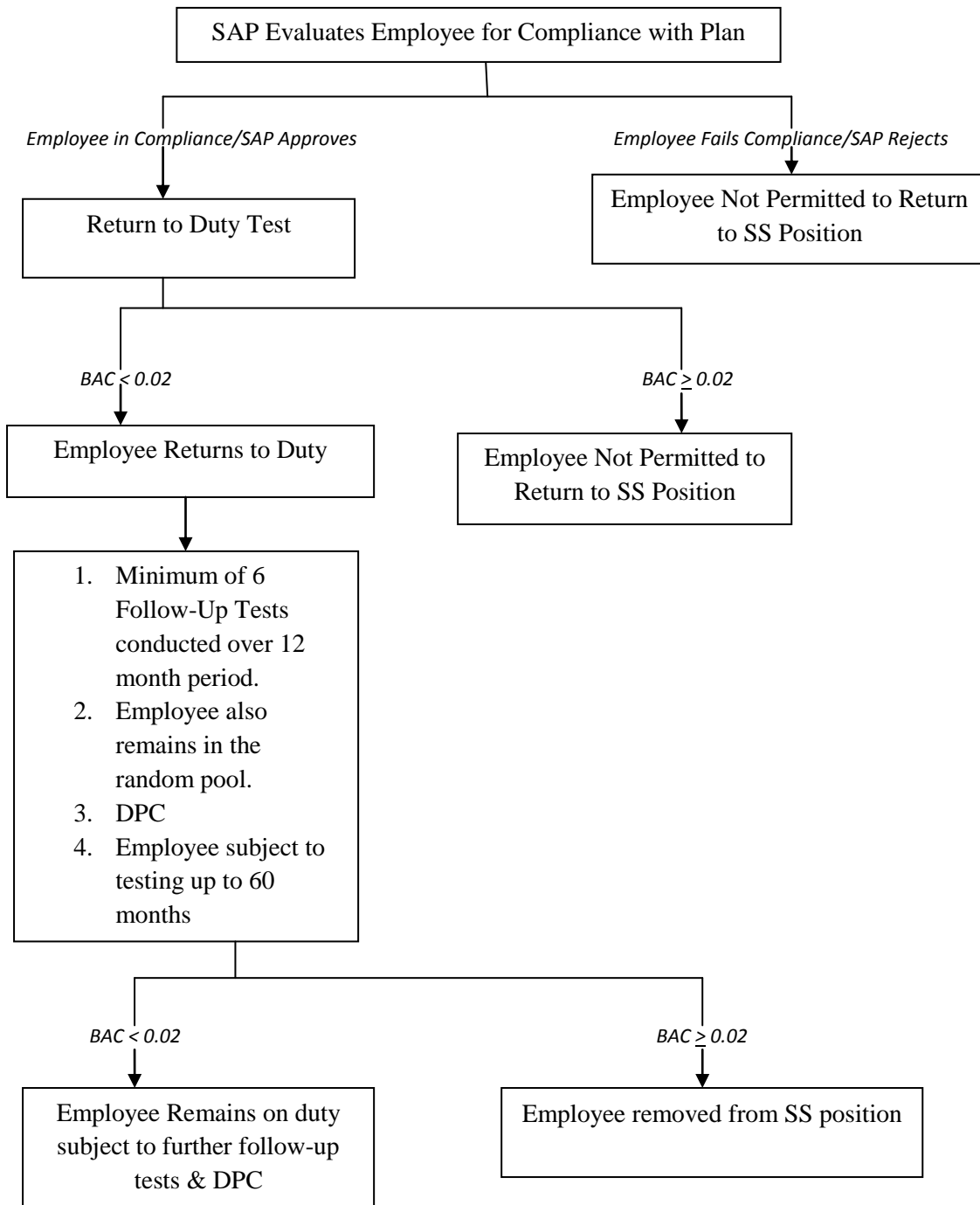
Note: Post accident test administered by a law enforcement official under independent authority may result in a 24 hour out-of-service order for concentrations below 0.02

**APPENDIX III
EMPLOYEE DRUG TESTING PROCESS**



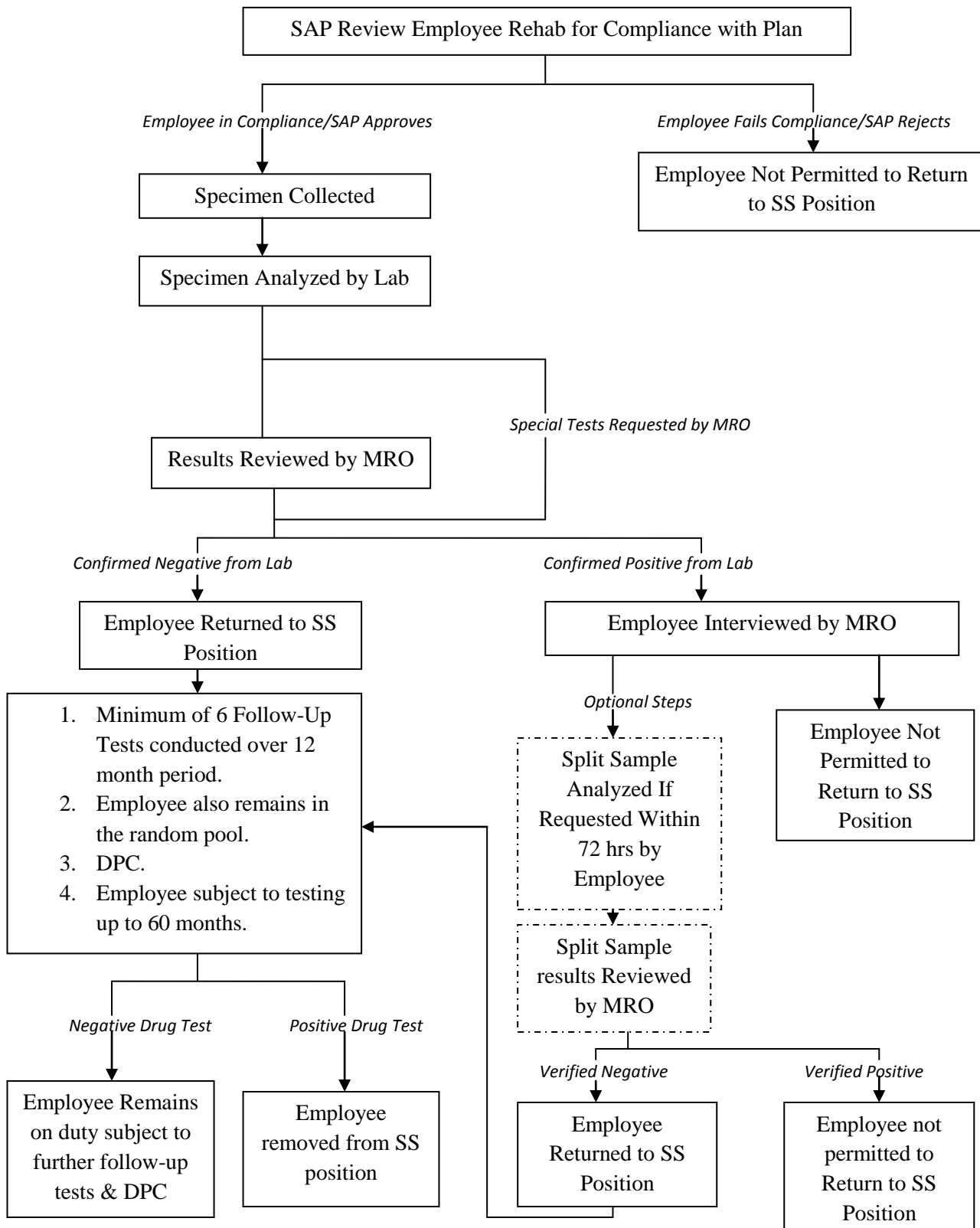
MRO: Medical Review Officer
SAP: Substance Abuse Professional
SS: Safety Sensitive
Rehab: Rehabilitation Program
* See Appendix VII

APPENDIX V
SAP EVALUATION: ALCOHOL TESTING PROCESS FOR RETURN-TO-DUTY
AND FOLLOW-UP



BAC: Breath Alcohol Concentration
 Rehab: Rehabilitation Program (if required following the initial evaluation)
 SS: Safety Sensitive
 SAP: Substance Abuse Professional
 DPC: Documented Program Compliance

APPENDIX VI
SAP EVALUATION: DRUG TESTING PROCESS FOR RETURN-TO-WORK AND FOLLOW-UP



APPENDIX VII
SUBSTANCE ABUSE PROFESSIONAL PROCEDURE

PURPOSE:

To assure that each employee who engages in conduct prohibited under the Federal Motor Carrier Safety Administration Rules, 49CFR Parts 382, et al. will have the opportunity to be evaluated for and receive treatment for alcohol and controlled substances problems.

PROCEDURE:

1. Any employee who violates these rules will be evaluated by the Substance Abuse Professional (SAP). The SAP will determine whether or not the employee needs assistance in resolving problems associated with alcohol misuse or controlled substances use.
2. Employees identified as needing assistance must complete any program required by the SAP.
3. Subsequent to completion of the program, the employee is to be reevaluated by the SAP to determine whether there was program compliance.
4. Prior to returning to duty after a violation, the employee must undergo an applicable alcohol and/or controlled substances test with the result of less than 0.02 alcohol concentration and/or a verified negative controlled substances test result.
5. Unannounced follow-up alcohol and controlled substances testing will be administered by the employer following the employee's return to duty. The number and frequency of such follow-up testing will be directed by the SAP and consists of at least six tests in the twelve months following the employee's return to duty. Follow-up testing shall not exceed sixty months from the date of the employee's return to duty. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered if the SAP determines that such testing is no longer necessary.

APPENDIX VIII

ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.

- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Appendix IX
U.S. Department of Transportation – Alcohol Testing Form

U.S. Department of Transportation (DOT)													
Alcohol Testing Form													
<i>(The instructions for completing this form are on the back of Copy 3)</i>													
Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN													
A: Employee Name _____ (Print) (First, M.I., Last)													
B: SSN or Employee ID No. _____													
C: Employer Name _____ Street _____ City, ST ZIP _____													
DER Name and Telephone No. _____ DER Name _____ DER Phone Number _____													
D: Reason for Test: <input type="checkbox"/> Random <input type="checkbox"/> Reasonable Susp <input type="checkbox"/> Post-Accident <input type="checkbox"/> Return to Duty <input type="checkbox"/> Follow-up <input type="checkbox"/> Pre-employment													
STEP 2: TO BE COMPLETED BY EMPLOYEE													
I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.													
Signature of Employee _____ Date _____/_____/_____ Month Day Year													
STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN													
(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.													
TECHNICIAN: <input type="checkbox"/> BAT <input type="checkbox"/> STT DEVICE: <input type="checkbox"/> SALIVA <input type="checkbox"/> BREATH* 15-Minute Wait: <input type="checkbox"/> Yes <input type="checkbox"/> No													
SCREENING TEST: <i>(For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)</i>													
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Test #</th> <th>Testing Device Name</th> <th>Device Serial # OR Lot # & Exp Date</th> <th>Activation Time</th> <th>Reading Time</th> <th>Result</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result						
Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result								
CONFIRMATION TEST: <i>Results MUST be affixed to each copy of this form or printed directly onto the form.</i>													
REMARKS: _____ _____ _____													
Alcohol Technician's Company _____ Company Street Address _____ (PRINT) Alcohol Technician's Name (First, M.I., Last) _____ Company City, State, Zip _____ Phone Number _____													
Signature of Alcohol Technician _____ Date _____/_____/_____ Month Day Year													
STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER													
I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.													
Signature of Employee _____ Date _____/_____/_____ Month Day Year													
COPY 1 – ORIGINAL – FORWARD TO THE EMPLOYER													

Affix Or Print Screening Results Here

Affix With Tamper Evident Tap

Affix Or Print Confirmation Result Here

Affix With Tamper Evident Tape

Affix Or Print Additional Results Here

Affix With Tamper Evident Tape