

TOWN OF NEWCOMB

CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

(NON-DOT COVERED EMPLOYEES)

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Human Resource Solutions Made Simple

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CHAPTER 1 – INTRODUCTION

POLICY STATEMENT AND SUMMARY

The Town of Newcomb is committed to protecting the health, safety, and welfare of all employees, eliminating accidents that result from the use of alcohol and illegal drugs, and to preserving high performance standards. As such, the use of alcohol or illegal drugs in the workplace, or as it affects the workplace, is prohibited and will not be tolerated. The Town of Newcomb expects that all covered employees will strictly adhere to the Town's policy.

This manual describes the Town of Newcomb's policies on the use of alcohol and controlled substances in the workplace and the rules and procedures for testing for such substances.

POLICY REVISIONS

The Town of Newcomb reserves the right to interpret, add to, revoke, or revise any part of the Town's Controlled Substances and Alcohol Testing Policy to the extent allowed under the collective bargaining agreement. Moreover, these policies shall be deemed to be revised to meet any changes in applicable governmental regulations that may occur.

SAVINGS CLAUSE

The Town of Newcomb has made every effort to ensure that this Controlled Substances and Alcohol Testing Policy complies with government regulations. In the event any of the provisions, portions or applications of this policy are found to be invalid or inconsistent with any superseding legal requirements by any tribunal of competent jurisdiction, then the provisions, portions or applications specified in such decision shall be of no force and effect, but the remainder of this policy shall continue to be in full force and effect.

DESIGNATED EMPLOYER REPRESENTATIVE

The Town Supervisor (or his/her designee) is the Town of Newcomb's Designated Employer Representative (DER). Responsibilities of the DER include, but are not limited to, the following:

- a) Acting as a liaison between the laboratory, collection site, Medical Review Officer (MRO), and the Town of Newcomb;
- b) Notifying employees who are to be tested based on random selections;
- c) Removing employees who violate the Substance Testing Policy from safety-sensitive duties; and
- d) Documenting procedures and reporting requirements.

QUESTIONS

Covered employees who have questions regarding this policy should direct them to the DER. The DER and/or Department Heads with questions are welcome to contact:

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CHAPTER 2 – DEFINITIONS

For purposes of clarity and understanding, the following definitions apply to the Town of Newcomb's Controlled Substances and Alcohol Testing Policy:

Accident – An occurrence involving a motor vehicle operating on a public road which results in:

- (i) A fatality; or
- (ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (iii) One or more motor vehicles incurring damage or causing property damage.

Adulterated Specimen – A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol – To include the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Aliquot – A fractional portion of a urine specimen used for testing. It is taken as a sample representing the whole specimen.

Applicant – An individual applying for a job at the Town of Newcomb.

Breath Alcohol Technician (BAT) – An individual who instructs and assists individuals in the alcohol testing process and who operates an Evidential Breath Testing Device (EBT). A BAT must complete a course of instruction for operation of an EBT.

Chain of Custody – Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition of the specimen.

Collection Site – A place or places designated by the Town of Newcomb where employees must report for the purpose of providing a urine specimen to be analyzed for the presence of drugs and/or a breath test to be analyzed for the presence of alcohol.

Collection Site Person/Collector – A person who instructs and assists employees at a collection site. A collection site person also receives and makes the initial exam of the urine specimen provided. A collection site person will be a licensed medical professional or technician who has been trained in specimen collection.

Confirmation Test – For alcohol, this means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For drug testing, this means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite. At present, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, Opioids, amphetamines, phencyclidine, benzodiazepines, barbiturates, methadone, propoxyphene, and methaqualone.

Designated Employer Representative – An employee authorized by the Town of Newcomb as able to receive communications and test results from service agents and who is authorized to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer; consistent with the requirements of this part. Service agents cannot act as DERs.

Dilute Specimen – A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling Damage – Damage which precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair. This includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include:

- (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts;
- (ii) Tire disablement without other damage even if no spare tire is available;
- (iii) Headlight or taillight damage; or
- (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

Drugs or Controlled Substances – For the purpose of this policy, the terms “drugs” and “controlled substances” are interchangeable and have the same meaning. For purposes of this policy, drugs or controlled substances will mean and refer to marijuana, cocaine, Opioids, amphetamines, phencyclidine (PCP), and anabolic steroids.

Employee – Any individual employed by the Town of Newcomb.

Evidential Breath Testing (EBT) Device – A device for the evidential testing of a covered employee's breath that is approved by the National Highway Traffic Safety Administration and identified on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

Medical Review Officer (MRO) – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by this testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a individual's positive test result, together with the individual's medical history and any other relevant biomedical information. (Must meet qualifications established under 49 CFR Part 40 Section 40.121)

Non-Negative Specimen – A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Screening Test or Initial Test – For the purpose of alcohol testing, an analytical procedure to determine whether an individual may have a prohibited concentration of alcohol in a breath or saliva specimen. For the purpose of controlled substance testing, the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Substance Abuse Professional (SAP) – A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or a drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC)) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders. A SAP must meet basic knowledge, qualification training, and continuing education requirements as set forth in 49 CFR Part 40, as amended (i.e. must meet qualifications established under 49 CFR Part 40 Section 40.121.)

CHAPTER 3 – CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

GENERAL EQUIVALENCY WITH FEDERAL TESTING REQUIREMENTS

The Town of Newcomb Controlled Substances and Alcohol Testing Policy has been established by the Town of Newcomb and is generally equivalent to the requirements of 49 C.F.R. Part 40 which sets forth the procedures for Transportation Workplace Drug and Alcohol Testing Programs.

COVERAGE

The Town of Newcomb Controlled Substances and Alcohol Testing Policy applies to all full-time, half-time, part-time, temporary and seasonal Town of Newcomb employees who perform a safety-sensitive function. For purposes of this policy these will be referred to as “covered employees.” This policy includes full-time and part-time employees of the Highway Department, General Fund, Golf Course, Town Senior Bus and Medical Car Drivers. This policy excludes all employees who operate a commercial motor vehicle and are subject to federal requirements. All covered employees who perform a safety-sensitive function are required to participate in the Town’s substance testing program as a condition of employment.

EDUCATION

The Town of Newcomb will provide educational materials that explain the requirements of the Town of Newcomb’s policies and procedures with respect to meeting these requirements. This manual includes information on the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem; and available methods of intervening when an alcohol or controlled substances problem is suspected, including referral to treatment, and/or referral to management.

PROHIBITED CONDUCT

The following activities are prohibited:

1. Alcohol – A covered employee is prohibited from engaging in any of the following activities:

- a) Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater.
- b) Being on duty or operating a motor vehicle while the employee possesses alcohol unless the alcohol is manifested or transported as part of operation of the Ambulance Service such as medicines containing alcohol (prescription or over-the-counter).
- c) Using alcohol while performing safety-sensitive functions.
- d) Using alcohol within four hours preceding the performance of job functions.
- e) Refusing to submit to an alcohol test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements *
- f) If required to submit to a post-accident alcohol test, the employee is prohibited from using alcohol during eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.

2. Controlled Substances – A covered employee is prohibited from engaging in any of the following activities:

- a) Reporting for duty or remaining on duty when an employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform their job duties including operating a motor vehicle.
- b) Reporting for duty, remaining on duty, or performing job functions if the employee tests positive for controlled substances.
- c) Refusing to submit to a controlled substance test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements.*

***Refusal to Take an Alcohol or Controlled Substance Test** – Refusal to take any required alcohol or controlled substance test is considered to be a positive test. *Refuse to take an Alcohol or Controlled Substance Test* means that an employee:

- 1) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when required;
- 2) Fails to remain at the testing site until the testing process is complete;*
- 3) Fails to provide a urine specimen for any drug test, or fails to provide an adequate amount of saliva or breath for any alcohol test, required by 49 CFR Part 40, as amended through a required medical evaluation, that there was no adequate medical explanation for the failure to provide a sufficient breath specimen);*
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen;

- 5) 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;
 - 6) Fails or declines to take a second test the employer or collector has directed the employee to take;
 - 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by a Designated Employer Representative (DER). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
 - 8) Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets or wash hands when so directed by the collector) or behaves in a confrontational way that disrupts the collection process;
 - 9) Fails to follow the observer's instructions during an observed collection, including failing to raise clothing above the waist to just above the navel, lower clothing and underpants to mid-thigh, or to turn around so that the observer can determine if there is a prosthetic or other device that could be used to interfere with the collection process;
 - 10) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
 - 11) Admits to the collector that the specimen has been adulterated or substituted; or
 - 12) Is reported by the MRO as having a verified adulterated or substituted test result.
- * This does not apply to an applicant/employee who leaves the testing site before the testing process for pre-employment/pre-duty testing begins;

CONSEQUENCES FOR ENGAGING IN PROHIBITED CONDUCT

The consequences for engaging in prohibited conduct are summarized below. In addition to these consequences, a covered employee who engages in prohibited conduct will be subject to appropriate disciplinary action (refer to the Disciplinary Action section below).

1. Removal from Performing Essential Job Functions

An employee who has engaged in prohibited conduct will not perform or be permitted to perform the essential job functions of their position.

2. Referral, Evaluation and Treatment

An employee who has engaged in prohibited conduct will be advised of the resources available in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses and telephone numbers of SAPs and counseling and treatment facilities;

Additionally, if it is determined that an employee who has engaged in prohibited conduct will be allowed to return to duty, such employee must:

- a) be evaluated by a SAP who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use. The SAP must, at a minimum, recommend education when an employee tests positive. Education recommendations can include, but are not limited to, bona fide drug and alcohol education courses, self-help groups, and community lectures.
- b) undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.
- c) be subject to a follow-up evaluation with the SAP prior to performing the essential job functions to determine if the covered employee has successfully complied with the SAP's initial assessment and evaluation recommendations.
- d) be subject to unannounced follow-up alcohol and controlled substances tests administered by the Town of Newcomb following the employee's return to duty. The number and frequency of such follow-up testing will be as directed by the SAP and consist of at least six tests in the first twelve months following the return to duty. The Town of Newcomb may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary. Follow-up testing shall not exceed sixty months from the date of the return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.
- e) Participate in continuing education and/or treatment, in addition to follow-up substance testing, if recommended by the SAP to assist the covered employee in maintaining sobriety or abstinence from drug use.

DISCIPLINARY ACTION

An employee who has been found to have violated the prohibited conduct under either the Town of Newcomb Drug-Free Workplace Policy or Town of Newcomb Controlled Substances and Alcohol Testing Policy will be subject to appropriate disciplinary action. In the case of a positive drug test the Town of Newcomb will seek the below course of disciplinary action.

The Town of Newcomb may seek to bypass any progressive discipline step in those cases involving an accident¹ or any other work-related accident or injury, where the employee tests positive for drug or alcohol use. In such cases, the Town of Newcomb shall determine the appropriate disciplinary action to be taken, up to and including termination of employment.

The disciplinary procedures prescribed in an applicable collective bargaining agreement or Civil Service Law Section 75 shall apply in those instances in which the Town of Newcomb takes disciplinary action against an employee who is covered by those provisions.

1. First Positive Drug or Alcohol Test

An employee who receives either a first verified positive drug test result or a first alcohol concentration test result greater than or equal to 0.04 shall be required to leave the work-site and shall be suspended for thirty (30) calendar days without pay. The employee shall be allowed to use accrued vacation and sick leave, if any, during the period of suspension. The Town of Newcomb shall continue the employee's health insurance during the period of suspension, if applicable.

2. Second Positive Drug or Alcohol Test

An employee who receives either a second verified positive drug test result or a second alcohol concentration test result greater than or equal to 0.04 shall be required to leave the work-site and shall be terminated from employment.

3. Alcohol Concentration Greater than or Equal to 0.02 but Less than 0.04

An employee with an alcohol concentration test result greater than or equal to 0.02, but less than 0.04, shall not be permitted to drive any Town owned motor vehicle or perform any other safety-sensitive functions for the Town of Newcomb until the next scheduled work period, providing that twenty-four hours have elapsed. The employee shall be required to leave the work-site and shall be suspended without pay for twenty-four (24) hours. The employee must wait until the start of the shift following the twenty-four hour suspension before being allowed to return to work. All time leading up to that point shall be unpaid. Any employee who has a second alcohol concentration test result greater than or equal to 0.02, but less than 0.04, shall be subject to further disciplinary action, up to and including termination of employment.

4. Refusal to Submit to an Alcohol or Controlled Substance Test

An employee may not refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substance test. **An employee who refuses to submit to an alcohol or controlled substance test shall be required to leave the work-site and shall be terminated from employment.** (Refer to Prohibited Conduct section for the definition of "*Refuse to submit to an Alcohol or Controlled Substance Test*".)

¹ As defined in Chapter 2 of this policy.

5. Further Violations

An employee shall be subject to further and additional discipline, up to and including termination, upon failure to adhere to the SAP's recommended treatment plan and/or upon failure to return to work after a thirty calendar day suspension.

REQUIRED TESTS AND ASSOCIATED COSTS

The following section describes the types of substance testing that are required under Town of Newcomb policy.

1. Pre-Employment and Pre-Duty Drug Testing (and Testing History)

The Town of Newcomb will require all final applicants for those positions that require the driving of a Town vehicle to be tested for the presence of a controlled substance as a pre-qualifying condition to employment. Additionally, the Town will conduct pre-employment and pre-duty drug screening on all final applicants for seasonal positions, including final applicants for the Summer Youth Program. Applicants/employees must receive a verifiable negative drug test result from the MRO before being allowed to perform job functions for the Town of Newcomb.

All applicants/employees subject to pre-employment/pre-duty drug testing will be notified prior to collection of a urine sample that the sample will be tested for the presence of controlled substances. All applicants/employees to be tested must sign an authorization form consenting to such a test.

Pre-Employment Testing Requirements after a Layoff, Reassignment, or Rehire

If a covered employee returns to work after a layoff or reassignment during which the employee has not been subject to random testing for more than thirty days or has been employed by another employer, the employee will be subject to pre-employment drug testing.

The cost of pre-employment and pre-duty drug tests will be paid by the Town of Newcomb.

2. Reasonable Suspicion Testing

The Town's policy requires a covered employee to be tested for alcohol and controlled substance use when the employee's conduct gives the Town reasonable suspicion to believe the employee is under the influence of alcohol and/or controlled substances. The covered employee's behavior must be observed by at least one designated supervisor. Whether reasonable suspicion testing is conducted for alcohol and/or controlled substances, such testing must be based on observations concerning the covered employee's appearance, behavior, speech or body odor.

Reasonable suspicion alcohol testing is authorized only if the required observations are made just before, during or immediately after performing the essential functions. The mere possession of alcohol does not constitute a need for reasonable suspicion alcohol testing. A covered employee must also inform the appropriate supervisor if the employee has consumed alcohol four hours prior to the starting of the employee's shift. Reasonable suspicion alcohol testing will be conducted no more than two hours after the reasonable suspicion determination has been made, and in any event, within eight hours. However, in the event the testing is not performed within this two hour period, a report will be prepared indicating the reason for not promptly administering the test. In the event the test is not administered within eight hours, the Town of Newcomb will cease attempts to administer the test and prepare another report indicating the reason for not administering the test.

If the supervisor requires a covered employee to undergo a reasonable suspicion alcohol and/or drug test, the employee will be escorted to the collection site by the employee's Department Head or designee.

The cost of reasonable suspicion tests will be paid by the Town of Newcomb.

3. Post-Accident Testing

The Town requires that an employee be subject to testing for alcohol and/or controlled substances following any incident that involves operation of any motor vehicle or other motorized equipment and which results in any form of property damage or injury to any person. The employee must remain at the scene or be readily available to undergo testing for alcohol and controlled substance use.

An employee subject to post-accident testing who leaves the scene of an accident or fails to remain readily available for testing shall be deemed to have refused to submit to testing. Such a refusal will be considered in the same manner as if the employee had an alcohol test result of 0.04 or greater or a verified positive test for controlled substance use.

Nothing herein shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

The cost of post-accident tests will be paid by the Town of Newcomb.

4. Random Testing

The Town of Newcomb will implement a random process to select and request a covered employee be tested for both the use of alcohol and controlled substances. The Town will ensure that all random alcohol and drug tests are unannounced and that the dates for administering such random tests are spread reasonably throughout the calendar year. The minimum number of tests administered will equal fifty percent (25%) drug testing and ten percent (10%) alcohol testing of the total number of covered employees eligible to receive them.

The selection of covered employees for random alcohol and drug testing will be made by scientifically valid method. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made, without elimination. Consequently, an employee may not be selected at all over the course of the year or an employee may be selected several times.

The Town will maintain responsibility for random selection. In accordance with regulations, DOT-covered employees will be a separate testing pool from non-DOT covered employees. The Town of Newcomb will use an online resource for random selection. Prior to each random selection, the Town will ensure that each random selection pool is up-to-date and current.

Each covered employee who is notified of selection for random alcohol and/or drug testing must proceed to the collection site immediately, or, if the employee is performing a safety sensitive function at the time of notification, the employee must cease to perform the safety sensitive function and proceed to the collection site as soon as possible.

A covered employee will only be tested for *alcohol* either while performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

The cost of random tests will be paid by the Town of Newcomb.

5. Return-to-Duty Testing

A covered employee who returns to duty after engaging in prohibited conduct concerning alcohol must undergo a "return-to-duty" alcohol test with a result indicating an alcohol concentration of less than 0.02.

A covered employee who returns to duty after engaging in prohibited conduct concerning controlled substances must undergo a "return-to-duty" controlled substances test with a result indicating a verified negative result for controlled substances use.

In addition, the employee must be evaluated again by a SAP to determine whether the employee has successfully complied with any rehabilitation program prescribed following the initial evaluation.

The cost of return-to-duty tests will be paid by the employee.

6. Follow-up Testing

A covered employee who returns to duty after engaging in prohibited conduct concerning either controlled substances or alcohol must undergo unannounced "follow-up" alcohol and controlled substance tests administered by the Town of Newcomb.

The number and frequency of such follow-up testing will be as directed by the SAP and consist of at least six tests in the first twelve months following the return to duty. The Town of Newcomb may direct the employee to undergo follow-up testing for both alcohol and controlled substances if the SAP determines that follow-up testing for both alcohol and controlled substances is necessary.

Provided the employee follows the treatment plan set forth by the Town, the cost of all follow-up tests will be paid by the Town of Newcomb. If an employee fails a follow up test, the employee will be responsible for the cost of the follow-up test.

7. Split Specimen Controlled Substance Test

Each urine specimen will be subdivided into two bottles, one labeled as a "primary" and the other as a "split" specimen. Both bottles will be sent to a laboratory. Only the primary specimen will be opened and used for the urinalysis. The split specimen bottle will remain sealed and stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the MRO will notify the applicant/employee that he/she has 72 hours to make a verbal or written request to have the split specimen sent to another SAMHSA certified laboratory for analysis.

If an applicant/employee fails to request a test of the split specimen within 72 hours, the MRO will verify and report the test result to the DER. The applicant/employee will be granted 60 days from the date of the verification to provide the MRO with documentation that serious injury, illness, lack of notice of the test result, inability to contact the MRO, etc., prevented him/her from making a timely request to have the split specimen tested. If the MRO determines there was a legitimate

reason for the applicant's/employee's failure to meet the 72 hour deadline based on the information presented, the MRO will direct the test of the split specimen.

If the laboratory determines that the primary specimen may have been adulterated or substituted, the MRO will review the test results to determine if there is a legitimate medical explanation for the results.

The MRO will review laboratory confirmed positive, adulterated, substituted and invalid test results to determine if there are any fatal or correctable errors that may require the test to be cancelled, or in the case of adulterated or substituted test results, to determine if there is a legitimate medical explanation for such results.

The Town shall not refuse or delay an employee's request for analysis of the split specimen for any reason except an invalid test result, provided such request is made in accordance with the requirements set forth above.

The cost of any split specimen test requested by the employee must be paid for by the employee. However, if the split specimen test result is negative, the Town of Newcomb will pay for the test.

TESTING PROCEDURES

The following is an overview of the procedures that an employee should expect to follow during the testing process.

Procedure for Drug Testing

When an employee is notified by the DER or designee to report to the collection site for drug testing, the following steps will normally take place:

1. The employee is required to report to the collection site as soon as possible. Refusal to report to the collection site or failing to cooperate with the collection process is considered a "refusal to test" (see definition of a refusal earlier in this chapter).
2. The employee must provide appropriate identification upon arrival at the collection site.

Acceptable forms of identification include:

- a) Photo identification, such as a driver's license, employee badge issued by the Town, or any other picture identification issued by a government agency; or
 - b) Identification by an employer or employer representative.
3. All outer garments and personal belongings (e.g., coat, bag, purse), except for an employee's wallet, must be turned in to the collection site for safekeeping until after the testing process has been completed. The specimen collector may ask the employee to empty his or her pockets and display all items to ensure that nothing is present that could be used to adulterate the specimen.
 4. The employee will be advised to wash and dry his or her hands.

5. The specimen collector will allow the employee to select an individually wrapped or sealed collection container or the employee will be allowed to observe the specimen collector select the collection container. Either the specimen collector or the employee, with both present, must unwrap or break the seal on any specimen bottle at this time.
6. The employee will be given the specimen container and advised to enter the bathroom (or room used for urination) to provide a specimen. The specimen collector will advise the employee that at least 45 ml of urine is required and that the temperature will be taken to ensure the sample's integrity.
7. After exiting the bathroom, the specimen should be given to the specimen collector. If the specimen fails to meet sufficient volume or falls outside the acceptable temperature range, the specimen collector will require the employee to provide a second specimen and follow the "shy bladder" procedures set forth in the federal regulations (49 CFR 40.193(b)).

If the first specimen was less than 45 ml, the specimen collector will discard the first specimen and instruct the employee to drink not more than 40 ounces of fluids distributed reasonably through period of up to three hours, or until the employee has provided a sufficient urine specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. The employee will then be asked to provide a new urine sample in a fresh collection container. If the employee is still unable to provide an adequate specimen, the testing will be discontinued and the specimen collector will contact the DER. The MRO will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test.

If the reason the second specimen is required is due to the initial specimen falling out of the acceptable temperature range, the second collection will be by direct observation.

8. The employee is allowed and encouraged to observe the specimen collector pour the required amount of urine into the specimen bottles, place the tamper-evident seals on the bottles, and label them accordingly. The employee will then be asked to initial the labels to verify that the specimen is the employee's.
9. The specimen collector and the employee must sign the appropriate certification statements on the Custody Control Form (CCF) to confirm authenticity of the information provided and the integrity of the collection process. The employee will be asked to read, sign, and date the CCF and provide his or her date of birth, printed name, and telephone number.
10. The specimen will be sent to an approved laboratory for analysis and the results will be reported to the MRO. If the results are positive, the MRO will attempt to contact the employee via telephone to give the employee the opportunity to discuss the test result and submit information demonstrating authorized use of the controlled substance in question.
11. The MRO will verify the test result in a confidential manner to the DER as either:
 - 1) Negative;
 - 2) Cancelled; or
 - 3) Positive and/or refusal to test because of adulteration or substitution.

Direct Observation Collections – Urine specimens are normally collected in private. The Town will direct an immediate collection under direct observation with no advance notice to the employee if:

1. A return-to-duty test is required.
2. A follow-up test is required.
3. The laboratory reported to the MRO that the employee's specimen was invalid and the MRO notifies the Town that there is no adequate medical explanation for the result;
4. The MRO notifies the Town that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed (e.g., a split specimen was not collected, is missing, or was destroyed in transit).
5. The laboratory reported to the MRO a negative dilute test result with a creatinine concentration greater than or equal to 2mg/dL but less than or equal to 5 mg/dL, and the MRO reports the specimen to the Town as negative-dilute and that a second collection must take place under direct observation.
6. The employee attempts to tamper with his or her specimen at the collection site. Examples include, but are not limited to:
 - a) The temperature of the specimen is out of the accepted temperature range of 90 – 100 degrees F;
 - b) The specimen has an unusual color, odor, or characteristic; or
 - c) The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen (49 CFR 40.67(c)(2)).

Procedure for Direct Observation Collections – When an employee is subject to an observed collection, the observer must be the same gender as the employee. If the collector and the observer are not the same person, the collector must instruct the observer to check the employee for prosthetic or other devices that are designed to carry “clean” urine and urine substitutes and to watch the employee urinate into the collection container.

During a direct observation collection, the following steps normally occur:

1. The observer will request the employee to raise his or her shirt, blouse, or dress/skirt above the waist, just above the navel.
2. The observer will request the employee to lower clothing and underpants.
3. The employee will be requested to turn around to show the observer that he or she does not have a prosthetic device.
4. If no prosthetic or other device is found, the employee will be permitted to return clothing to its proper position and the observed collection will continue. The observer will then watch the urine go from the employee's body into the collection container and watch the employee take the specimen to the collector, who will complete the collection process.
5. If the observer finds a prosthetic or other device that could be used to interfere with the collection process, the collector must immediately be notified. The collector will stop the collection and thoroughly document the circumstances surrounding the event in the remarks section of the CCF. The collector must then notify the DER. This will be considered a refusal to test. Source: 49 CFR 40.191

Procedure for Alcohol Testing

When an employee is notified by the DER or designee to report to the collection site for alcohol testing, the following steps normally take place:

1. The employee is required to report to the collection site as soon as possible. Refusal to report to the collection site or failing to cooperate with the collection process is considered a “refusal to test” (see definition of a refusal earlier in this chapter).
2. The employee must provide appropriate identification upon arrival at the collection site.

Acceptable forms of identification include:

- a) Photo identification, such as a driver’s license, employee badge issued by the Town, or any other picture identification issued by a government agency; or
 - b) Identification by an employer or employer representative.
3. The Breath Alcohol Technician (BAT) will explain the testing procedures. The BAT and the employee must complete, date, and sign the Alcohol Testing Form (ATF) verifying that the employee is present and is providing a breath sample.
 4. The BAT will open an individually sealed, disposable mouthpiece and attach it to the EBT while the employee watches. (For screening tests, air blanks are not required.)
 5. The BAT will instruct the employee to blow steadily and forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT must show the employee the result of the test, either as a printout or as displayed on the EBT.
 6. If the screening test shows an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to the Town as negative.
 7. If the screening test shows an alcohol concentration of 0.02 or greater, the BAT will conduct a confirmation test at least 15 minutes but not more than 30 minutes after the completion of the initial test.
 8. The BAT will instruct the employee that he should not eat, drink, put any object or substance in his or her mouth, or burp (to the extent possible) until the confirmation test is performed. The BAT will inform the employee that the test will be conducted at the end of the waiting period even if the employee does not follow these instructions.
 9. The BAT will sign and date the form. The employee will sign and date the certification statement. The certification statement notifies the employee that he or she cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater. If the results are 0.04 or greater, the employee must be removed from his or her driving duties and attendant safety-sensitive functions and be evaluated by an SAP. The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-evident tape (unless the results are printed directly on the form).
 10. The test results will be provided to the Town in a confidential manner. The BAT will notify the DER immediately if the employee must be removed from safety-sensitive functions.

Incomplete Test – If a screening or confirmation test cannot be completed, the BAT will attempt a new test using a new alcohol testing form with a new sequential test number. An employee’s refusal to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process will be noted on the form and the test will be terminated.

If the employee attempts and fails to provide an adequate amount of breath, the BAT will note this on the form and immediately inform the DER. The DER will ask the employee to obtain an evaluation from a licensed health care provider concerning his or her medical ability to provide an adequate amount of breath. This evaluation should take place as soon as practical after the attempted breath test. If the health care provider indicates that there was a valid medical reason, the employee's failure to provide an adequate amount of breath will not be considered a refusal. If the health care provider determines there was no valid medical reason, the inadequate amount of breath will be considered a refusal to take the test.

TEST RESULTS

Drug Testing Result Categories – Laboratories must report the test results of each primary urine specimen for drug testing. The result of each primary specimen will fall into one of the following three categories:

Category 1: Negative Results

- a) Negative; or
- b) Negative dilute, with numerical values for creatinine and specific gravity.

Category 2: Non-Negative Results

- a) Positive, with drug(s)/metabolite(s) noted, with numerical values for the drug(s) or drug metabolite(s);
- b) Positive-dilute, with drug(s)/metabolite(s) noted, with numerical values for the drug(s) or drug metabolite(s) and with numerical values for creatinine and specific gravity;
- c) Adulterated, with adulterant(s) noted, with confirmatory test values (when applicable), and with remark(s);
- d) Substituted, with confirmatory test values for creatinine and specific gravity; or
- e) Invalid result, with remark(s). Laboratories will report actual values for pH results.

Category 3: Rejected for Testing

- a) Rejected for testing, with remark(s).

The laboratory will always report laboratory results directly, and only, to the MRO at his or her place of business. The laboratory must not report results to or through the Town or a service agent. 49 CFR 40.97(b).

Negative Dilute Test Result – If an employee receives a negative dilute test result, a recollection under direct observation may be required if the MRO reports that a second collection must take place under direct observation.

Invalid Test Results – When an invalid test result is received, the MRO and laboratory must determine if the primary specimen should be tested at another laboratory. If it is determined that no further testing is necessary, the MRO must contact the employee to inform him or her that the specimen was invalid and to inquire about any medications the employee may have taken to determine if there is a medical explanation for the invalid result.

If the employee admits to using a drug, the MRO must prepare and sign a statement of the employee's admission and then report such admission to the DER for appropriate action. The test will be reported as cancelled with the reason noted.

If the result of the employee's recollection is a second invalid test for the same or different reason than as reported for the first specimen, the MRO must review the CCF to ensure there is documentation that the recollection was directly observed. If the recollection was directly observed, the MRO must document that the employee had another specimen with an invalid result for the same reason. If the recollection was not directly observed as required, the MRO must not report a test result to the DER but instead request an immediate recollection under direct observation.

If the result of the employee's recollection is an invalid test in conjunction with a positive, adulterated, and/or substituted result and the MRO verifies any of those results as being a positive and/or refusal to test, the MRO shall not report the invalid result to the DER unless the split specimen fails to reconfirm the result(s) of the primary specimen.

If a valid test result cannot be produced and a negative result is required, the MRO must determine if there is clinical evidence that the employee is currently an illicit drug user by personally conducting, or causing to be conducted, a medical evaluation of the employee by a licensed physician. In addition, if appropriate, the MRO may also consult with the employee's physician to gather information needed to reach this determination. If the medical evaluation reveals no clinical evidence of drug use, the MRO must report a negative test result to the DER with written notations regarding the medical examination, why the medical exam was required, and the reason(s) for determining that no signs and symptoms of drug use exist. If the medical evaluation reveals clinical evidence of drug use, the MRO must report a cancelled test result to the DER with written notations regarding the results of the medical examination, why the medical exam was required, and the reason(s) for determining that signs and symptoms of drug use exist. Because this is a cancelled test, it does not serve the purpose of an actual negative test result (i.e., the Town is not authorized to allow the employee to begin or resume performing safety sensitive functions, because a negative test result is needed for that purpose).

Changing a Verified Test Result – In accordance with 49 CFR 40.149, an MRO may change a verified test result only in the following situations:

- The MRO has reopened a verification because it was done without an interview with the employee.
- If the MRO receives information, not available to the MRO at the time of the original verification, demonstrating that the laboratory made an error in identifying (e.g., a paperwork mistake) or testing (e.g., a false positive or negative) the employee's primary or split specimen. For example, suppose the laboratory originally reported a positive test result for Employee X and a negative result for Employee Y. The MRO verified the test results as reported. Then the laboratory notifies the MRO that it mixed up the two test results, and X was really negative and Y was really positive. The MRO would change X's test result from positive to negative and contact Y to conduct a verification interview.
- If, within 60 days of the original verification decision—
 - (i) The MRO receives information that could not reasonably have been provided at the time of the decision demonstrating that there is a legitimate medical explanation for the presence of drug(s)/metabolite(s) in the employee's specimen; or
 - (ii) The MRO receives credible new or additional evidence that a legitimate medical explanation for an adulterated or substituted result exists.

(Example to the above: If the employee's physician provides the MRO a valid prescription that he or she failed to find at the time of the original verification, the MRO may change the test result from positive to negative by concluding that the prescription provides a legitimate medical explanation for the drug(s)/ metabolite(s) in the employee's specimen.)

Cancelled Test Results – A drug test will be cancelled if any of the following occur:

- 1) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results because the drug(s)/drug metabolite(s) were not detected; adulteration criteria were not met; and/or substitution criteria were not met. No recollection is required unless the split specimen creatinine concentration for a substituted primary specimen was greater than or equal to 2mg/dL but less than or equal to 5mg/dL, or the primary specimen had an invalid result which was not reported to the DER. Both of these cases require recollection under direct observation.
- 2) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results and that the split specimen was invalid. Recollection under direct observation is required.
- 3) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results because the split specimen was not available for testing or there was no split laboratory available to test the specimen. Recollection under direct observation is required.

SUBSTANCE TESTING AND PAID TIME

An employee will be paid for all time pertaining to substance testing. This includes traveling to and from the collection site. Such time will be considered as time worked for the purpose of calculating overtime and employee benefits.

SUBSTANCES FOR WHICH TESTS ARE ADMINISTERED

Testing is done for the presence of alcohol and the following six controlled substances:

1. Marijuana
2. Cocaine
3. Opioids
4. Amphetamines
5. Phencyclidine (PCP)
6. Anabolic Steroids (only applies to reasonable suspicion testing)

NOTIFICATION OF TESTING REQUIREMENTS AND RESULTS

Applicants – Applicants subject to pre-employment drug testing and employees subject to pre-duty testing will be notified of the drug testing requirement on the Town of Newcomb's *Application for Employment Form* and at the time a conditional job offer is made. The applicant/employee will be required to sign the required testing consent form (**FORM-1**). The Town will notify an applicant/employee of the results of a pre-employment/pre-duty drug test if the applicant/employee requests such results within sixty days of being notified of the employment decision.

The Town of Newcomb will not provide rehabilitation for a disqualified applicant who tests positive for drugs.

Employees – The Town of Newcomb will notify a covered employee of the results of random, reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol tests when the test results are positive. For drug tests, the MRO will also notify the covered employee what substance was discovered.

MEDICAL REVIEW OFFICER

The Medical Review Officer's (MRO's) function is to review, interpret and report the positive and negative test results of covered applicants and covered employees. The MRO will report results to the DER who will take the required administrative action on positive test results.

As a general rule, the MRO will report only whether a particular test result was positive or negative. The MRO will provide to authorized third parties, including the Town, any medical information given by the employee during the verification process that would have an affect on the performance of safety-sensitive functions. Such medical information includes information on medications or other substances affecting the performance of safety-sensitive duties that the employee reports using or medical conditions the employee reports having.

SUBSTANCE ABUSE PROFESSIONAL

Evaluations will be provided by a by a Substance Abuse Professional (SAP). The Town of Newcomb will provide to each employee who violated a drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to the Town, with names, addresses, and telephone numbers. The Town cannot charge the employee any fee for compiling or providing this list. The SAP must possess specific credentials and must meet basic knowledge, qualification training, and continuing education requirements.

The SAP who determines that an employee requires assistance in resolving problems with alcohol misuse or controlled substances use refers the employee to an appropriate education and/or treatment program. The SAP is prohibited from referring the employee to the SAP's private practice or to a person or organization from which the SAP receives payment or in which the SAP has a financial interest. This does not prohibit a SAP from referring an employee for assistance provided through: a public agency (e.g., treatment facility) operated by a state, county, or municipality; the employer or a person or organization under contract to provide treatment for alcohol or controlled substances problems on behalf of the Town of Newcomb; the sole source of therapeutically appropriate treatment under the employee's health insurance program, or the sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting

area). The requirements herein with respect to referral, evaluation, and rehabilitation do not apply to applicants who refuse to submit to a pre-employment controlled substances test.

The Town of Newcomb will arrange for a SAP to evaluate, determine the type of assistance needed, and direct the number and frequency of follow-up alcohol and/or controlled substance tests required for those employees who engage in the prohibited conduct as set forth in Chapter 3 above.

CONFIDENTIALITY

Except as otherwise required by law or expressly authorized or required by federal regulations, all Town of Newcomb personnel will treat as highly confidential all information and documentation regarding alcohol and controlled substance testing. Only authorized personnel will have access to testing information and documentation.

Authorized personnel having access to testing information shall not discuss, photocopy, duplicate or reveal in any form to anyone inside or outside of the Town of Newcomb, unless authorized by law. Any violation in any manner of this information may be grounds for disciplinary action.

Laboratories and their personnel will maintain alcohol and controlled substance test records in confidence.

All information and documentation maintained by the Town of Newcomb regarding a given employee's alcohol and controlled substance testing will be maintained in a separate file apart from the employee's personnel file. For security purposes, these files will be locked at all times.

Release of Substance Testing Information by the Town

Upon written request from a covered employee, the Town will promptly provide the employee with copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to substance testing.

A covered employee must give his/her specific written consent before the Town will release individual test results or medical information to a third party that is not explicitly authorized under the regulations to receive such information.

In accordance with the regulations, an employer may disclose information required to be maintained under the federal regulations pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on the employee's behalf, and arising from a positive drug or alcohol test, adulterated, or substituted test result, or a refusal to test. This includes, but is not limited to, workers' compensation, unemployment insurance, and other proceedings relating to a benefit sought by the employee. In addition, the Town may disclose information in criminal or civil actions. When such information is released, the Town will notify the employee in writing.

Release of Medical Information by the MRO

The MRO generally only reports to the DER whether a particular test result was positive or negative. The MRO is generally prohibited from communicating further information to the DER or a third party unless the applicant or covered employee signs a release allowing the MRO to disclose such information.

However, the regulations require the MRO to report to authorized third parties the drug testing results and medical information learned as part of the verification process if, in the MRO's reasonable medical judgment, that the information is likely to result in the employee being determined to be medically unqualified under an applicable regulation or the

information indicates that continued performance by the employee of his or her safety-sensitive function is likely to pose a significant safety risk. Authorized third parties include the Town, a doctor or other health care provider responsible for determining the medical qualification of the employee, a SAP evaluating the employee as part of the return to duty process, or the National Transportation Safety Board in the course of an accident investigation. Medical information that the MRO may report to authorized third parties includes information on medications or other substances affecting the performance of safety-sensitive duties that the employee reports using or medical conditions the employee reports having. This notification does not require employee consent if the MRO determines in his/her reasonable medical judgment that the information is likely to result in the employee being determined to be medically unqualified, or the information indicates that continued performance by the employee of his or her safety-sensitive function is likely to pose a significant safety risk. If a law of a foreign country, (e.g., Canada) prohibits the MRO from providing medical information to the employer, the MRO may comply with that prohibition.

CHAPTER 4 – COLLECTION SITE AND LABORATORY GUIDELINES

COLLECTION SITE GUIDELINES

The Town of Newcomb will designate a collection site where employees are to provide urine specimens for drug testing procedures and an Evidential Breath Testing (EBT) device to test the alcohol concentration. Each designated collection site will have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to the Department of Health and Human Services and Substance Abuse and Mental Health Services Administration certified drug testing laboratory.

The designated collection site may be any suitable location where a specimen can be collected under conditions established by the federal regulations. At a minimum, the collection site will provide:

- a) Security at all times during specimen collection for alcohol and drug testing to ensure integrity of specimen.
- b) An enclosure where private urination may occur.
- c) A toilet for completion of urination.
- d) Water for washing hands.
- e) A suitable clean surface for writing.

LABORATORY GUIDELINES

1. Alcohol

For the testing of alcohol, if the initial alcohol concentration is 0.02 or greater, a second confirmation test is required using a federally calibrated Evidential Breath Testing (EBT) device.

2. Controlled Substances

Laboratories that conduct controlled substance testing must be certified by the *Substance Abuse and Mental Health Services Administration*. Such laboratories will conduct the initial screen for controlled substances in the form of a urinalysis. Where the initial screen indicates the presence of a controlled substance (positive result), a confirmation test will be done on the same specimen using the gas chromatography/mass spectrometry (GC/MS) methods.

Substance Abuse and Mental Health Services Administration certified laboratories will have a quality assurance program that assures:

- a) Proper reporting procedures.
- b) Maintenance of acceptable controls and standards.
- c) Maintenance of quality control testing.
- d) Validity, reliability, accuracy, precision and performance characteristics of each test.

BLIND SAMPLES

To guarantee quality assurance and quality control of the laboratories involved in performing drug tests for the Town of Newcomb, a certain percentage of blind performance test specimens will be submitted to the laboratory.

SPECIMEN VALIDITY TESTING

Laboratories will conduct specimen validity testing on all urine specimens to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

INITIAL TESTS

The initial test for controlled substances is the first test performed on the urine specimen of an applicant or employee who is in a non-covered position who is applying for a covered position. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The initial cutoff levels used for determining whether specimens are negative for drugs may be changed by the Department of Health and Human Services (DHHS) as advances in technology or other considerations warrant identification of the tested substances at other concentrations.

If the initial test for alcohol indicates an alcohol concentration of 0.02 or greater, a confirmation test is required using a federally calibrated Evidential Breath Testing (EBT) device.

CONFIRMATION TESTS

All urine specimens identified as testing positive for one of the five controlled substances will be confirmed by a second test using the GC/MS (gas chromatography/mass spectrometry) technique. The results of this confirmation will be reported directly to the MRO.

If the alcohol concentration is greater than or equal to 0.04 on the confirmation test, then the covered employee has tested positive.

CHAIN OF CUSTODY

Federal regulations require that all collection site and laboratory personnel use appropriate "Chain of Custody" procedures to preserve the integrity of every specimen. A Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection. The control and accountability of specimens includes, but is not limited to:

- a) Initial receipt at collection site
- b) Identification
- c) Container sealing
- d) Storage
- e) Transportation to laboratory
- f) Opening of specimen at the lab
- g) Testing, reporting results
- h) Additional storage
- i) Final disposition of the specimen

With respect to drug testing, a chain of custody form authorized by the federal regulations must be used from the time of collection to receipt by the laboratory and any other time mandated by the regulations. Each time a specimen is handled or transferred by collection site and laboratory personnel, an appropriate chain of custody form must account for the sample or sample aliquot, including an entry documenting the date and purpose of the handling or transfer. The laboratory must retain all records pertaining to each employee urine specimen for a minimum of two years. Within the two-year period, the MRO, the employee, or the employer, may request in writing that the laboratory retain the records for an additional period of time (e.g., for the purpose of preserving evidence for litigation or a safety investigation). If the laboratory does not receive such a request, it may discard the records at the end of the two-year period.

CHAPTER 5 – SUPERVISORY TRAINING AND EMPLOYEE COMMUNICATION

Supervisory Training

Supervisors (and any person designated to determine whether reasonable suspicion exists to require a covered employee to undergo testing) must receive sixty minutes of training in controlled substances use detection and an additional sixty minutes of training on alcohol misuse detection. The training includes the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The supervisors will use this training to determine if reasonable suspicion exists to require a covered employee to undergo reasonable suspicion substance testing. The training will address the effects and consequences of alcohol and controlled substance use in personal health, safety, and work environment and behavioral causes that indicate alcohol and controlled substance use or abuse. Each supervisor must sign a Supervisor Training Acknowledgment Form (**FORM-4**) which will be kept on file.

Employee Communication

An employee who is subject to the provisions of this policy will be given a copy of this policy and will be required to sign an Policy Acknowledgement Form (**FORM-3**) indicating their receipt of a copy of the policy, which will be retained in the employee's personnel file.

CHAPTER 6 – RECORD KEEPING AND REPORTING REQUIREMENTS

RECORD RETENTION

The Town of Newcomb will maintain records pertaining to this Controlled Substances and Alcohol Testing Policy in a secure location with controlled access.

1. The following records will be maintained for five years:

- a) Records of breath alcohol test results indicating an alcohol concentration greater than or equal to 0.02
- b) Records of verified positive drug test results
- c) Documentation of refusals to take required alcohol and/or drug tests
- d) Calibration documentation of EBT's
- e) Driver evaluation and referrals
- f) Copies of annual calendar year summaries

2. The following records will be maintained for two years:

- a) Records related to the collection process
- b) Supervisory/Employee training

3. The following records will be maintained for one year:

- a) Negative and canceled drug test results
- b) Breath alcohol tests with concentration of less than 0.02.

CHAPTER 7– TESTING SERVICES

The Town of Newcomb has chosen the following organization to perform all required controlled substances and alcohol testing services:

On-Site Testing Service

241 East Main Street
Brownville, NY 13615

PHONE: (315) 779-9481

<http://onsitetesting.com/>

Controlled substance and alcohol testing collections will take place at the Senior Center located in the Highway Garage complex.

CHAPTER 8 – TREATMENT FACILITIES

It is not mandatory for the Town to pay for the rehabilitation of an employee who tests positive for the use of alcohol or drugs. However, any counseling, rehabilitation, or treatment programs an employee participates in may be covered services if the employee is a participant in the Town's or another health insurance program. Any additional costs not covered by the health insurance plan are the responsibility of the employee. An employee who is not enrolled in a health insurance plan is responsible for 100% of the cost of these services.

An employee's decision to seek prior assistance from a treatment facility will not be used as the basis for disciplinary action. However, the use of such services will not serve as a defense to imposing discipline when a violation of this policy occurs.

Saint Josephs Addiction Treatment Elizabethtown Outpatient Clinic 7520 Court Street Elizabethtown, NY, 12932	Saint Josephs Addiction Treatment Saranac Lake Outpatient Clinic 258 Broadway Saranac Lake, NY, 12983
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Additional Resources include:

- Alcoholics Anonymous - (800) 356-9996
- American Council on Alcoholism – Helpline (800) 527-5433
- Cocaine Hotline - (800) COCAINE
- National Council on Alcoholism - (800) NCA-CALL
- National Institute on Drug Abuse – Hotline (800) 662-HELP
- National Institute on Drug Abuse – Helpline (800) 843-4971

CHAPTER 9– SIGNS, SYMPTOMS AND THE EFFECTS OF THE USE OF CONTROLLED SUBSTANCES AND ALCOHOL

Specific Signs, Symptoms and Effects of Marijuana, Cocaine, Opioids, Amphetamines, Phencyclidine (PCP), Benzodiazepines, Barbiturates, Methadone, Propoxyphene, Methaqualone (Quaaludes), and Alcohol

References for the information for this chapter:

National Safety Council

Blum, Kenneth, "Handbook of Abusable Drugs," NY, Gardner Press, 1984

Department of Health and Human Services, "Alcohol and Health: 7th Special Report to the U.S. Congress," Washington, DC, 1990

Federal Motor Carrier Safety Administration, Office of Motor Carriers, "Guidelines for Implementing the FMCSA Anti-Drug Program," Publication No. FMCSA-MC-91-014, March 1992.

MARIJUANA FACT SHEET

A crude drug made from the plant cannabis sativa. Marijuana is the most commonly used illicit drug. **1-2 marijuana cigarettes decrease motor skills and reaction times by as much as 63%.**

Common Names: grass, dope, pot, reefer, lid, joint, loco weed, Mary Jane, and doobie.

Paraphernalia: Plastic bags (commonly used to sell marijuana) cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large-bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls.

Method of Intake: Marijuana is usually inhaled in cigarette or pipe smoke. Occasionally, it is added to baking ingredients (e.g., brownies) and ingested. Tetrahydrocannabinol (THC), the active chemical detected in urinalysis, is released by exposure to heat.

Duration of Single Dose Effect: The most obvious effects are felt for 4 to 6 hours. Preliminary studies suggest that performance impairment lasts longer. The active chemical, THC, is stored in body fat and slowly metabolized over time.

Dependency Level: Evidence indicates moderate psychological dependence.

Signs and Symptoms of Use Include:

- Appear intoxicated, but has no smell of alcohol
- Appears sleepy or stuporous in the latter stages
- Bongs or water pipes
- Distorted sense of time passage, tendency to over-estimate time intervals
- Excessive laughter or inappropriate happiness
- Forgetfulness in conversation
- Increase in appetite especially after smoking
- Reddened eyes
- Lower alertness levels
- Odor similar to burnt rope on clothing or breath
- Poor retention
- Presence of roach clips (e.g. paper clips, bobby pins, hemostats or tweezers)
- Pupils can be dilated
- Rapid loud talking
- Tendency to drive slowly, below speed limit
- Eye drops and/or sunglasses to hide bloodshot eyes

Time Detectable in Urine Test:

- Occasional user for up to 1 week
- Chronic user – 3 to 4 weeks

Effects of Marijuana Use:

Mental Performance: Regular use can cause the following effects:

- Delayed decision making
- Erratic cognitive function
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light)
- Impaired tracking (ability to follow moving objects with the eyes) and visual distance measurements
- Diminished concentration
- Distortions in time estimation

Driver Performance:

The mental impairments resulting from the use of marijuana produce reactions that can lead to unsafe and erratic behavior. Thinking and reflexes are slowed, making it hard for drivers to respond to sudden, unexpected events. Also, a driver's ability to "track" (stay in lane) through curves, to brake quickly, and to maintain speed and the proper distance between cars is affected. Research shows that these skills are impaired for at least 4-6 hours after smoking a single marijuana cigarette.

COCAINE FACT SHEET

A drug extracted from the leaves of the coca plant. Cocaine is a central nervous stimulant and highly addictive. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation. **Cocaine is the second most commonly used illicit drug in the United States.**

Common Names: coke, snow, tornado, crack and white candy.

Paraphernalia: Cocaine hydrochloride—single-edged razor blade, a small mirror or piece of smooth metal; a half straw or metal tube, and a small screw-cap vial or folded paper packet containing the cocaine (used for snorting), needles, tourniquets (used for injecting). Cocaine base—a “crack pipe” (small glass smoking device for vaporizing the crack crystals); a lighter, alcohol lamp, or small butane torch for heating the substance.

Method of Intake: Cocaine hydrochloride is snorted into the nose, rubbed on the gums, or injected into the veins. It also can be heated into a liquid and its fumes inhaled through a pipe in a method called “freebasing”. Freebasing is also a common method of using a form of cocaine called “crack”. Crack resembles small pieces of rock and is often called “rock” on the street.

Duration of Single Dose Effect: 1 to 2 hours.

Signs and Symptoms of Use Include:

- Dilated pupils
- Runny nose, reddened and sore nose, cold or chronic sinus/nasal problems, nosebleeds
- Unexplained bursts of energy
- White powder in container and/or around nose
- Freebasing instruments such as ether, small torch, mixing plates or containers
- Frequent tardiness/absenteeism
- Restlessness, nervousness, irritability
- Needle tracks
- Use or possession of small spoons, straws, razor blades, mirror, vials of white powder
- Burns
- Extreme and uncommon excitability, anxiety or uncontrolled talkativeness
- Respiratory problems
- Isolation
- Long periods without eating or sleeping, likely to be emaciated
- Repetitive and non-purposeful behavior
- Loss of appetite / weight loss
- Sensation of bugs crawling on skin
- Workplace theft

Time Detectable in Urine Test:

- 12-48 hours

Effects of Cocaine Use:

Mental Performance:

- Paranoia, hallucinations
- Hyperexcitability and overreaction to stimulus
- Difficulty in concentration
- Mood swings, depression and disorientation

Driver Performance:

- Results in an artificial sense of power and control, which leads to a sense of invincibility.
- Lapses in attention and the ignoring of warning signals brought on by cocaine use greatly increase the potential for accidents.
- Paranoia, hallucinations and extreme mood swings make for erratic and unpredictable reactions while driving or operating machinery.

The high cost of cocaine frequently leads to workplace theft and/or dealing. Forgetfulness, absenteeism, tardiness, and missed assignments can translate into lost business.

OPIOIDS (NARCOTICS) FACT SHEET

Opioids (also called narcotics) are drugs that are used medically to relieve pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling. Some Opioids come from a resin taken from the seed pod of the Asian Poppy (e.g. opium, morphine, heroin and codeine). Other Opioids are synthesized or manufactured.

Common names: Horse, smack, Big M, dots, junk, H. morpho, dollies, heroin, opium, morphine and codeine.

Paraphernalia: Needles, syringe caps, eyedroppers, bent spoons, bottle caps, and rubber tubing (used in the preparation for and injection of the drug).

Method of Intake: Opioids may be taken in pill form, smoked, or injected, depending upon the type of narcotic used.

Duration of Single Dose Effect: 3 to 6 hours.

Signs and Symptoms of Use Include:

- Restlessness
- Mental dullness
- Nausea and vomiting
- Impaired coordination
- Depression and apathy
- Going back and forth from feeling alert to drowsy
- Wearing long sleeves to cover "tracks"
- Slurred speech
- Impaired coordination
- Use or possession of paraphernalia including syringes, bent spoons, bottle caps, eye droppers, rubber tubing, cotton and needles
- Skin abscesses
- Loss of appetite
- Pinpoint pupils that fail to respond to light
- dermatitis
- Overdose can result in coma and death
- Scars ("tracks") on inner arms or parts of body from needle injections
- Apathy and decreased physical activity
- Chills
- Sweating
- Cramps

Time Detectable in Urine Test:

- 1-3 days

Effects of Opiate Use:

- Mental Performance:**
- Slowed movement and reflexes
 - Wide mood swings
 - Depression and apathy
 - The high physical and psychological dependence level of Opioids compounds the impaired functioning
- Driver Performance:**
- Apathy caused by Opioids can translate into an "I don't really care attitude."
 - The physical effects as well as depression, fatigue and slowed reflexes impede the reaction time of the individual, raising the potential for accidents.
 - Workplace use may cause impairment of physical and mental functions.
 - Side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the user at higher risk for an accident.

AMPHETAMINES/STIMULANTS FACT SHEET

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. In pure form they are yellowish crystals that are manufactured into tablets or capsules.

Amphetamines include three closely related drugs – amphetamine, dextroamphetamine and methamphetamine.

Common Names: speed, meth, hearts, crystal, pep pills, bennies, uppers, ups, robin's eggs, peaches, cartwheels, sky-rockets and black beauties.

Paraphernalia: Needles, syringes, and rubber tubing for tourniquets, used for the injection method.

Method of Intake: The most common forms of amphetamines are pills, tablets, or capsules, which are ingested. The less frequent forms, liquid and powder, are injected or snorted.

Duration of Single Dose Effect: 2 to 4 hours.

Signs and Symptoms of Use Include:

- Dilated pupils
- Sweating
- Decreased appetite
- Blurred vision
- Dizziness
- Dry mouth
- Insomnia
- Use or possession of paraphernalia including bags, vials for storing, syringes, needles
- Confusion
- Panic
- Talkativeness
- Hallucinations
- Anxiety
- Moodiness
- Rapid heartbeat
- Unusual energy, accelerated movements and activities

Time Detectable in Urine Test:

- 1-2 days

Effects of Amphetamine/Stimulant Use:

- Mental Performance:**
- Anxiety and restlessness
 - Moodiness
 - False sense of power
 - Large doses over long periods can result in hallucinations, delusions, paranoia, and brain damage.
- Driver Performance:**
- False sense of alertness which can result in risky behavior and increased accidents.
 - Individuals who fail to get sufficient rest may use the drug to increase alertness (e.g., drivers).
 - Low doses of amphetamines will cause a short-term improvement in mental and physical functioning, greater use impairs functioning.
 - The hangover effect is characterized by physical fatigue and depression, which makes operation of equipment or vehicles dangerous.

Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness due to unusual overtime demands or failure to get rest.

PHENCYCLIDINE (PCP) FACT SHEET

Phencyclidine was first developed as an anesthetic in the 1950's and taken off the market because it sometimes caused hallucinations. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak-out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication. Phencyclidine is available in various forms – a white crystal-like powder, a tablet or capsule.

Common Names: Angel dust, dust, peace pills, hog, killer weed, mint, monkey dust, supergrass.

Paraphernalia: Foil or paper packets; stamps (off which PCP is licked); needles, syringes, and tourniquets (for injection); leafy herbs (for smoking).

Method of Intake: In pill, capsule, or tablet form, PCP may be ingested. It is commonly injected as "angel dust." It may be smoked or snorted when applied to leafy materials or combined with marijuana or tobacco.

Signs and Symptoms of Use Include:

- Dilated or floating pupils
- Rigid muscles
- Drooling
- Profuse sweating
- Decreased sensitivity to pain
- Dizziness
- Drowsiness
- Hallucinations
- Comatose (unresponsive) if large amount consumed; eyes may be open or closed
- Severe disorientation
- Rapid heartbeat
- Anxiety, panic/fear/terror
- Aggressive/violent behavior
- Mask-like facial appearance
- Drunken-like walk, staggering
- Severe confusion and agitation
- Subject to flashbacks
- Poor perception of time and distance, poor judgment

Time Detectable in Urine Test:

- Occasional use: 1-8 days
- Chronic use: Up to 30 days

Effects of Phencyclidine Use:

- Mental Performance:**
- Irreversible memory loss
 - Personality changes
 - Thought distortions
 - Hallucinations

- Driver Performance:**
- Distortions in perception and potential visual and auditory delusions make an individual's performance unpredictable and dangerous.
 - PCP use can cause drowsiness, convulsions, paranoia, agitation or coma, which makes operation of equipment or vehicles dangerous.

ANABOLIC STEROIDS FACT SHEET

Anabolic steroids are synthetically produced variants of the naturally occurring male hormone testosterone. Both males and females have testosterone produced in their bodies: males in the testes, and females in the ovaries and other tissues. The full name for this class of drugs is androgenic (promoting masculine characteristics) anabolic (tissue building) steroids (the class of drugs).

Common Names: Arnolds, gym candy, pumpers, 'roids, stackers, weight trainers, and Juice.

Paraphernalia: needles.

Method of Intake: In pill, capsule, or tablet form, anabolic steroids may be ingested. It is most commonly injected.

Signs and Symptoms of Use Include:

- Severe acne
- Increased muscle mass
- Drooling
- Profuse sweating
- Decreased sensitivity to pain
- Increased head circumference
- Thinning of hair / baldness
- High blood-pressure
- Severe disorientation
- Rapid heartbeat
- Anxiety, panic/fear/terror
- Aggressive/violent behavior
- Mask-like facial appearance
- Severe confusion and agitation
- Depression
- Delusions

Time Detectable in Urine Test:

- Certain forms of anabolic steroids are only detectable for 1-2 days while other forms can be detectable for up to 6 months.

Effects of Anabolic Steroid Use:

Mental Performance:

- Aggression
- Personality changes
- Thought distortions
- Delusions

Driver Performance:

- Distortions in perception and potential visual and auditory delusions make an individual's performance unpredictable and dangerous.
- Anabolic Steroid use can cause mania, aggression, paranoia, agitation or heart attack, which makes operation of equipment or vehicles dangerous.

ALCOHOL FACT SHEET

Alcohol, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Common Names: booze, brew, shine, hooch, and juice.

Generic/Chemical Names (Representative): Beer, wine, distilled spirits or liquor.

Alternative Sources: After-shave lotion, cough medicine, antiseptic mouthwash, vanilla extract, disinfectant, room deodorizer fluid, cologne, breath sprays, shaving creams, rubbing alcohol.

Duration of Single Dose Effect: Alcohol is fully absorbed into the bloodstream within 30 minutes to 2 hours, depending upon the beverage consumed and associated food intake. The body can metabolize about one quarter of an ounce (0.25 oz.—roughly half the amount in a can of beer) of alcohol per hour.

Signs and Symptoms of Use Include:

- Absenteeism, particularly at the beginning and end of the week
- Reduction of reflexes
- Slurred speech
- Loss of muscular coordination
- Chronic fatigue
- Long lunch periods
- Lying
- Odor on the breath or excessive use of mouthwash or mints to cover odor
- Impaired senses
- Availability and consumption of alcohol becomes the focus of social or professional activities
- Difficulty focusing, glazed appearance of the eyes
- Facial changes, skin slack and unhealthy looking
- Liver, gastrointestinal problems
- Loss of memory and/or black outs
- Mental slowdown, inability to grasp meaning of facts
- Poor balance
- Impairment in social functioning, low frustration tolerance, impulsiveness, over-sensitivity, mood swings, isolation, defiance, manipulation of others, uncharacteristic passive behavior
- Unexplained bruises and accidents

Detection Time:

Generally it takes about 1 hour per 1/2 ounce of alcohol consumed to sober up completely.

Effects of Alcohol Use:

Mental Performance:

- Lowered level of alertness
- Mood Swings
- False sense of power and energy
- Depression
- Anxiety

Driver Performance:

- Suspends or distorts sensory judgment, which can lead to increased risk of accidents.
- Heavy use of alcohol may produce “blackouts” which is extremely dangerous if operating vehicles and other types of equipment.
- The sick feeling associated with hangovers, including headaches, nausea, and other symptoms, can distract a driver’s attention and lead to accidents even though alcohol may no longer be detectable in the body.

The statistics reported above make it clear that alcohol can have a devastating effect on individual performance. By affecting vision, reflexes, coordination, emotions, aggressiveness, and judgment, alcohol deprives the individual of most of the tools he or she relies upon to perform safely.

CHAPTER 10 – FORMS

The following forms are to be used in managing the Substance-Free Workplace Policy and Controlled Substances and Alcohol Testing Policy.

FORM-1 – *Consent for Pre-Employment/Pre-Duty Controlled Substance Testing*

FORM-2 – *Request/Consent for Information from Previous Employer on Alcohol & Controlled Substances Testing*

FORM-3 – *Applicant/Employee Pre-Employment Testing History*

FORM-4 – *Reasonable Suspicion Testing - Behavior Incident Form*

FORM-5 – *Supervisor Training Acknowledgment Form*

FORM-6 – *Policy Acknowledgment Form*

(Chain of Custody and Control Forms (CCF) are supplied by the collection site)

Title 49 CFR, Part 382.301 of the DOT regulations requires pre-employment drug testing of all applicants for safety-sensitive positions with the Town of Newcomb. It also applies to employees in non-covered positions who apply for safety-sensitive positions covered by the regulations.

§382.113 Requirement for notice.

Before performing a controlled substance test under this part, each employer shall notify a driver that the controlled substance test is required by this part.

Employer Name: _____

Applicant/Employee Name (print): _____
First M.I. Last

You are hereby notified that the following test will be administered in compliance with the Federal Motor Carrier Safety Regulations:

1. The test is scheduled: Date: _____
Location: _____
Time: _____

2. Type of test: Controlled Substances/Drug

3. Reason for test: Pre-employment or Pre-Duty

4. Appointment instructions/comments:

I understand that as a condition of my consideration for employment for a safety-sensitive position with the Town of Newcomb, the above-identified test is required. I consent to the urine sample collection and testing for controlled substances.

I understand that a verified positive test result will make me disqualified to operate a commercial motor vehicle or perform safety-sensitive functions for the Town of Newcomb.

Applicant/Employee's Signature

Date

Witnessed by:

Employer Representative

Date

Employee Name: _____

Branch / Location / Work Site: _____

Date of Incident: _____ Time of Incident: _____ AM _____ PM

Date of Report: _____ Time of Report: _____ AM _____ PM

Supervisor Witnesses:

Name	Job Title	Date Supervisor Training Completed

Specific behavior incident details (check words describing detail):

Ability to Walk

- Normal Staggering Swaying Unable to walk
 On hands and knees

Ability to Stand

- Normal Sagging knees Rigid Unable to stand
 Swaying Wobbling Falling

Speech

- Normal Hoarse Whispering Unable to speak
 Shouting Incoherent Slurred
 Confused Whining Crying

Breath – Odor of alcoholic beverage

- None Faint Strong

Tremor of Hands

- None Slight Pronounced

Condition of Hair

- Normal Disheveled Matted

Condition of Eyes

- Normal Bloodshot Watery Pupils dilated

Color of Face

- Normal Flushed, red Pale

Condition of Clothes

- Orderly Mussed Soiled Partly dressed

Attitude

- Cooperative Insulting Hilarious Argumentative

Actions

- Normal Kicking Punching Hiccoughing
 Vomiting Sleepy Other (specify): _____

Note any other unusual physical characteristics or actions:

Note responses to these direct questions:

Are you ill?

Yes

No

Are you injured?

Yes

No

Did you go to a doctor or dentist today?

Yes

No

Actions taken by witnessing supervisor(s):

Was employee asked to submit to a test for substances?

Yes

No

If yes, did employee agree to submit to such a test?

Yes

No

What arrangements were made to get employee to collection site?

Date, time and location of controlled substance test:

Witness Signature

Date

Supervisor Completing Behavior Incident Report:

Supervisor Signature

Date

I hereby acknowledge that I have received training on the dangers of substance abuse and on the specific physical, behavioral, and performance indicators of drug and alcohol use that will mandate reasonable suspicion testing.

In total, I have received at least one hour of training on reasonable suspicion indicators for alcohol abuse and one hour of training on the subject of reasonable suspicion indicators for drug abuse.

DATE OF SUPERVISORY TRAINING

SUPERVISOR NAME (PLEASE PRINT)

SIGNATURE OF SUPERVISOR

DATE OF SIGNATURE

I hereby acknowledge that I have received a copy of the Town of Newcomb Controlled Substances and Alcohol Testing Policy outlining the Town's objectives, procedures, and regulations regarding the use of controlled substances and alcohol. I further acknowledge that I have read or will read the contents of this policy and will contact the Designated Employer Representative or my supervisor with any questions.

I understand that the objectives, procedures and regulations in these policies will remain in effect unless changes become necessary.

I understand that the Town of Newcomb reserves the right to interpret, add to, or revise any part of this policy. Moreover, these policies may be subject to alteration by changes in federal or state legislation, rules, and/or regulations.

I understand that failure to comply with any aspect of this policy will subject me to disciplinary action, up to and including termination of employment.

I agree to abide by the Town of Newcomb's Controlled Substances and Alcohol Testing Policy.

EMPLOYEE NAME (PLEASE PRINT)

EMPLOYEE SIGNATURE

DATE OF SIGNATURE

SIGNATURE OF DEPARTMENT HEAD

DATE RECEIVED BY DEPARTMENT HEAD