

USVI-DFWPA

U.S. Virgin Islands

Drug-Free Workplace Alliance

Program Handbook

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1.0 – INTRODUCTION

The affiliates of Pinnacle Services, LLC, LIMETREE BAY TERMINALS LLC, along with Owners and participating Companies of the U.S. Virgin Islands Drug Free Workplace Alliance, herein USVI-DFWPA are committed to providing a safe work place for those working within the U.S. Virgin Islands. A workplace unencumbered by the influences of illegal/controlled drugs and alcohol is necessary to assure this goal. Cooperative effort is needed to overcome the adverse impact of substance abuse on workplace safety, productivity, and quality of work. As a result of that effort, Pinnacle Services, LLC has developed the U.S. Virgin Islands Drug Free Workplace Alliance (USVI-DFWPA).

The USVI-DFWPA applies to all employees and potential employees of participating member job sites, hereafter “Alliance Members” at all tiers, including bargaining unit and non-bargaining unit employees.

The USVI-DFWPA establishes a single minimum testing standard to be utilized to conduct testing for illegal/controlled drugs, substances and alcohol on participating-member job sites. Project Owners and/or Alliance Members may have more stringent policy requirements which shall be recognized by Alliance Member employees.

The mark of a successful drug-free workplace program also depends on how well employees are informed of the hazards of drug use. Equally important is the assurance to employees that personal dignity and privacy will be respected in reaching the goal of a drug-free workplace. Therefore, this plan includes policies and procedures for: (1) employee assistance; (2) supervisory training; (3) employee education; and (4) identification of illegal/controlled drug use through drug testing on a carefully controlled and monitored basis.

2.0 – RECIPROCITY

The goals of the USVI-DFWPA will be met by recognizing similar efforts, either on a local or regional basis that meet or exceed the minimum standards set forth herein. A local or regional program can obtain reciprocal status and may transfer data to the USVI-DFWPA database when all of the following conditions are satisfied:

The program is embodied in a written policy;

The panel of drugs tested must include those set forth herein;

The cutoff values for each drug must meet or exceed the values set forth herein;

Testing is at least as frequent as set forth herein;

The reciprocal program implements substantially similar procedural safeguards to ensure the integrity of the testing process, including the use of certified Medical Review

Officers (C-MROs);

The reciprocal program provides for applicant testing, annual testing, random testing, for cause testing, post-accident testing, return-to-duty testing and follow-up testing;

The reciprocal program contains a bona fide dispute resolution process;

The reciprocal program uses a bona fide method of discipline that imposes similar consequences for failing a drug test;

The reciprocal program provides means and methods for employee rehabilitation through a qualified professional in the substance abuse field;

The reciprocal program provides for reasonable cause training.

Programs that have been granted reciprocal status will submit, on a daily basis, employee testing data to the USVI-DFWPA database.

Programs that reciprocal status with the USVI-DFWPA include:
DISA Contractors Consortium(DCC)

3.0 - COMMITMENT TO CONFIDENTIALITY

Protecting the confidentiality of the employee is a primary interest of labor, owners, and Alliance Members. Towards that end, there will be designated certified Medical Review Officers (C-MROS) who will be the sole individuals who have access to employee medical records and the C-MROs and USVI-DFWPA Administrators will be the only individuals who have access to employee drug testing results. C-MROs shall be licensed physicians with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information. Where applicable, C-MROs shall follow the procedures set forth in 49 CFR Part 40.

3.1 – DESIGNATED EMPLOYER REPRESENTATIVE (DER)

Alliance Members will assign a Designated Employer Representative (DER) as the contact person who will be the only individual to receive information from the C-MRO and USVI-DFWPA Administrator, as well as an alternate representative to receive such information in the event that the primary representative is absent or unavailable.

The following procedures and guidelines regarding confidentiality will be strictly observed:

Except as otherwise provided herein, individual test results or medical information about an employee shall not be disclosed to third parties without the employee's specific written consent. A "third party" is any person or organization to whom other subparts of this

USVI-DFWPA do not explicitly authorize or require the transmission of information in the course of the drug or alcohol testing process.

Information pertaining to an employee's drug or alcohol test may be disclosed without the employee's consent in certain legal proceedings:

These proceedings include a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).

These proceedings also include 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 sought is relevant to the case and issues an order directing that the information be produced.

In such a proceeding, the information may be released to the decision maker in the proceeding (e.g., the court in a lawsuit), with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding.

The C-Medical Review Officers and USVI-DFWPA Administrator will be the only individuals who have detailed information concerning employee drug testing.

Active/Inactive Status, Testing and Owner Verification – The USVI-DFWPA system will classify employee members of the Alliance as being “Active” or “Inactive”. Any employee member who has not complied with the requirements of this program will be classified as “Inactive”. All employee members who have complied with the requirements of this program will be classified as “Active”. The designation of an “Active” or “Inactive” status does not imply use or abuse of substances.

Testing will be administered by Pinnacle Services and/or one of its certified partner collection labs sites and an employee member's “Active” or “Inactive” status will be posted in an online database application maintained by Pinnacle Services. Alliance Members, which may include Owners may only verify an employee member's status of “Active” or “Inactive” via the online database. No information about the test results, the substance that an employee member may have tested positive for, levels of testing, or any other specific information will be shared.

4.0 - ELIGIBILITY FOR EMPLOYMENT

Only employees who are listed in the national database maintained by Pinnacle Services as “Active” may be employed for work on a project requiring this USVI-DFWPA. A potential employee who has provided an initial drug test specimen will be eligible for employment pending the results of the initial drug test. If an employee member's initial drug test specimen displays a positive test cup result, the employee will be classified as

“Inactive” until the drug test results are received from the laboratory and confirmed by the C-MRO.

Owners and Alliance Members may refuse access to Owner’s property if status is “Inactive”. An “Active” employee member is eligible for access to an Owner’s property under the USVI-DFWPA. However, an Owner may deny access without regard to that eligibility.

This USVI-DFWPA permits an owner or contractor to require specimen collection under direct observation. It is the responsibility of the owner or contractor to verify that specimen collection under direct observation is permitted by governing local, state, and federal law.

5.0 - TYPES OF TESTING

A urine drug test and/or breathalyzer alcohol test shall be administered under the following circumstances:

Pre-Enrollment Testing: All potential employees of all Alliance Members at all tiers who work at a covered Project and who are inactive with this USVI-DFWPA shall submit to an Initial Drug Test. The Initial Drug Test will test for the presence of illegal/controlled drugs and substances. The drug test categories and related levels to determine a positive test result may be found in Appendix A. This test will include an alcohol test. Any potential employee refusing to submit to this test will be classified as “Inactive” and will not be permitted to work on the Project until the requirements of Section 16, Consequences of a Positive Drug or Alcohol Test, are satisfied. Existing Employees Transferred From Another Location to Work on a Project Covered by this USVI-DFWPA: All employees in this classification must become current with the USVI-DFWPA. Any employee who is inactive with the USVI-DFWPA will not be permitted to work on the Project. Note: Alliance Member employees that are a participating employee member in a substance program that has reciprocal status with the USVI-DFWPA will have their status visible in the USVI-DFWPA.

Random Testing: A minimum annual random selection rate of fifty percent (50%) or as permitted by law of the workforce, or as determined by a participating Alliance Member's individual program requirements on covered job sites / projects shall be tested. Random testing shall be site-specific. The selection of employees for random testing shall be determined exclusively by the USVI-DFWPA Administrator through its computer-generated, random-number generating software to ensure complete impartiality and objectivity. The random selection pool shall include all employees of the Alliance except those employees already subject to random testing under a local or regional program with reciprocal status shall not be subject to random testing under this USVI-DFWPA. Selection of employees for random testing shall not be conducted by any Alliance Member employers. Random testing shall test for illegal/controlled drugs and substances as set forth in Appendix A.

Testing for Cause: All employees may be tested for cause for illegal/controlled drugs and substances as well as alcohol when a reasonable suspicion exists that the employee appears to be under the influence of illegal/controlled drugs or substances and/ or alcohol, as set forth in Section 8 of this USVI-DFWPA.

Post-Incident Testing: An employee with a chargeable incident shall be required to submit to post-incident testing for the use of illegal/controlled drugs or substances and/ or alcohol as set forth in Section 9 of this USVI-DFWPA.

Return-to-Duty Testing: Employees or potential employees who have tested positive for drugs or alcohol will not be eligible for employment until they pass a return-to-duty test as provided in Section 7 of this USVI-DFWPA.

Follow-Up Testing: After a confirmed positive test, employees are subject to unannounced testing for illegal/controlled drugs and substances as well as alcohol as directed by the discretion of an approved, qualified professional in the substance abuse field. Such employees will be subject to Follow-up testing for a period of five (5) cumulative "Active" status years.

6.0 - ILLEGAL/CONTROLLED DRUGS AND SUBSTANCES

Testing under the this USVI-DFWPA includes tests for alcohol and:

Amphetamines, Barbiturates, Benzodiazepines, Cocaine, Opiates, Oxycodone, Phencyclidine, THC (Marijuana and Cannabinoids), Methadone, and Methamphetamine. Testing and cutoff levels are contained in the Drug Information Chart in Appendix A.

7.0 - PROCEDURE FOR PRE-ENROLLMENT, RANDOM, RETURN-TO-DUTY, AND FOLLOW-UP DRUG TESTING

Specimen collection may occur on-site at the DFWPA facility or at an approved off-site clinic.

Each individual will, upon request, read a Notice of USVI-DFWPA and read and sign a Consent Form and, if necessary, read and sign the certification statement on a Drug Testing Chain of Custody (COC) and provide date of birth, social security number, printed name, and day and evening contact telephone numbers. Failure to do so constitutes refusal to submit to a test, and the employee will be considered to have tested positive under section 16 and will be classified as "Inactive."

Specimens shall be collected in accordance with the procedures set forth in DOT Urine Specimen Collection Guidelines for the U.S. Department of Transportation Workplace Drug Testing Programs including, but not limited to, those procedures governing the use of split samples and those establishing a formal chain of custody.

A portion of the sample from the primary specimen will be screened using an instant drug screening device and if non-negative, another portion from the primary specimen will be tested for verification using the gas chromatography/mass spec (GC/MS) test.

A laboratory testing the primary specimen must retain a specimen that was reported with positive, adulterated, substituted, or invalid results for a minimum of one year. Within the one-year period, the C-MRO, the employee, the union, or the employer, may request in writing that the laboratory retain a specimen for an additional period of time (e.g., for the purpose of preserving evidence for litigation or a safety investigation). The laboratory must comply with such a request. In the absence of such a request, the specimen may be discarded at the end of the year. If the split specimen has not been sent to another laboratory for testing, the laboratory must retain the split specimen for an employee's test for the same period of time that it must retain the primary specimen and under the same storage conditions.

Any employee who refuses to take a drug test within the meaning of this USVI-DFWPA will be considered to have tested positive under section 16 and will be classified as "Inactive"

The results of a "Inactive" status will be communicated to the Alliance Member's designated representative by the C-MRO or USVI-DFWPA Administrator. If the individual has tested positive or has otherwise become inactive with this USVI-DFWPA, he/she will be removed from the Project immediately and paid for all hours worked. The individual will not be eligible for employment with any employer on Projects covered by this USVI-DFWPA in accordance with Section 16, contingent on a negative drug test.

Upon request, the C-MRO or USVI-DFWPA Administrator will provide a copy of the positive test result to the individual employee member.

Testing the Split Specimen: If any individual who has tested positive wishes to dispute the results of the GC/MS test, he/she may do so at his/her option by having a GC/MS test performed on the split specimen at a laboratory certified by SAMHSA (Substance Abuse and Mental Health Services Administration) of his/her choice. The C-MRO will have available a current list of SAMHSA certified screening facilities. The specimen will be shipped directly from the USVI-DFWPA administrator's laboratory to the laboratory of the employee's choice. The cost of this test will be borne by the employee. If the results of this test are negative, the employer will reinstate the individual with full loss wages and benefits and will reimburse the individual for the cost of the test. The individual must exercise the option of a second GC/MS test within 72 hours of being notified of the positive test results. The request to the C-MRO may be oral, but must be followed by a written request.

The written request must be sent by the individual who tested positive to the C-MRO. The letter must request the C-MRO to have the split specimen sent to a different SAMHSA laboratory for testing. Include the name, address and phone number of the laboratory. Also include a money order in the amount specified by the C-MRO. If the results are negative this amount will be reimbursed by the employer. The employer will also reinstate the individual with full loss wages and benefits.

Return-to-Duty and Follow-Up Testing Procedures. Individuals identified through breath or urinalysis testing as being positive for alcohol or controlled substance use, or who

refuse to be tested must:

Be removed from all projects requiring active status for the applicable period of time set forth in Section 16:

Undergo a comprehensive assessment and clinical evaluation with an approved, qualified professional in the substance abuse field to determine what level of assistance the individual needs in resolving problems associated with alcohol use or prohibited drug use.

Successfully complete and/or actively participate in any recommended course of education and/or treatment prior to returning to duty. Treatment recommendations can include, but are not limited to: in-patient treatment, partial in-patient treatment, out-patient treatment, education programs, and aftercare. Education recommendations can include, but are not limited to, bona fide drug and alcohol education courses, self-help groups, and community lectures.

If recommended by the qualified professional, undergo a follow-up evaluation to determine if the individual has demonstrated successful compliance with recommendations of the initial evaluation.

Receive a return-to-duty release from the qualified professional following the period of suspension.

Submit to and pass a return-to-duty test at the approved collection site.

Submit to and pass all required follow-up tests.

8.0 - PREREQUISITES FOR A DRUG/ALCOHOL TEST FOR REASONABLE SUSPICION/CAUSE

Employees of Alliance Members must submit to Reasonable Suspicion/Cause testing when the following characteristics are displayed:

Observable phenomena such as direct observation of prohibited substance, use, possession or physical behavior that would indicate the use of prohibited substances;

A pattern of abnormal conduct or erratic behavior;

Arrest or conviction for a substance related offense or identification of a Contractor Employee Member as the focus of a criminal investigation into illegal substance possession, use, or trafficking;

Information that is either provided by reliable and credible sources or independently corroborated;

The Alliance Employee Member is found in the immediate area of drug- related para-

phernalia, alcoholic beverages or substances that are prohibited by the DFWPA.

Participating Alliance Members shall remove each of their employees required to undergo a "Reasonable Cause" test from Owner sites pending test results. A responsible Contractor representative must promptly escort the Alliance Employee Member to the collection site for a drug/alcohol test.

An individual who tests non-negative on a Reasonable Suspicion/Cause test or is otherwise classified "Inactive", as a consequence of such a test, shall be ineligible for entry onto Owner sites. The Return-to-Duty section (7.0) of this program sets forth the eligibility criteria for regaining an "Active" membership status in the DFWPA.

9.0 - PREREQUISITES FOR POST-INCIDENT TESTING

Alliance Member Employees must submit to Post Incident testing for either of the following reasons as determined by the Alliance member representative and/or Owner Representative:

A. The Alliance Employee Member is involved in a work related accident which results in injury, an environmental incident or damage to the Alliance Member's or the Owner's property, or both, and employee performance cannot be ruled out as a cause;

B. The Alliance Employee Member is involved in an incident (including near misses) in which safety rules and regulations may have been violated and employee performance cannot be ruled out as a cause.

The employee must be escorted by an employer representative to the testing site. Post-incident drug and alcohol testing should be administered within 8 hours of the incident. In situations where post-incident testing is necessary, the employee is prohibited from consuming alcohol for 8 hours following the incident, or until tested.

An employee who is seriously injured and cannot provide a specimen at the time of the accident may be required to provide a specimen at a later time.

10.0 - PROCEDURE FOR REASONABLE SUSPICION AND POST-INCIDENT TESTING

Employee drug tests for reasonable suspicion or post-incident will include testing for the same drugs as identified in Section 6, but also will include testing for alcohol. Each employee will read a Notice of USVI-DFWPA and read and sign a Consent Form and, if necessary, read and sign the certification statement on a Drug Testing Chain of Custody Form (COC) and provide date of birth, printed name, and day and evening contact telephone numbers. Failure to do so constitutes refusal to submit to a test.

For cause/ post-incident testing shall be performed at the Pinnacle Medical Unit or at a designated off-site clinic. The individual will be accompanied to the Pinnacle Services

clinic or one of its certified lab partners by an Alliance Member representative. Specimens shall be collected and tested in accordance with the procedures set forth in Section 7 and Section 11.

11.0 - TESTING FOR ALCOHOL

Equipment. Only approved evidential breath testing devices (EBT) and non-evidential devices for conducting alcohol testing shall be used. These devices are listed on NHTSA's Conforming Products List (CPL). All equipment shall have a quality assurance plan approved by the NHTSA and shall not be used in the event that the device does not meet the specified quality controls.

Screening Devices: EBTs listed on the CPL may be used for screening tests.

Procedures:

The alcohol testing procedures will comply with the requirements contained in DOT 49 CFR Part 40 Subparts J, K, L, M and N.

Provisions Governing Tested Employees

Alcohol Concentration. An employee or potential employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. If an employer representative has actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, the employee shall not be permitted to perform or continue to perform covered functions.

This does not prohibit the employer from taking any disciplinary action otherwise consistent with local, state, or federal law.

If an employee's confirmed test results indicate that he/she exceeded the USVI-DFWPA's 0.04 blood alcohol limitation, he/she will be considered inactive with the USVI-DFWPA.

An employee who tests positive will be removed from the Project immediately and paid for all hours worked. If the employee has exceeded the USVI-DFWPA limit, the individual will not be eligible for employment for any employer on Projects covered by this USVI-DFWPA in accordance with Section 16.

Any individual who refuses to take an alcohol test within the meaning of this USVI-DFWPA will be considered to have tested positive under Section 16 and will be classified as "inactive."

12.0 - EMPLOYER RESPONSIBILITIES

Each employer working on a site requiring this USVI-DFWPA must be registered in the USVI-DFWPA or a Program that has been granted reciprocal status in accordance with Section 2. An employer registered in a program that has been granted reciprocal status shall be considered to be registered in this USVI-DFWPA.

Failure of the employer to comply with the USVI-DFWPA will be grounds to relinquish their access to projects requiring this USVI-DFWPA.

Each employer is responsible for providing a current employee roster for use when establishing a random testing pool.

Each employer will monitor its employees for behavior that may indicate drug or alcohol misuse or abuse.

Training

Supervisor Training

Each employer will provide training to its supervisors on substance abuse issues, including training to enable supervisors to identify and document behaviors that constitute reasonable suspicion for testing. The training will also educate supervisors on how to address refusals to test and how to refer employees to testing or assistance.

Employee Training

Each employer will provide its employees with an employee handbook that contains information about the USVI-DFWPA and how it operates, as well providing employees with access to educational materials on substance abuse issues.

13.0 - EMPLOYEE RESPONSIBILITIES

Employees are prohibited from using, possessing, distributing, dispensing, manufacturing, being under the influence, or otherwise being involved with illegal drugs and from abusive use of chemicals or controlled substances while on employer or client property or while performing the employer's business. In addition, such use, involvement or abuse is prohibited at any time to the extent it violates the law or negatively affects the employer's business or reputation by undermining public or client confidence in safe and efficient operations. Employees are also prohibited from being under the influence of alcohol while on client or employer property or while performing the employer's business, if such use or influence affects employee job performance or safe and efficient operations. When warranted by workplace conditions, the employer will impose stricter requirements concerning alcohol at job/project locations. In addition, the abuse or being under the influence of alcohol is prohibited at any time to the extent it negatively affects the employer's business or reputation by undermining public or client confidence in safe and efficient company operations.

Prohibited Behavior:

Alcohol

- Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater;
- Possessing alcohol while on duty;
- Using alcohol while performing job functions;
- Using alcohol within eight hours following an accident, or before undergoing a post-accident alcohol test, whichever comes first.

Drugs

- Reporting for duty or remaining on duty after being classified as “Inactive” by the C-MRO;
- Manufacturing, distributing, or dispensing controlled substances, or possessing or using controlled substances without a prescription from a licensed health care provider.
- Each employee shall report for testing as instructed. Failure to report will be considered a refusal to submit to the test, which shall be considered a positive result under Section 16, and the employee will be classified as “Inactive.”

14.0 - GENERAL PRINCIPLES

All results of tests included in this USVI-DFWPA shall be considered confidential to the extent permitted by law. The USVI-DFWPA will report employee member “Active” or “Inactive” status on its website to Alliance Members.

The testing laboratories for this USVI-DFWPA must be certified by SAMHSA.

No employee or employer may modify any document involved with the administration of this USVI-DFWPA.

All regional and national programs with reciprocal status are responsible for administering their own programs but shall provide the USVI-DFWPA Administrator with current copies of all governing policies and procedures.

15.0 - MEDICAL REVIEW OFFICER AND USVI-DFWPA ADMINISTRATOR RESPONSIBILITIES

The C-MRO’s duties under this USVI-DFWPA include, but are not limited to:

Evaluation of drug laboratory reports in a timely fashion.

Assessment of the collection process through careful review of custody and control documents, and verification of appropriate documentation through a uniform and systematic set of procedures. The C-MRO assesses such critical information as name, signature, social security number/identification number, and specimen identification number. The C-MRO assesses whether the custody and control documents have proper collection site signatures. When applicable, the C-MRO assesses laboratory results for documentation of suspicious results or adulteration (abnormal pH, GC/MS interference, specific gravity and creatinine levels), as required under different testing programs.

Prompt reporting of all tests to the employer or USVI-DFWPA Administrator, who promptly notifies the employer, and maintaining confidentiality of test results and medical information.

Reviewing positive tests to determine on a case-by-case basis whether there could be an alternative medical explanation for the presence of a drug or class of drugs.

Determination of a legal/valid medical explanation for a positive result, or determination that errors in the collection process occurred.

Discussion with the employee of test results, focusing on specific medications, drugs, or drug-taking experiences. If the employee denies inappropriate use, the C-MRO seeks to verify, using current medical knowledge, any claim that the drug was medically prescribed or administered, or to document that there was, in fact, inappropriate use.

Assesses the employee's medical history and current medical status by interviewing the employee by phone, face-to-face, or as required by company policy. In a face-to-face interview, the C-MRO observes for drug-taking indications. Where required, a clinical examination should occur. Where necessary, the C-MRO contacts the employee's physician, dentist, pharmacist, or other health care professional to verify prescriptions for medical purposes, medications recently administered, or to request patient approved release of medical records. The C-MRO responds to the employee's request for repeat laboratory analysis by following the USVI-DFWPA with respect to the original specimen or split specimens.

Recommending to the employee to contact an approved, qualified professional in the substance abuse field.

Maintaining complete and detailed records which are secure and maintained with confidentiality.

Subject to applicable laws and regulations, the USVI-DFWPA Administrator's duties under this USVI-DFWPA include, but are not limited to:

Acting as an intermediary in the transmission of drug and alcohol testing information, subject to applicable laws and regulations;

Operating random testing programs for participating employers and assisting (i.e., through contracting with laboratories, collection sites and C-MRO services, conducting collections) employers with other types of testing (e.g., pre-employment, post-accident, reasonable suspicion, return-to-duty, and follow-up).

Assisting participating employers in ensuring that follow-up testing is conducted in accordance with the plan established by an approved, qualified professional in the substance abuse field.

Receiving and maintaining all records concerning drug and alcohol testing programs, including positive, negative, and refusal to test individual test results.

Notifying the employer to contact the employee or potential employee and advise him or her to contact the C-MRO. If after 24 hours of being notified by the employer to do so, the employee does not contact the C-MRO, the C-MRO will verify the positive test result, and the USVI-DFWPA Administrator will notify the authorized employer representative of status by telephone, computer interface, fax, or in writing.

Maintaining all information needed for operating the USVI-DFWPA (e.g., COCs, names of employees in random pools, random selection lists, copies of notices to employers of selected employees) on behalf of participating employers.

Notifying the employer of the C-MRO's findings and providing information whether the employee is current or inactive in the USVI-DFWPA.

16.0 - CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST

After notification of a verified non-negative test by the Medical Review Officer (MRO), the employee member will be classified "Inactive" and will not be allowed access to any DFWPA Owner site until the following requirements are satisfied:

Pre-Enrollment Test Rehabilitation Provisions

An individual who has tested non-negative or is otherwise classified as "Inactive" as a consequence of a Pre-Enrollment Drug and or Breath Alcohol test is eligible to re-test after six (6) months if the individual is able to show documentation of a substance abuse professional's (SAP) evaluation and successful completion of approved rehabilitation. If the subsequent Initial test is negative, he/she will be enrolled as an "Active" member of the DFWPA. However, he/she will be subject to Follow-up testing, in addition to all other forms of testing for a period of five (5) cumulative "Active" status years.

Failure to comply with the rehabilitation requirements, including any subsequent non-negative test, will result in an "Inactive" status and exclusion from the DFWPA for a period of three (3) years. After the three (3) year period, the individual may be eligible to re-test if he/she has completed an approved rehabilitation program. However, he/she will be subject to Follow-up testing, in addition to all other forms of testing for a period of five (5) cumulative "Active" status years.

Random, Post Incident or Reasonable Suspicion Rehabilitation Provisions

In order to regain "Active" status, an employee member who tested non-negative or is otherwise classified as "Inactive" as a consequence of a Random, Post- Incident, Reasonable Suspicion or Breath Alcohol test must be evaluated by a SAP, complete an approved rehabilitation program of at least 30 days in duration and test negative on a Return- to-Duty test. After the exclusion period, the employee member may regain "Active" status by completing an approved rehabilitation program and testing negative on a Return-to-Duty test. The individual will be subject to testing as provided by this program and to Follow-up testing for a period of five (5) cumulative "Active" status years.

Failure to comply with the rehabilitation requirements, including any subsequent non-negative test, will result in an "Inactive" status and exclusion from the DFWPA for three (3) years.

The fees of the approved, qualified professional in the substance abuse field are the responsibility of the employee.

This USVI-DFWPA is not intended to mitigate a project owner's right to manage their facility. If a project owner has more severe consequences for a positive drug and/or alcohol testing result they will be recognized for the project owner's facility only.

17.0 - TAMPERING WITH A TEST

Any employee who attempts to introduce a substituted or altered specimen shall be classified as "Inactive" with the USVI-DFWPA, as if the test were positive. The determination whether a specimen is dilute, substituted or adulterated shall be made by the laboratory and reported to the C-MRO in accordance with procedures set forth at 49 CFR Part 40.89 – 40.97.

18.0 - RESOLUTION OF DISPUTES

The following procedure shall be used to resolve all disputes relating to the USVI-DFWPA with the exception of those disputes involving employees covered by a collective bargaining agreement that references this USVI-DFWPA or a USVI-DFWPA that has been granted reciprocal status. The parties to such a collective bargaining agreement should use the dispute resolution procedure contained in that collective bargaining agreement. However, the parties to such a collective bargaining agreement, at their discretion, may use the following procedure, or any portion thereof, in any particular dispute if so agreed by all parties to the dispute.

When a dispute arises pertaining to the administration of this USVI-DFWPA, it shall be the responsibility of the relevant Union and the Employer to attempt to resolve the matter. If the employee is not covered by a collective bargaining agreement, the employee and the employer will attempt to resolve the matter. In both cases, the parties may consult with the USVI-DFWPA Administrator to assist in resolving the matter.

Oversight Committee. If the matter is not resolved by the relevant Union or unrepresented employee, and the Employer, the parties will have 5 days to refer the problem to the Oversight Committee. This Board will consist of equal numbers of Union and contractor representatives. The Board will attempt to reach consensus and shall be chaired by an individual elected by the full Board who will serve as the tiebreaker in case a vote is necessary to reach closure. The Board will convene a meeting within 10 days of receipt of a request from a Local Union, unrepresented employee or Employer. The Board will accept verbal and written statements, review testimony and exhibits, and will render a recommendation as to the merit of the grievance within 5 days of the meeting. The Board's decision will be binding.

Should any provision of this agreement be declared illegal/controlled by any court of competent jurisdiction, such provisions shall immediately become null and void, leaving the remainder of the Agreement in full force and effect and the parties shall, thereupon seek to negotiate substitute provisions which are in conformity with the applicable laws.

19.0 - Voluntary Disclosure

Employees are encouraged to seek help for a drug or alcohol problem before it deteriorates into a disciplinary matter. If an employee voluntarily notifies supervision that he or she may have a substance abuse problem, the company and/or union will assist in locating a suitable employee assistance program for treatment, and will counsel the employee regarding medical benefits available under the company or union health and welfare insurance program.

If treatment necessitates time away from work, the company shall, if the project or work permits, provide the employee with an unpaid leave of absence for purposes of participation in an agreed upon treatment program. An employee who successfully completes a rehabilitation program and provides a negative substance abuse test shall be reinstated to his/her former employment status, if the project is ongoing and work for which he/she is qualified is available.

Since the key to this provision's effectiveness is an employee's willingness to admit his or her problem, this provision is not available to an employee who requests protection under this provision after: (a) being asked to submit to a drug or alcohol test in accordance with this plan; or (b) having been found to have violated any of the provisions of the USVI-DFWPA.

DEFINITIONS

ALCOHOL TEST

A test conducted by a Breath Alcohol Technician using an Evidential Breath Testing device listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL) to measure the amount of alcohol concentration in a volume of breath.

CHAIN OF CUSTODY

Handling samples in a way that supports legal testimony to prove that the sample integrity and identification of the sample have not been violated, as well as documentation describing the procedures.

CHARGEABLE INCIDENT

An on-duty incident:

- a. resulting in the death of a human being or
- b. that results from the employee's negligence and results in injury to employee or others and/or property or vehicular damage regardless of the value of the damage or
- c. that requires medical treatment.

CONFIDENTIALITY

Knowledge that a specific individual is to be or has been screened for alcohol/substance abuse shall be limited to the Medical Review Officer, personnel of the testing facility, the contractor's designated USVI-DFWPA administrator, the employee and, if the employee chooses, a representative of the union. To the extent that statistical data regarding the workforce and/or a portion of the workforce are collected, details of the test may be included as long as the identity of the employee is protected.

CONFIRMATION TESTING

– For alcohol testing, a confirmation test means a second test following a screening test with a result of 0.04 or greater, that provides a quantitative data of alcohol concentration. Confirmation of the screening test must be by an Evidential Breath Testing (EBT) device listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL), and must be capable of printing out each test result and air blank, and must sequentially number each test.

-For controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas Chromatography/Mass Spectrometry (GC/MS) is the authorized confirmation method for illegal or controlled drugs.

ACTIVE

Employees with active status have submitted to testing, have tested negative, and are eligible to work on projects requiring compliance with this USVI-DFWPA.

DRUG TESTING

A method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with procedures specified herein.

IMPAIRED FROM ALCOHOL

See CONFIRMATION TESTING

INACTIVE

Employees who are not in compliance with this USVI-DFWPA due to missing a random test, diluted test result, unsuitable test result and/or a positive test result. Employees with an Inactive status shall either submit to a drug test or complete rehabilitation and provide a negative return to duty test, if they wish to be eligible to work on projects requiring compliance with this USVI-DFWPA.

NOTICE OF USVI-DFWPA AND CONSENT

Notifies employee to be tested that there is a substance abuse policy, that the employee understands the substance abuse policy and the employee is consenting to be tested with the related consequences of a positive test result or refusal to be tested.

PENDING

Employees who have provided a specimen but the results have not been received from the laboratory and/or confirmed by the C-MRO.

REASONABLE SUSPICION

A belief, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, that an employee is using or may have used drugs or alcohol in violation of a departmental work rule or a civil service rule or regulation. By way of example only, reasonable suspicion may be based upon any of the following:

- a. Observable phenomena, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being impaired by, or under the influence of, a drug or alcohol.
- b. A report of on-duty or sufficiently recent off-duty drug or alcohol use provided by a credible source.
- c. Evidence that an individual has tampered with a drug test or alcohol test during employment.
- d. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while on duty, while on the employer's premises, or while operating the employer's vehicle, machinery, or equipment.

REFUSAL TO TEST

An employee or potential employee has refused to take a drug test if he/she:

- a. Fails to appear for any test within a reasonable time, as determined by the employer or USVI-DFWPA Administrator;
- b. Fails to remain at the testing site until the testing process is complete;
- c. Fails to provide a urine specimen for any drug test within two hours;
- d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of his/her provision of a specimen;
- e. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f. Fails or declines to take an additional drug test the C-MRO has directed the employee to take;
- g. Fails to undergo a medical examination or evaluation, as directed by the C-MRO as

part of the verification process; or

h. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process).

i. Fails to read the Notice of USVI-DFWPA and read and sign the Consent Form or COC.

Appendix A

Testing Levels

	Initial Screening	Confirmation
Amphetamines	1000 ng/ml	250 ng/ml
Barbiturates	200 ng/ml	100 ng/ml
Benzodiazepine	300 ng/ml	100 ng/ml
Benzoyllecgonine (Cocaine Metabolite)	300 ng/ml	100 ng/ml
Cannabinoids (THC Marijuana)	50 ng/ml	10 ng/ml
Methadone	300 ng/ml	100 ng/ml
Methamphetamine	1000 ng/ml	250 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Oxycodone	100 ng/ml	100 ng/ml
Phencyclidine (PCP Angel Dust)	25 ng/ml	25 ng/ml
Alcohol - 0.04		

* Cut-off values shall meet or exceed those established by SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.