USVI-DFWPA

U.S. Virgin Islands

Drug-Free Workplace Alliance

Program Handbook

1.0 - INTRODUCTION *4*

2.0 - RECIPROCITY *5*

3.0 - COMMITMENT TO CONFIDENTIALITY *6*

3.1 - Designated Employer Representative (DER) *6*

4.0 - ELIGIBILITY FOR EMPLOYMENT *8*

5.0 - TYPES OF TESTING *9*

6.0 - ILLEGAL/CONTROLLED DRUGS AND SUBSTANCES *11*

7.0 - PROCEDURE FOR INITIAL, RANDOM, RETURN-TO-DUTY, AND FOLLOW-UP DRUG TESTING *12*

8.0 - PREREQUISITES FOR A DRUG/ALCOHOL TEST FOR REASONABLE SUSPICION *15*

9.0 - PREREQUISITES FOR POST-INCIDENT TESTING *17*

10.0 - PROCEDURE FOR REASONABLE SUSPICION AND POST-INCIDENT TESTING *18*

11.0 - TESTING FOR ALCOHOL *19*

12.0 - EMPLOYER RESPONSIBILITIES *20*

Training *20*

13.0 - EMPLOYEE RESPONSIBILITIES *21*

14.0 - GENERAL PRINCIPLES *22*

15.0 - MEDICAL REVIEW OFFICER AND USVI-DFWPA ADMINISTRATOR RESPONSIBILITIES *23*

16.0 - CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST *25*

Section 17.0 - TAMPERING WITH A TEST *26*

18.0 - RESOLUTION OF DISPUTES *27*

19.0 - Voluntary Disclosure *28*

DEFINITIONS *29*

Appendix A *32*

Initial: _____

Testing Levels ***32***

EVIDENTIAL BREATH TESTING AND NON-EVIDENTIAL COLLECTION PROCEDURES ***33***

1.0 - INTRODUCTION

The affiliates of Pinnacle Services, LLC, Hovensa LLC, AFL-CIO, 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, in conjunction with Alpha Pro Solutions, Inc. (APSINC) have developed the U.S.Virgin Islands Drug Free Workplace Alliance (USVI-DFWPA). 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. 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 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
Forward Edge
ASAP Drug Solutions
First Advantage

3.0 - COMMITMENT TO CONFIDENTIALITY

Protecting the confidentiality of the employee is a primary interest of labor, owners, and 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 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 .

Participating Owners and Alliance Members may refuse access to Owner property “Inactive” employee members. 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:

Initial Drug 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/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, at minimum, to six unannounced follow-up tests in the first 12 months following the employee's return to duty.

The qualified professional may require a greater number of follow-up tests during the first 12-month period of duty (e.g., one test a month during the 12-month period; two tests per month during the first 6-month period and one test per month during the final 6-month period).

The qualified professional can terminate the follow-up testing requirement at any time after the first year of testing, but may require follow-up tests during the 48 months of duty following this first 12-month period.

6.0 - ILLEGAL/CONTROLLED DRUGS AND SUBSTANCES

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

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

7.0 - PROCEDURE FOR INITIAL, 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 and sign a Notice of USVI-DFWPA and Consent Form and 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.1

A portion of the sample from the primary specimen will be screened using the EMIT test and if non-negative, another portion from the primary specimen will be tested for verification using the 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.

Receive a COC form either from the USVI-DFWPA Administrator or from a regional or national program with reciprocal status for return-to-duty testing. An Alliance Member's COC will not be acceptable.

Forward a cashier's check or money order in the amount specified for return-to-duty testing.

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

Existing employees working at the Project may be tested for illegal/controlled drugs, substances and alcohol if there exists a reasonable suspicion that the employee is under the influence of alcohol or any of the substances identified in Section 6. For the purpose of this USVI-DFWPA, the term "reasonable suspicion" shall be defined as aberrant or unusual on-duty behavior of an employee who:

is observed on-duty by either the employee's immediate supervisor, higher ranking employee, or other managerial personnel of the contractor who has been trained to recognize the symptoms of drug abuse, impairment or intoxication, which observations shall be documented by the observer(s);

exhibits the type of behavior which shows accepted symptom(s) of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances or alcohol; and

exhibits conduct that cannot reasonably be explained as resulting from other causes, such as fatigue, lack of sleep, side effect of prescription or over-the-counter medications, illness, reaction to noxious fumes or smoke.

Drug testing of this type will not be conducted without the written approval of the Alliance Member's job superintendent or designated manager who has been trained in identifying conduct constituting reasonable suspicion for testing. A job superintendent or designated manager must document in writing who is to be tested and why the test was ordered, including the specific objective facts constituting reasonable suspicion leading to the test being ordered, and the name of any source(s) of this information. One copy of this document shall be given to the employee before he/she is required to be tested, and one copy shall immediately be provided to the Union steward, if requested by the employee. After being given a copy of the document, the affected employee shall be allowed enough time to be able to read the entire document. Failure to follow any of these procedures shall result in the elimination of the test results as if no test had been administered. The test results shall be destroyed, and no disciplinary action shall be taken against the employee.

When a supervisor, higher ranking employee or other managerial personnel has reasonable suspicion to believe that an employee is using, consuming, or under the influence of an alcoholic beverage, non-prescribed controlled substance (other than over-the-counter medication), and/or non-prescribed narcotic drug while on duty, that person will notify the job superintendent or designated manager for the purpose of observation and confirmation of the employee's condition.

The employee will be offered an opportunity to give an explanation of his condition, such as reaction to a prescribed drug, fatigue, lack of sleep, exposure to noxious fumes, reaction to over-the-counter medication or illness. The employee shall be advised of his/her right to have a Union steward or designee present, and if requested, shall be present during such explanation and shall be entitled to confer with the employee before the explanation is presented.

If after this explanation the job superintendent or designated manager, after observing the employee, has reasonable suspicion to believe that the employee is using, consuming and/or under the influence of an alcoholic beverage, non-prescribed controlled substances, or non-prescribed narcotic while on duty, then, by a written order signed by the job superintendent or designated manager, the employee may be ordered to submit to a drug and alcohol test. Refusal to submit to this testing after being ordered to do so will be considered to have tested positive under Section 16 and will result in the employee being categorized as “Inactive” and ineligible for employment by any contractor on the Project.

If the project owner has an existing reasonable suspicion testing protocol that meets or exceeds the standards set forth herein, the protocol may be implemented by the project owner.

9.0 - PREREQUISITES FOR POST-INCIDENT TESTING

Post Incident: 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. The tested employee must be escorted by an employer representative to the testing site. Post-incident alcohol testing should be administered within 2 hours of the incident, and must be administered within 8 hours. Post-incident drug testing must be performed within 32 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.

A chargeable incident is defined as:

An incident involving the death of a human being or

An incident 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.

An incident requiring any offsite medical treatment.

If it reasonably appears that an employee was injured solely as a result of another employee's action, testing will not be required.

If an employee involved in an incident is not injured, no test will be required unless reasonable suspicion, as defined in this USVI-DFWPA, exists.

An employee who is seriously injured and cannot provide a specimen at the time of the accident shall consent to a blood test or provide the C-Medical Review Officer the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were illegal/controlled drugs or substances and/or alcohol in their system. If an employee refuses to comply with this provision, the C-MRO shall note such refusal and such refusal shall be considered a positive result under Section 16, and the employee will be classified as “Inactive.”

If the project owner has an existing post-incident testing USVI-DFWPA that meets or exceeds the standards set forth herein, the USVI-DFWPA may be implemented by the project owner.

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 and sign a Notice of USVI-DFWPA and Consent Form and 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. Either non-evidential devices or EBTs listed on the CPL may be used for screening tests.

Procedures.

The alcohol testing procedures contained in Appendix B shall be complied with by the designated alcohol testing sites.

These procedures are intended to address the requirements contained in 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 0.01 or greater. If an employer representative has actual knowledge that a covered employee has an alcohol concentration of 0.01 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 0.01% 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.

Each employer will enroll and process the initial drug testing if the employee has not already been enrolled into the USVI-DFWPA.

Each employer not enrolled in a USVI-DFWPA that has been granted reciprocal status will submit to the USVI-DFWPA Administrator on a daily basis, employee demographic data for entry into the database, listing employees by site.

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

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 0.01 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 “In-active” status on its website to Alliance Members.

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

It is understood that neither the BCTD, nor its constituent member organizations and affiliated Unions, shall be responsible for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment.

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 negative 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

a. If test is positive, the individual will be removed from the Project immediately and paid for all hours worked. The individual will not be eligible for employment as provided in Paragraphs (d), (e), (f) and (g) of this Section, unless regulated by Department of Transportation or Nuclear Regulatory Commission regulations. If an individual is regulated by Department of Transportation or Nuclear Regulatory Commission regulations, the provisions of this USVI-DFWPA shall apply to the extent that they do not conflict with such regulations.

b. Individuals who test positive and local union representatives when allowed for by the applicable collective bargaining agreement, local union rules and procedures shall have the right to secure a copy of all data relating to the test procedures and results provided. These costs are to be paid by the individual in advance.

c. All employees must be current with this USVI-DFWPA in order to be employed on a covered Project.

d. First Violation of USVI-DFWPA: An employee who tests positive for the first time will be ineligible for employment on all Projects covered by this USVI-DFWPA for thirty (30) days from the date that he/she was notified by the C-MRO, contingent on a review of an approved, qualified professional in the substance abuse field, approval by the C-MRO and a negative drug/alcohol test.

e. Second Violation of USVI-DFWPA: An employee who tests positive for the second time will be ineligible for employment on all Projects covered by this USVI-DFWPA for ninety (90) days from the date that he/she was notified by the C-MRO, contingent on a review of a substance abuse professional, approval by the C-MRO and a negative drug/alcohol test.

f. Third Violation of USVI-DFWPA: An employee who tests positive for the third time will be ineligible for employment on all Projects covered by this USVI-DFWPA for one year from the date that he/she was notified by the C-MRO, contingent on a review of a substance abuse professional, approval by the C-MRO and a negative drug/alcohol test.

g. Violations of the USVI-DFWPA Greater than Three: Each positive result greater than three will result in an additional one year ineligible period for each violation from the date that he/she was notified by the C-MRO, contingent on a review of a substance abuse professional, approval by the C-MRO and a negative drug/alcohol test.

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

i. 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.

Initial: _____

Section 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. An incident 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 any offsite 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 0.01 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, after being directed to do so 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;

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 sign Notice of USVI-DFWPA and Consent Form or COC.

Appendix A

Testing Levels

Spectroscopy	Gas Chromatography Emit Drug Initial	Mass Confirmation
Amphetamines	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	200 ng/ml
Benzodiazepine	300 ng/ml	300 ng/ml
Benzoylecgonine (Cocaine Metabolite)	300 ng/ml	150 ng/ml
Cannabinoids (THC Marijuana)	50 ng/ml	15 ng/ml
Methadone	300 ng/ml	200 ng/ml
Methaqualone (Quaaludes)	300 ng/ml	200 ng/ml
Opiates	300 ng/ml	300 ng/ml
Phencyclidine (PCP Angel Dust)	25 ng/ml	25 ng/ml
Propoxyphene	300 ng/ml	200 ng/ml

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

Appendix B

EVIDENTIAL BREATH TESTING AND NON-EVIDENTIAL COLLECTION PROCEDURES

A. Scope.

1. The evidential and non-evidential testing procedures set forth in this appendix address all the requirements as set forth in 49 CFR Part 40 and specifies the required form and disposition of such testing forms.

B. Alcohol Testing Form.

1. The Breath Alcohol Technician/Screening Test Technician (BAT/SST) shall utilize the Breath Alcohol Testing form provided by the Plan Administrator. The alcohol testing form must comply with the provisions as contained in 49 CFR Part 40 with regard to the information that must be contained on the form. The form must address the specific requirements contained in § 40.225. An employer may not modify or revise the form.

2. The form shall provide triplicate or three consecutive identical copies with copy 1 (white copy) being retained by the company, copy 2 (green copy) shall be provided to the employee, and copy 3 (blue copy) shall be retained by the BAT/STT.

3. The breath alcohol testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, provided that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.

C. Breath Alcohol Testing Preparations.

1. When an employee arrives at the alcohol testing site, the BAT/STT shall ensure that the individual is positively identified as the employee selected for alcohol testing (e.g., through presentation of photo identification or identification by the company's representative). If the employee's identity cannot be established, the BAT/STT shall not proceed with the alcohol test. If the employee requests, the BAT/STT shall show proper identification to the employee.

2. The BAT/STT shall explain the alcohol testing process to the employee.

3. If the employee fails to arrive at the assigned time, the BAT/STT should contact the appropriate authority to obtain guidance on any action to be taken.

D. Screening Test Procedures for Evidential Breath Testing and Non-Evidential Breath Testing Devices.

1. The BAT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.

2. The BAT shall employee to select an individually-sealed mouthpiece and it shall be opened in full view of the employee and attach it to the EBT in accordance with the manufacturer's instructions.

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

4. If the EBT does not meet the requirements listed under Section VIII of the AMPP, the BAT shall show the employee the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, time and quantified result in Step 3 of the form.

5. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.

6. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.

7. If the result of the screening alcohol test is a breath alcohol concentration of less than 0.01, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then 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, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the "Remarks" section of the form.

8. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the company representative and the employee shall be so advised.

9. At this point, no further testing is authorized. The BAT shall transmit the result of less than 0.01 to the appropriate employer representative in a confidential manner. The employer shall receive and store the information so as to ensure that confidentiality is maintained.

10. If the result of the screening test is an alcohol concentration of 0.01 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a

different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will upon completion of the alcohol test provide the employee with Copy 2 of the breath alcohol testing form.

E. Screening Test Procedures for Non-Evidential Saliva Devices.

1. STT will inform the employee of the procedures for the non-evidential testing. The STT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.

2. The STT shall check the expiration date of the salvia testing device, and show the date to the employee. In the event the expiration date has passed the device is not be used and a new device should be obtained for use.

3. The STT shall open an individually sealed package containing the device in the presence of the employee.

4. The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated as provided in the manufacturer's instruction for the device.

5. If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate, the STT shall insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instruction for the device. The STT shall wear a surgical grade glove while conducting the test.

6. The STT shall place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT shall insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.

7. If the procedures of steps 3 through 5 are not followed successfully (e.g., the swab breaks, the STT drops the swab on the floor or another surface, the swab is removed or falls from the device before the device activated), the STT shall discard the device and swab and conduct a new test using a new device The new device shall be one that has been under the control of the employer or STT prior to the test. The STT shall note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If steps 3 through 5 are not successfully followed on the new test, the collection shall be terminated and an explanation provided in the remarks section of the

form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.

8. If steps 3 through 5 are completed successfully, but the device is not activated, the STT shall discard the device and swab and conduct a new test, in the same manner as stated above. In this case, the STT shall place the swab into the employee's mouth to collect saliva for the new test.

9. The STT shall read the result displayed on the device two minutes after inserting the swab into the device. The STT shall show the device and its reading to the employee and enter the result on the form.

10. Devices, swabs gloves and other materials used in saliva testing shall not be re-used, and shall be disposed of in a sanitary manner following their use.

11. In any case in which the result of the screening test is an alcohol concentration of less than 0.01, the STT shall date the form and sign the certification and fill in the date in Step 4 of the form.

12. If the employee does not sign the certification in Step 4 of the form it shall not be considered a refusal to be tested.

13. If the result of the screening test is an alcohol concentration of 0.01 or greater, a confirmation test shall be performed.

14. If the STT who performed the screening test is a different individual from that who will serve as the BAT during the confirmation test, then the STT will provide the employee with Copy 2 of the form and the BAT will follow the procedures for a confirmation test.

15. If the confirmation test will be conducted at a different site from the screening test the employer or its agent shall ensure that:

a. The employee is advised not to eat, drink, put any object or substance in his/her mouth and to the extent possible not to belch during the waiting period before the confirmation test. This time period begins with the completion of the screening test.

b. The employee is advised that he or she must not drive, perform a safety-sensitive duty or operate heavy equipment, as noted in block 4 of the alcohol testing form.

c. The employee is under observation of a BAT, STT, or other employer personnel while in transit from the screening test site to confirmation test site.

16. The STT shall enter, in the "Remarks" section of the form, a notation that the screening test was performed using a saliva device.

17. Following the completion of the screening test, the STT shall date the form and sign the certification in Step 3 of the form.

F. Confirmation Test Procedures.

1. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT will require the employee to provide positive identification such as photo ID card or identification by a company representative. The BAT will, upon request of the employee being tested, provide such identification.

2. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/she mouth and, to the extent possible, not belch during the waiting period just prior to the confirmation test being conducted. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 30 minutes of the completion of the screening test. The time the employee spends in transit between the screening test and confirmation test, the employee is under direct observation, counts toward the mandatory 15 minute deprivation period. If the BAT conducts the confirmation test more than 30 minutes after the result of the screening test has been obtained the BAT shall note in the “Remarks” section of the form the time that elapsed between the screening and the confirmation test and the reason why the confirmation test could not be conducted within 30 minutes of the screening test. The BAT shall explain to the employee that the reason for this is to prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions. The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided, the BAT shall note the observations in the "Remarks" section of the form.

3. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall then complete step 1 on the form and the employee shall then complete Step 2 by signing the certification. If the employee should choose not to sign the certification, the BAT shall then make an appropriate notation in the "Remarks" section indicating the employee's refusal to take the alcohol test. The BAT shall note in the "Remarks" section that a different BAT conducted the screening test.

4. The BAT shall open, in the presence of the employee, a new individually-sealed mouthpiece and attach the mouthpiece to the EBT in accordance with the manufacturer's instructions. The BAT will then 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.

5. The BAT shall ensure, prior to the confirmation test being administered to the employee, that the EBT shall register 0.00 on an air blank. If the reading is greater, the BAT shall conduct one more air blank. Should the EBT again register greater than 0.00,

the testing shall not proceed using that EBT. An EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within the accepted tolerance limits. Alcohol testing using another EBT may proceed.

6. In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result on which any action by the company may be taken in order to comply with the requirements of the AMPP and any applicable federal requirements.

7. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.

8. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.

9. After the confirmation test is completed, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then be instructed to sign the certification and fill in the date in Step 4. If the employee should elect to not sign the certification or to provide his/her initials in the log book entry for the test conducted, it shall not be considered as a refusal to be tested. The BAT shall then note the employee's failure to sign or initial the log book entry in the "Remarks" section of the testing form.

10. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and employee shall initial or sign the notation on the testing form. The test shall be considered "invalid" and the company representative and the employee shall be so advised.

11. The BAT shall transmit all alcohol testing results to the APM or other designated company representative in a confidential manner. All communications by BATs shall be to the APM or designee only and may be provided in writing, in person, or by telephone or electronic means. The BAT shall ensure that immediate transmission of test results to the company is conducted in order for the company to prevent the employee from performing any covered functions.

12. Should the initial transmission not be accomplished in writing, but via telephone notification, the APM or designee shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing to the APM or designee the company's copy of the breath alcohol testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

G. Refusals to Test and Uncompleted Tests.

1. Refusal by an employee to complete and sign Step 2 of the breath alcohol testing form, to provide breath or a saliva sample, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT/STT in the "Remarks" section of the form. The testing process shall be terminated and the BAT/STT shall immediately notify the employer.

2. If a screening or confirmation test cannot be completed or if an event occurs to invalidate the test, the BAT/STT shall, if practicable, begin a new screening or confirmation test using a new breath alcohol testing form with a new sequential test number.

H. Inadequate Amount of Breath for EBTs and Non-EBT Devices.

1. If the employee is unable, or alleges that he/she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT or STT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT or STT shall immediately inform the APM.

2. If the employee attempts and fails to provide an adequate amount of breath, the BAT or STT shall so note in the "Remarks" section of the testing form and shall immediately inform the APM. The APM shall direct the employee to obtain, as soon as practical after the attempt, an evaluation from a licensed physician who is acceptable to the company concerning the employee's medical ability to provide an adequate amount of breath.

3. If the physician determines, in his/her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the company APM a written statement of the basis of his/her conclusion.

4. If the physician, in his/her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for his/her conclusion to the company APM.

I. Inadequate Amount of Saliva for Non-Evidential Testing Devices.

1. If an employee is unable to provide sufficient saliva to complete a test on a saliva screening device (e.g. the employee does not provide sufficient saliva to activate the device) the STT shall conduct a new test using a new device as described in Section F “Screening Test Procedures for Non-Evidential Saliva Devices #7.”

a. If the employee refuses to complete the new test, the STT shall terminate testing and immediately inform the employer. This constitutes as a refusal to test.

2. If a new test is completed, but there is an insufficient amount of saliva to activate the device the STT shall immediately inform the employer, which shall then immediately initiate an alcohol test to be administered to the employee using an EBT.

J. Invalid Tests.

1. A breath alcohol test shall be invalid under the following circumstances:

a. The EBT does not pass its next external calibration check. This invalidates all test results of 0.01 or greater on tests conducted since the last valid external calibration test. This would not invalidate any negative tests conducted.

b. The BAT does not observe the minimum 15-minute waiting period prior to conducting the confirmation test.

c. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to the administration of an alcohol test.

d. The BAT does not sign the breath alcohol testing form.

e. The BAT fails to note in the remarks section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test results.

f. An EBT fails to print a confirmation test result.

g. 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.

2. An alcohol test using a non-evidential saliva screening device shall be invalid under the following circumstances:

a. The result is read before two minutes or after 15 minutes from the time the swab is inserted into the device.

b. The device does not activate.

c. The device is used for a test after the expiration date printed on its package.

d. The STT fails to note in the remarks section of the form that the screening test was conducted using a saliva device.

3. An alcohol test using a non-evidential alcohol testing device shall be invalid under the following circumstances if the STT has failed to note in the remarks section of the form

that the employee has failed or refused to sign the form following the recording on the form of the test result.

Reciprocal local or regional programs that collect specimens in accordance with the procedures set forth in the Mandatory Guidelines for Federal Workplace Drug Testing Programs may continue to do so where permitted by law.

USVI-DFWPA Administered by Pinnacle Services LLC.