

Attachment G
FWHA anti Drug and Alcohol Policy (CDL Drivers)

CITY AND BOROUGH OF SITKA

**FHWA
ANTI-DRUG & ALCOHOL
POLICY**

IMPLEMENTED JANUARY 1, 1996

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SUMMARY

The Federal Highway Administration (FHWA) Drug and Alcohol Misuses Prevention Program prohibits certain conduct by, and requires alcohol testing of, persons who perform specified safety-sensitive functions. Alcohol tests must be conducted by qualified technicians on evidential breath testing devices. Drug tests must be conducted by trained collection personnel and tested by a laboratory certified by the Substance Abuse and Mental Health Services Association (SAMHSA). Persons who violate this regulation will be subject to consequences, including removal from safety-sensitive functions. In addition, the City and Borough of Sitka has established a separate policy with respect to employees who misuse alcohol.

IMPLEMENTATION DATE: January 1, 1996

A copy of this policy will be distributed to each covered employee prior to the start of drug and alcohol testing under the FHWA-mandate and to each person subsequently hired for or transferred to a covered position.

Written notice of the availability of this information will be provided to employees.

CONTACT PERSON:

Human Resources
(907) 747-1816

CATEGORIES OF EMPLOYEES SUBJECT TO TESTING:

Persons performing any of the following safety-sensitive functions for the City and Borough of Sitka are subject to Department of Transportation (DOT)/FHWA drug and alcohol testing:

All holders of a Commercial Motor Vehicle (CDL) License.

ANTI-DRUG PLAN

SECTION I. INTRODUCTION

A. Prohibited Drug Policy.

1. City and Borough of Sitka has a long standing commitment to maintain the highest standards for employee safety and health and the use of controlled substances and alcohol is contrary to these high standards.
2. The purpose of the anti-drug plan is to reduce accidents resulting from the use of controlled substances and alcohol, thereby reducing fatalities, injuries and property damage.
3. The presence in the body of prohibited substances and alcohol is not condoned.

B. Implementation of Anti-Drug Plan.

1. City and Borough of Sitka has implemented the Federal Highways Administration (FHWA), Drug and Alcohol Testing Regulations as set forth in 49 CFR Part 391, subpart H and the Department of Transportation, Procedures for Transportation Workplace Drug Testing Programs as set forth in 49 CFR Part 40.
2. Implementation of this anti-drug plan is effective on January 1, 1996.

C. Background.

1. The catalyst for the anti-drug plan is title 49 Code of Federal Regulations (CFR) Part 391, subpart H which requires Commercial Motor Vehicle operators to test their employees for prohibited drugs under the following work-related conditions:
 - a. Pre-employment
 - b. Post-Accident
 - c. Random
 - d. Reasonable Cause
 - e. Return-to-Duty
2. Title 49 CFR Part 40 specifies procedures which must be followed by the City and Borough of Sitka when conducting drug testing pursuant to regulations issued by agencies of the Department of Transportation.

D. Definitions.

The following definitions are derived from The Department of Transportation's Operating Administration which impacts our municipal operations.

Accident is defined as an occurrence associated with the operation of a vehicle in which the accident involves a fatality, the driver receives a citation under state or local law for a moving violation arising from the accident, injury treated away from the scene or vehicle is required to be towed from the scene.

Air Blank. Air blank means a reading by an evidential breath testing device (EBT) of ambient air containing no alcohol.

Alcohol. Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration. Alcohol concentration means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Blind Tests. Urine samples submitted to the testing laboratory for quality control testing purposes. These "blind test" samples have fictitious identities so the testing laboratory cannot distinguish them from employee specimens. The "blind test" samples have known quantities of specific drugs, or are blank (containing no drugs). Blind samples will be submitted at a rate of 3 samples for every 100 employee specimens submitted.

Breath Alcohol Technician (BAT). Breath alcohol technician means an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Canceled or Invalid Test.

Canceled or Invalid Test as pertains to alcohol tests. Canceled or invalid test means that is defined to be invited as listed in Section XV.1 of Appendix 1.

Canceled or Invalid Test as pertains to drug tests. Canceled or invalid test means a test that is defined to be invalid as listed in Section II.G.12(k) of Appendix C, Section 1.F.3 of Appendix e, or as may be otherwise defined by DOT regulations.

Collection Site Person. An Individual authorized by the City and Borough of Sitka to collect samples in accordance with this Program and trained in procedures for such collection in accordance with 49 CFR Part 40.

Commercial Motor Vehicle. Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

Has a gross vehicle weight rating of 26,001 or more pounds; or

Is designed to transport 16 or more passengers, including the driver; or

Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials Transportation Act and which require the motor vehicle to be placarded under the hazardous materials Regulations (49 CFR part 172, subpart F).

Covered or Safety Sensitive Function means operation of a commercial motor vehicle as defined above.

Covered, Subject or Safety Sensitive Employee means any person performing any commercial Motor Vehicle Safety Sensitive Function.

Custody and Control Form is a form that accompanies the urine specimen to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to its final disposition.

DOT Procedure. "Procedure for Transportation Workplace Drug Testing Programs" published by The Office of the Secretary of Transportation in 49 CFR Part 40.

Employee means person performing any commercial Motor Vehicle Safety Sensitive Function.

Evidential Breath Testing Device (EBT). Evidential breath testing device (EBT) means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices.

Employee Assistance Program. Employee assistance program (EAP) means a confidential counseling/referral service provided free-of-charge to employees and their dependents. EAP is designed to provide assistance to employees and their families to deal with personal problems with may affect their productivity, health or continued employment. All counseling, assessment and referral services will be provided by qualified, experienced clinicians with special training in short-term counseling and in assessing and treating substance abuse problems.

Failing a Drug Test. Shall mean the test results show positive evidence of the presence of a prohibited drug or drug metabolite in an employee's system in amounts that exceed cutoff levels established by DOT procedures.

Medical Review Officer. Medical Review Officer is the licensed physician who is responsible for receiving laboratory results generated by the City and Borough of Sitka's drug-testing program. The Medical

Review Officer must have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical and any other relevant biomedical information.

Screening Test or Initial Test. Screening test or initial test means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Passing a Drug Test. Means that the test result does not show positive evidence of the presence of a prohibitive drug metabolite in an employee's system.

Performing a Covered Function. An employee is considered to be performing a covered function (safety-sensitive function) during any period in which he/she is actually performing, ready to perform, or immediately available to perform such covered functions.

Prohibited Drug. Means marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

Refusal to Submit. Refusal by an individual to provide a urine sample after he or she received notice of the requirement to be tested in accordance with the City and Borough of Sitka's Anti-Drug Program. For alcohol, it is when a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of the DOT and the City and Borough of Sitka's alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.

Substance Abuse Professional (SAP). Substance Abuse Professional (SAP) means 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) with knowledge of and clinical experiences in the diagnosis and treatment of alcohol-related disorders.

E. Municipal Responsibilities.

1. Drug Program Manager (DPM): The DPM or other municipal designated shall be responsible for the preparation of a drug and alcohol testing anti-drug and alcohol plan which complies with requirements of the Department of Transportation regulations as set forth in the 49 CFR 391 subpart H. The DPM shall be responsible for providing oversight and evaluation on the anti-drug and alcohol plan; be notified of random selected personnel and follow the progress of return-to-duty testing; maintaining a locked file system on drug testing results; and overseeing the employee assistance program (EAP) as it is defined in 49 CFR Part 391.119. The City and Borough of Sitka shall ensure that all covered employees are aware of the provisions and coverage of the City and Borough of Sitka's anti-drug and alcohol plan.
2. Supervisors: City and Borough of Sitka supervisors are responsible for observing the performance and behavior of employees; observation/documentation of events providing reasonable cause for suspicion; responsible for request of second supervisor for substantiation and concurrence for reasonable cause testing.
3. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the City and Borough of Sitka's anti-drug and alcohol plan and to fully comply with the provisions of the plan.

SECTION II. DRUG TESTING REQUIREMENTS

A. Applicability.

1. Individuals Subject to Drug and Alcohol Testing. Any person who holds a Commercial Drivers License (CDL) who performs sensitive safety-related functions in commercial transportation on highways, to include both inter-and intrastate truck and motor coach operations (including those operated by Federal, State and local government agencies, church and civic organizations, Indian tribes, farmers, custom harvesters, for-hire and private companies).
2. Procedure for Notifying Employees: This anti-drug and alcohol testing plan shall be included in the City and Borough of Sitka policy manual. Upon receipt of the City and Borough of Sitka anti-drug and alcohol plan, each Department Head shall post the plan in a prominent location readily accessible to all covered employees. All covered employees will be provided a complete copy of the anti-drug and alcohol plan, each manager shall post the plan in a prominent location readily accessible to all covered employees.
3. Substances for Which Testing Must Be Conducted: The City and Borough of Sitka shall test each covered employee for evidence of the following substances:

Marijuana, Cocaine Opiates, Phencyclidine (PCP) and Amphetamines

Alcohol: Tested by a breath Analyzer

B. Drug Tests Required

1. Pre-Employment Testing. A pre-employment drug test must be conducted before an individual is transferred/promoted from a non-covered to a covered position. This also applies to employees returning from a leave of absence who have not been participating in the anti-drug and alcohol testing plan and subject to the random selection process. A negative test result is required prior to performing covered functions.
2. Post-Accident Testing.
 - a. The City and Borough of Sitka shall promptly determine if the employee's performance contributed to the accident, or if employee performance cannot be ruled out as a contributing factor. In either case, each accident-involved employee shall be drug tested as soon as possible but no later than 32 hours after the accident for controlled substance and within 8 hours for alcohol. The City and Borough of Sitka must take all reasonable steps to obtain a urine specimen from an employee after an accident, as defined below, but any injury should be treated first.

An accident involves any of the following:

- Fatality
- Injury treated away from the scene
- Vehicle required to be towed from the scene

Following collection. After returning from the collection site, the employee should not be allowed to perform covered functions pending the results of the drug test.

NOTE: Failure to provide a sample will be treated the same as a positive test result.

3. Random Testing.
 - a. The primary purposes of random testing are to deter prohibited drug use and to ensure a drug-free workforce. DOT regulations require that covered employees shall be subject to drug and alcohol testing on an unannounced and random basis. 50 percent of a testing pool must be randomly selected for drug testing each year and 25 percent must be selected for alcohol. The selections must be spread reasonably over a 12-month period.

- (1) Employees must remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
 - (2) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number. The process will be unannounced as well as random.
- b. Notification of Employees.
- (1) The appropriate Department Head will notify the employee to be tested to report to the Department Head's office at a specified time.
 - (2) The employee will not be notified of the test until after reporting for duty.
 - (3) Employees shall report immediately to the collection site or to the collection site within 30 minutes, plus travel time, once notified by the Department Head.
4. Reasonable Cause Testing. Reasonable cause testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of drug and alcohol use) to identify drug and alcohol affected employees who may pose a danger to themselves and others and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Department Head must then make a decision as to whether there is reasonable cause to believe an employee is using or has used a prohibited drug.
- a. The decision to test must be based on a reasonable and articulable suspicion or belief that the employee is using a prohibited drug or alcohol on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug or alcohol use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence to both supervisors may be accomplished by phone, or by having another supervisor travel to the job site, if only one supervisor is available at that particular job site.
- b. In making a determination of reasonable cause, the factors to be considered include, but are not limited to, the following:
- (1) Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of drug related behavior on or off the work site.
 - (2) Physical signs and symptoms consistent with substance abuse.
 - (3) Evidence of illegal substance use, possession, sale, or delivery while on duty.
 - (4) Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.
 - a) Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.

- b) Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable cause test. This documentation of the employee's conduct should be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.
 - c) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial would still be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to provide a urine specimen is not an accusation; it is merely a request for additional objective data. To the employee it may feel it is an accusation; so it is important to stress that this is merely a request for additional data.
 - d) Following collection. After returning from the collection site, the employee shall not perform duties pending the receipt of the drug test results. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable cause belief that they may be under the influence of a drug.
5. Return-to-duty Testing for Controlled Substance. An employee who refuses to take or fails a drug test may not return to duty until the employee passes a drug test and the MRO and the City and Borough of Sitka have determined that the employee may return to duty. An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing, without prior notice, for up to 60 months after his or her return to duty.

Return-to-Duty Testing for Alcohol. An employee who refuses to take or fails an alcohol test may not return to duty until the employee is evaluated by a substance abuse professional (SAP) and completed the recommended treatment. An employee who returns to duty shall be subject to six follow up breath tests over the next 12 months.

NOTE: Return-to-Duty testing is not an option under this drug and alcohol plan if the City and Borough of Sitka terminates an employee who has tested positive or refuses to test. A statement to this effect would appear under return-to-duty testing section of the plan.

SECTION III. USE OF EMPLOYEE WHO FAILS OR REFUSES A DRUG TEST

A. General

Compliance with this drug testing plan is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions. Additional disciplinary action up to and including termination may result.

B. Prohibitions On Use.

The City and Borough of Sitka shall not use, in a function covered by Part 391, subpart H anyone who:

- 1. Fails a drug test as verified by the MRO, or
- 2. Refuses to take a drug test required by this plan.

C. Options for Return-to-Duty.

An employee may be given an opportunity to retain his or her employment, provided they first:

1. Have been recommended by the SAP and the MRO for return to duty.
2. Pass DOT drug and alcohol test, and
3. Have not failed a drug or alcohol test required by Part 391 after returning to duty.
- *4. Enter into a City and Borough of Sitka approved evaluation/rehabilitation program and successfully complete the program.

*NOTE: Rehabilitation is not mandated by DOT regulations and paragraph 4 is based on other municipal policy and procedures. The City and Borough of Sitka shall place any employee who fails a drug or alcohol test on leave with or without pay. It is the employee's responsibility to make arrangements for their own rehabilitation. The employee must within 10 working days show the City and Borough of Sitka Drug Program Manager an action plan for rehabilitation. The action plan must be approved by an authorized SAP. If no action is taken within the 10 days, then that employee position will be forfeited.

SECTION IV. SPECIMEN COLLECTION REQUIREMENTS

A. General

1. All collection will follow 49 CFR 40. The collection site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage and shipping or transportation of urine specimens to a certified drug testing laboratory designated by the City and Borough of Sitka. An independent medical facility may also be utilized as a collection site.
2. A designated collection site shall be any suitable location where a specimen can be collected under conditions set forth in 49 CFR 40. A designated collection site shall have an enclosure within which private urination can occur, a toilet for completion of urination, and a suitable clean surface for writing. The site must also have a source of water for washing hands, which, if practicable, should be external to the enclosure where urination occurs.
3. Detailed Specimen Collection Procedures are outlined in 49 CFR 40 at each collection site by contacting the City and Borough of Sitka drug program manager.

SECTION V. DRUG TESTING LABORATORY

A. SAMHSA Laboratory.

1. The City and Borough of Sitka shall use a drug testing laboratory certified under DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs ; 53 FR 11970, April 11, 1988 and subsequent amendments.
2. The laboratory shall provide services in accordance with 49 CFR 40 and 49 CFR 391.
3. The laboratory shall permit inspection by the City and Borough of Sitka and the FHWA Administrator.

SECTION VI. BLIND PERFORMANCE TEST PROCEDURES

A. General.

1. The City and Borough of Sitka shall use blind testing quality control procedures as provided in this section.
2. On behalf of the City and Borough of Sitka, the contractor who administers the City and Borough of Sitka drug and alcohol program shall submit three blind performance test

specimens for each 100 employee specimens it submits, up to a maximum of 100 blind performance test specimens submitted per quarter.

SECTION VII. REVIEW OF DRUG TESTING RESULTS

A. General.

1. The City and Borough of Sitka shall contract the services of a Medical Review Officer (MRO). The MRO shall be a licensed physician with knowledge of drug abuse disorders. The MRO shall review all negative and positive drug test results and interview individuals tested positive to verify the laboratory report before the City and Borough of Sitka is notified. The review of negative test may be an administrative process to ensure the chain-of-custody procedures were intact. The MRO in conjunction with the SAP may also recommend to the City and Borough of Sitka whether and when an employee who refused to take or did not pass a drug test may return to work and schedule follow-up unannounced drug testing for a period of 60 months.

B. Reporting and Review of Results.

1. The MRO shall review confirmed positive results. An essential part of the drug testing program is the final review of confirmed positive results from the laboratory. A positive test result does not automatically identify an employee/ applicant as having used drugs in violation of a DOT regulation. Test results should be reviewed by an individual with a detailed knowledge of possible biological false positive results. This review shall be performed by the MRO prior to the transmission of results to the City and Borough of Sitka. The MRO review shall include review of the chain-of-custody to ensure that it is complete and sufficient on its face.
2. The duties of the MRO with respect to negative results are purely administrative.
4. The MRO will inform the Employee that upon notification of the verified positive test result they have 72 hours to request a re-test of the split sample. A re-test is an analysis of the "B" sample bottle. The re-test can be sent to a SHAMSA certified laboratory of the employee's choice. The employee will be responsible for payment for the re-test and will be reimbursed by the City and Borough of Sitka if the sample test is negative.

C. Verification for Opiates; Review for Prescription Medication.

1. Before the MRO verifies a confirmed positive result for opiates, the MRO shall determine that there is clinical evidence in addition to the urine test of unauthorized use of any opium, opiate, or opium derivative. (e.g., morphine/codeine).
2. This requirement does not apply if the City and Borough of Sitka GC/MS confirmation testing for opiates confirms the presence of 6-monoacetylmorphine.

D. Reconfirmation Analysis Authorization.

1. Should any question arise as to the accuracy or validity of a positive test result, only the MRO is authorized to order a reconfirmation of the original sample and such re-tests are authorized only at laboratories certified by DHHS.
2. The MRO shall authorize a reconfirmation of the original sample if requested in writing by the employee within 72 hours of the employee having received actual notice of the positive test.
3. If the re-test is negative, the MRO shall cancel the test.

E. Results Consistent with Legal Drug Use.

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the City and Borough of Sitka as negative.

F. Disclosure of information.

1. Except as provided in this paragraph, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process.
2. The MRO may disclose such information to the City and Borough of Sitka, DOT or other federal safety agency. Any other release of information must be accompanied by a release of information signed by the employee.

SECTION VIII. RETENTION OF SAMPLES

A. General.

Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days.

B. Retention Period.

1. Within this 365-day period, the employee or designated representative, FHWA or other state agencies with jurisdiction, or the City and Borough of Sitka may request in writing that the sample be retained for an additional period.
2. If the laboratory does not receive the request to retain the sample within the 365-day period, the sample may be discarded.

SECTION IX. RE-TESTING OF SAMPLES

A. General.

An employee/applicant may request in writing to the MRO a re-test of the sample within 72 hours of notification of a positive test result from the MRO.

B. Re-test Provisions.

The employee may specify that the specimen be re-tested by the original laboratory or sent to another SAMSHA certified laboratory. The employee may be required to pay in advance for the cost of the shipment and re-analysis of the sample. The employee will be reimbursed for the costs incurred in the re-analysis if the re-test of the specimen is negative. If the employee requests a re-test at a second laboratory, then the original laboratory must follow the approved custody and control procedures in transferring a portion of the specimen.

C. Detection Levels.

Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a re-test is not subject to a specific cutoff requirement but must prove data sufficient to confirm the presence of the drug or metabolite.

SECTION X. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program.

The EAP will provide education and training on drug use to all employees. The education shall include:

1. Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees.
2. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees, and

3. Distribution of the City and Borough of Sitka's policy regarding the use of prohibited drugs and alcohol to all new employees. The policy shall be displayed in prominent places throughout the City and Borough of Sitka (i.e., employee bulletin board, break room, locker rooms).

B. Supervisor Training.

1. Supervisory personnel responsible for those employees covered under Part 382 will receive training under the anti-drug and alcohol plan. The training shall include at least a 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and a 60-minute period of training on the effects of alcohol. This training shall be for supervisors who may determine whether an employee must be drug and alcohol tested for reasonable cause.

SECTION XI. RECORD KEEPING PROCEDURES

A. General.

1. The drug Program manager (or designee) shall maintain a locked file system that will contain drug test results. This file shall be maintained as Confidential. Employee files shall be handled on a strict "need to know" basis.
2. Drug test results shall not be included in personnel files. Information regarding an individual's drug testing result or rehabilitation may be released only upon written consent of the individual, except:
 - a. Such information must be released regardless of consent to FHWA or other government agency as a part of an accident investigation;
 - b. Such information may be disclosed regardless of consent in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.

B. Statistical Data.

Statistical data related to drug testing and rehabilitation that is non name-specified and training records may be released to FHWA or other government agency upon request.

C. Record Retention.

The records that must be maintained are:

1. Records that demonstrate the collection process conforms to Section 40.25 shall be maintained for a 3-year period.
2. Employee drug test results that show positive and test type (pre-employment test, random test, post-accident test, or post-rehabilitation test), and records that demonstrate rehabilitation (including the MRO's determination). These records shall be retained for a 5-year period and must include the following information:
 - a. Job classification and functions of employee.
 - b. Prohibited drug(s) uses.
 - c. Disposition of employee (i.e., rehab, suspension, termination, etc.)
3. Employee drug test that demonstrate negative results shall be retained for a period of 1 year.

4. A record indicating the total number of employees tested and the results of tests separated into categories shall be retained for a 5-year period.
5. Training records confirming that supervisors and employees have been trained as required under Section 382, and copies of training material used shall be retained for a 3-year period.

SECTION XII. CONTRACTOR EMPLOYEES

A. General.

The City and Borough of Sitka shall include a clause in the contractors contract providing for drug testing, education and training which shall be addressed by the contractor in accordance with PART 382 and Part 40 for covered functions.

B. Records and Access.

Contractors shall retain copies of appropriate records required by Part 382 and Part 40. The records and access to the contractor's property shall be readily accessible for inspection by the City and Borough of Sitka, FHWA, and representatives of those state agencies under which jurisdiction the City and Borough of Sitka operates.

C. Contractor Coverage.

The City and Borough of Sitka can, as an alternative to the above guidance, provide coverage for the contractor's employees by including them in the City and Borough of Sitka drug and alcohol-testing program and random pool for the duration of the contract.

APPENDIX A

LABORATORY PROCEDURES

A. TESTING

1. Initial Test – The initial test shall use an immunoassay which meets the requirement of the Food and Drug Administration for commercial distribution.
2. Confirmatory Test – All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed in this paragraph for each drug. All confirmations shall be by quantitative analysis. Concentrations that exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value".

B. Reporting Results.

1. The laboratory shall report test results to the City and Borough of Sitka's MRO within an average of 5 working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the employer, and the drug testing laboratory specimen.
2. The laboratory shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.

3. The MRO may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of test results to the City and Borough of Sitka. The MRO may reveal the quantitation of a positive test result to the City and Borough of Sitka, the employee, or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.
4. The laboratory may transmit results to the MRO by various electronic means (e.g., teleprinter, facsimile, or computer) in a manner designated to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory and employer must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.
5. The laboratory shall send only the MRO the original or a certified true copy of the drug testing custody and control form (copy 1), which, in the case of a report positive for drug use, shall be signed by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.

SECTION XIII. ALCOHOL TESTING

Employees performing safety-sensitive functions are subject to drug and alcohol testing and must refrain from consuming any alcohol (not just alcoholic beverages) whenever they are performing, ready to perform or immediately available to perform these functions.

Employees will only be tested for alcohol while they are at the work site. Therefore, a vehicle operator on-call for duty while at home has not violated the regulations if he or she has an alcoholic beverage unless he or she reports for duty within 4 hours of consuming such alcohol. He or she is not subject to alcohol testing until he or she reports for work. Therefore, if he or she is called to work and has consumed alcohol within the 4-hour time frame, he or she would have to decline to report until 4 hours has passed with no alcohol consumption.

1. PROHIBITED CONDUCT:

Alcohol Use

Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

Alcohol use is defined as the consumption of any beverage, mixture, or preparation, including any medication containing alcohol. Over the counter medication is included.

Alcohol Concentration

Covered employees may not report for duty or remain on duty in a position requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

Pre-Duty Use

Employees may perform safety-sensitive duties within 4 hours after consuming alcohol.

On-call employees who are not at work, but could be called to perform safety-sensitive functions, are subject to the pre-duty alcohol prohibition (i.e., they would have to decline a call to work if acceptance would result in performing safety-sensitive duties within the 4 hours).

On-Duty Use.

Covered employees may not consume alcohol while performing safety-sensitive functions.

This prohibition also applies to covered employees who are at work and immediately available to perform safety-sensitive functions.

Covered employees with knowledge of an accident involving a vehicle for which they performed a safety-sensitive function at or near the time of the accident may not use alcohol for 8 hours after the accident unless they have been given a post-accident test, or the City and Borough of Sitka has determined that their performance could not have contributed to the accident.

Refusal to Submit to Testing

Covered employees may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol test. The City and Borough of Sitka will not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions. Further discipline, to include termination, may result from such refusal.

Refusal to submit to a pre-employment or return-to-duty test is not a violation of the FFWA rule, but a refusal (the same as a positive test result) will preclude any person from performing safety-sensitive functions.

2. CIRCUMSTANCES THAT REQUIRE TESTING:

Covered employees are subject to the following federally mandated alcohol tests:

Post-Accident

Within 2 hours but no later than 8 hours, or as soon as practicable after an accident, each covered employee must be drug and alcohol tested if that employee's performance either contributed to the accident or cannot be discounted as a contributing factor to the accident.

A covered employee who is subject to post-accident drug and alcohol testing will remain readily available for testing or may be deemed by to have refused to submit to testing.

Attempts to conduct post-accident alcohol testing will cease 8 hours after the accident, even if no alcohol test has been conducted.

Random

25% of the covered employees will be selected for random alcohol testing through a scientifically valid method. The City and Borough of Sitka's contractor will use a random-number computer generator to select employees.

*50% of the covered employees will be selected for random drug testing through a scientifically valid method. We will use a random number generator to select employees.

Random tests will be reasonable spaced throughout the year and will be unannounced.

Employees notified of selection for random testing must proceed immediately to the testing site.

Random tests will be conducted while the employee is performing safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

Reasonable Suspicion

A covered employee must submit to a drug and alcohol test if the City and Borough of Sitka has determined that reasonable suspicion exists that the employee has violated the drug and alcohol misuse prohibitions.

This determination must be based on a trained supervisor's specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Even if an alcohol test cannot be administered, no employee who is under the influence of or impaired by alcohol, as shown by behavioral, speech, or performance indicators of alcohol misuse should report for duty or remain on duty requiring the performance of safety-sensitive functions until a test can be administered and the result is below 0.02 until the commencement of the employee's next duty period if at least 24 hours has elapsed.

Similarly, even if an alcohol test cannot be administered, the City and Borough of Sitka will not permit any employee who is under the influence of or impaired by alcohol, as shown by behavioral, speech, or performance indicators of alcohol misuse, to report for duty or remain on duty requiring the performance of safety-sensitive functions until a test can be administered and the result is below 0.02 or until the commencement of the employee's next duty period if at least 24 hours has elapsed.

A supervisor who identifies an employee for a reasonable suspicion test cannot conduct the alcohol test as the breath alcohol technician for that employee.

Return to Duty

Before a covered employee returns to duty in a safety-sensitive function after engaging in prohibited conduct, he or she will undergo a return to duty test.

The employee cannot perform a safety-sensitive function until a drug or alcohol result indicating a negative or an alcohol concentration of less than .002 is obtained.

Follow-up

Each covered employee, who has been identified by a substance abuse professional (SAP) as needing assistance in resolving a problem with alcohol misuse and who has returned to duty performing a safety-sensitive function, will be subject to follow-up testing.

Follow-up tests will be unannounced and at least 6 tests must be conducted in the first 12 months after the employee is back on the job. Follow-up testing may continue for up to 60 months.

The schedule for follow-up alcohol testing is established by the SAP.

DRUG PERSONNEL AND SERVICES

1. DRUG PROGRAM MANAGER (DPM)
Worksafe, Inc.
341 W. Tudor Rd., Suite 106
Anchorage, Alaska 99503
2. Dr. Mary Demers D.O., M.P.H.
341 West Tudor Rd. Suite 106
Anchorage, Alaska 99503
Phone (907) 563-8378
3. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES
ADMINISTRATION (SAMHSA) LABORATORY
ARUP, Inc.
500 Chipta Way
Salt Lake City, Utah 84108
4. EMPLOYEE ASSISTANCE PROGRAM

- a. Libby Stortz, LCSW
201 Lincoln St.
Sitka, AK 99835
(907) 747-7444
- b. Neurobehavioral Consultants
201 Lincoln St., Suite 3
Sitka, AK 99835
(907) 747-3743
- c. Sitka Counseling and Prevention Services
701 Indian River Rd.
Sitka, AK 99835
(907) 747-3636

3. PROCEDURES FOR ALCOHOL TESTING: PROTECTING THE EMPLOYEE AND THE INTEGRITY OF THE BREATH TESTING PROCESS: SAFEGUARDING THE VALIDITY OF THE TEST RESULTS: AND ENSURING THAT THOSE RESULTS ARE ATTRIBUTED TO THE CORRECT EMPLOYEE:

Preparation for Breath Alcohol Testing

Upon entering the alcohol testing location, the breath alcohol technician (BAT) will require the employee to provide positive identification (photo ID). On request, the BAT will provide positive identification to the employee. The BAT will explain the testing procedure to the employee.

Screening Tests

The BAT will complete Step 1 on the breath alcohol testing form, and the employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test.

An individually sealed mouthpiece will be opened in view of the employee and BAT and attached to the evidential breath-testing device (EBT) in accordance with the manufacturer's instructions.

The BAT will instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.

If the EBT does not have a printer capable of generating a printed result, a sequential test number, the manufacturer's name for the device, the device's serial number, and the time and date of the test: the BAT will show the employee the result displayed on the EBT. The BAT will record the displayed result, test number, testing device, serial number of the testing device, date, time, and quantified result in Step 3 of the form record the test number, date of the test, name of the BAT, location, and quantified test result in a log book if used. The employee will initial the logbook entry.

If the EBT provides a printed result, but does not print the results directly onto the form, the BAT will show the employee the result displayed on the EBT. The BAT will then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper-evident tape).

If the EBT prints the test results directly onto the form, the BAT will show the employee the result displayed on the EBT. In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02, the BAT will date the form and sign the certification in Step 3 of the form. The employee will sign the certification and fill in the date in Step 4 of the form.

If the employee does not sign the certification in Step 4 of the form or does not initial the logbook entry for a test, it will not be considered a refusal to be tested. In this event, the BAT will note the failure to sign or initial in the "Remarks" section of the form.

If a test result printed by the EBT does not match the displayed result, the BAT will note the disparity in the remarks section. Both the employee and the BAT will initial or sign the notation. The test is then invalid and the City and Borough of Sitka and the employee will be so advised.

In the event of a result less than 0.02, no further testing is authorized. The BAT will transmit the result of less than 0.02 to the drug program manager in a confidential manner, and will receive and store the information so as to ensure that confidentiality is maintained as required.

Confirmation Tests

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test will complete and sign the form and log book entry if used. The BAT will provide the employee with Copy 2 of the form.

The BAT will conduct an "air blank" to ensure that the device is working correctly. The air blank must be 0.00. If the reading is greater than 0.00, the BAT will conduct one more air blank. If the reading is greater than 0.02, testing will not proceed using that instrument. However testing may proceed on another instrument.

The BAT will instruct the employee not to eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This time period begins with the completion of the screening test, and will not be less than 15 minutes. The BAT will explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT will also explain that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instruction. If the BAT becomes aware that the employee has not complied with this instruction, the BAT will so note in the "Remarks" section of the form.

If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT will initiate a new Breath Alcohol Testing form. The BAT will complete Step 1 on the form. The employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test. The BAT will note in the "Remarks" section of the form that a different BAT conducted the screening test.

A breath alcohol test is invalid under the following circumstances:

The EBT does not pass its next external calibration check (invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test: does not invalidate negative tests).

The breath alcohol technician does not observe the minimum 25-minute waiting period prior to the confirmation test.

The breath alcohol technician does not perform an air blank of the EBT before a confirmation test, or such an air blank does not result in a reading of 0.00.

The breath alcohol technician does not sign the form.

The breath alcohol technician fails to note in the remarks section of the form that the employee has failed or refused to sign the form after the test has been conducted.

The breath alcohol technician fails to note in the remarks section of the form that the employee has failed or refused to sign the form after the test has been conducted.

An EBT fails to print a confirmation test result.

The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

Employee records pertaining to alcohol testing will be maintained in a secure location with controlled access.

These records will be promptly released to the employee, or a person identified by the employee (including subsequent employers), upon written request of the employee. This release of information will not be contingent upon payment for records other than those specifically for follow-up testing).

Required Evaluations and Testing

No covered employee who has violated the rules on alcohol misuse or refusal to submit to testing can perform any safety-sensitive function unless and until that employee has:

1. Been evaluated by an SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol use.
 2. Completed any treatment recommended by the SAP.
 3. Been evaluated by an SAP to ensure that the employee has properly followed the treatment program; and
 4. Undergone required return to duty testing.
 5. An SAP is 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) with knowledge of an clinical experience in the diagnosis and treatment of disorders related to drug use and abuse.
4. CONSEQUENCES FOR HAVING AN ALCOHOL CONCENTRATION OF 0.02 OR GREATER BUT LESS THAN 0.04.

If a covered employee is found to have an alcohol concentration of 0.02 or greater but less than 0.04, that employee will be immediately removed from performing safety-sensitive functions, until the employee is retested with a result below 0.02, or until the start of the employee's next regularly scheduled duty period, if it occurs at least 8 hours following administration of the test. Additional discipline up to and including termination may result.

5. INTERVENING WHEN AN ALCOHOL PROBLEM IS SUSPECTED, INCLUDING CONFRONTATION, REFERRAL PROGRAM, AND/OR REFERRAL TO MANAGEMENT:

Why You Should Get Involved:

Although the City and Borough of Sitka has no history of substance abuse problems, we recognize that alcoholism and alcohol misuse are problems throughout America.

There are three good reasons why you should be concerned if any of your coworkers are using drugs or alcohol on the job:

- Your health and safety may be at risk.
- Alcohol misuse costs you money.
- Alcohol creates a negative work environment.

According to the National Institutes on Alcohol Abuse and Alcoholism, drug and alcohol use on the job cost society an estimated \$102 billion a year. Since most of this cost is passed on to you in the form of higher health insurance rates or in the prices you pay for things, drug and alcohol use on the job costs you and your fellow workers.

Absenteeism among problem drinkers or alcoholics is 3.8 to 8.3 times greater than normal. If your fellow workers don't come to work, you may have to do their jobs in addition to your own.

Workers who misuse alcohol don't function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of the public, alcohol misuse is an especially serious issue.

No matter what your position is in the organization, there is something you can do to ensure that drug and alcohol use on the job never becomes a problem at the City and Borough of Sitka. Acceptance of any misuse puts you, the municipality, and the public at risk.

6. EFFECTS OF ALCOHOL MISUSE ON AN INDIVIDUAL'S HEALTH, WORK, AND PERSONAL LIFE:

Alcohol is a central nervous system depressant. Taken in large quantities it causes not only the euphoria associated with "being drunk" but also adversely affects your judgment, your ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.

Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.

In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated, it will inevitably get worse.

Workers who use alcohol (and other drugs) affect everyone. Studies show that, compared to alcohol and drug-free workers, substance abusers are far less productive, miss more workdays, are more likely to injure themselves or someone else, and file more workers' compensation claims.

The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. However, the hidden costs resulting from diverting supervisory and managerial time, friction among workers, damage to equipment, and damage to the City and Borough of Sitka's public image mean that workplace abuse are equally significant.

Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.

If drinking affects your work life, it could lead to job loss and all of the financial problems that would follow.

SIGNS AND SYMPTOMS OF ALCOHOL MISUSE

Any one or more of the following signs may indicate a drinking problem:

Family or social problems caused by drinking.

Job or financial difficulties related to drinking.

Loss of a consistent ability to control drinking.

"Blackouts" or the inability to remember what happened while drinking.

Distressing physical and/or psychological reactions if you try to stop drinking.

A need to drink increasing amounts of alcohol to get the desired effect.

Marked changes in behavior or personality when drinking.

Getting drunk frequently.

Injuring yourself – or someone else – while intoxicated.

Breaking the law while intoxicated.

Starting the day with a drink.

7. AVAILABLE METHODS OF EVALUATING AND RESOLVING PROBLEMS ASSOCIATED WITH THE MISUSE OF ALCOHOL.

Outpatient programs exist in a variety of settings:

1. Community mental health centers.
2. Family service agencies.
3. Private physicians' and therapists' offices.
4. Occupational settings.
5. Specialized alcoholism treatment facilities.

Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.

Your local phone directory will list helpful referral organizations such as:

1. Local council on alcoholism.
2. Alcoholics Anonymous.
3. Community alcoholism or mental health clinic.
4. Social services or human resources department.

The SAP for the City and Borough of Sitka is Libby Stortz and can be reached at 747-7444. She will perform an initial evaluation, recommend any treatment if necessary, and refer employees needing assistance for treatment covered under our health insurance program.

The policy as it relates to drug and alcohol misuse by employees performing safety-sensitive functions is as follows: (These policies are not governed by DOT/FHWA regulations; but are developed and enforced solely by the City and Borough of Sitka.

1. **Any employee who registers an alcohol concentration of 0.04 on any test administered by or for the City and Borough of Sitka or who engages in other alcohol misuse will be terminated.**
2. Employees self-referring for an alcohol problem prior to being selected for testing will not be terminated and will be sent to a substance abuse professional for evaluation at the employee's expense.
3. Any employee who refuses an FHWA-mandated alcohol test will be terminated.
4. Any employee who registers an alcohol concentration of 0.02-0.039 on an FHWA- mandated test will be sent home for the day in an unpaid status the first time such a test is obtained.
5. Any employee who twice registers an alcohol concentration of 0.02-0.039 on FHWA-mandated tests will be terminated.

Any employee who will be terminated will be advised to obtain an evaluation from Libby Stortz, our SAP, to determine if the employee is in need of assistance with an alcohol problem. The City and Borough of Sitka will pay for this evaluation.