

# Drug & Alcohol: Plans in Place



Thursday, April 4, 2013  
Presenter: Sheila Mennenga, SPHR

# Agenda

- ▶ Speaker's Background
- ▶ Watertown Municipal Utilities Background
- ▶ “BS”...WMU's Drug Plan Before Sheila
- ▶ WMU's Drug Plan Today
- ▶ Other Lessons Learned
- ▶ Conclusion/Questions



# Who is Sheila Mennenga?



- Over 18 years of human resource experience
- Senior Professional in Human Resources (SPHR) – 2009
- Previously worked at a background screening company that provides drug and alcohol testing services to its clients
- Have been employed at Watertown Municipal Utilities over 5 years and oversee both DOT and non-DOT drug and alcohol programs.



# Watertown Municipal Utilities

## Watertown, SD



- Municipal Electric, Gas and Water Utility
- Over 13,000 customers
- 62 full-time employees



# Watertown Municipal Utilities Drug and Alcohol Testing Program



- **Two DOT Pools:**
  - CDL Drivers – 24 Employees
  - Pipeline – 32 Employees
  - Both – 6 Employees
- **One Non-DOT Pool:**
  - Everyone Else





# My First Experience with WMU Drug & Alcohol Testing Program:

- The Collection Site:
  - Dirty
  - Smelled Like Smoke
  - Sink In Collection Room
    - Not Taped Off – Just Told Not To Wash Hands When I Was Done
  - No Instructions Not To Flush
  - Did Not Ask For Any Identification!!!



# My First Experience with WMU Drug & Alcohol Testing Program:

- WMU's Plan:
  - Policy not revised since 1990
  - No defined process for distribution of the policy to new employees
  - No acknowledgement of receipt of the policy
  - No formal EAP or SAP in place
  - Supervisors untrained...or unwilling... to confront employees suspected of reasonable suspicion
  - No clear guidelines/consequences for a positive drug/alcohol test



# Plan Development:

**But We've  
Always Done  
It  
This Way**





# Plan Development:



# Time To Get To Work:

## WMU's Commitment To Drug & Alcohol Testing Program



# Time To Get To Work:

- Selected Testing Collection Facility
  - Medical Facility
  - Clean
  - No Smoking
  - Collections Completed By Trained Technicians



# Time To Get To Work:

- **Created Employee Assistance Program**
  - Up to three free, confidential counseling services per person per year.
  - Designed to help employees and their families deal with personal problems.
    - Marital or relationship
    - Alcohol and/or drug
    - Grief, loss or illness
    - Aging parent concerns
    - Job-related issues
    - Stress
    - Parent/child relationships
    - Family communication

**EAP**  
help. when you need it.





# Time To Get To Work:

- Policy Revision
  - Most difficult part
  - Determined not to reinvent the wheel!
  - Many good resources to help get started

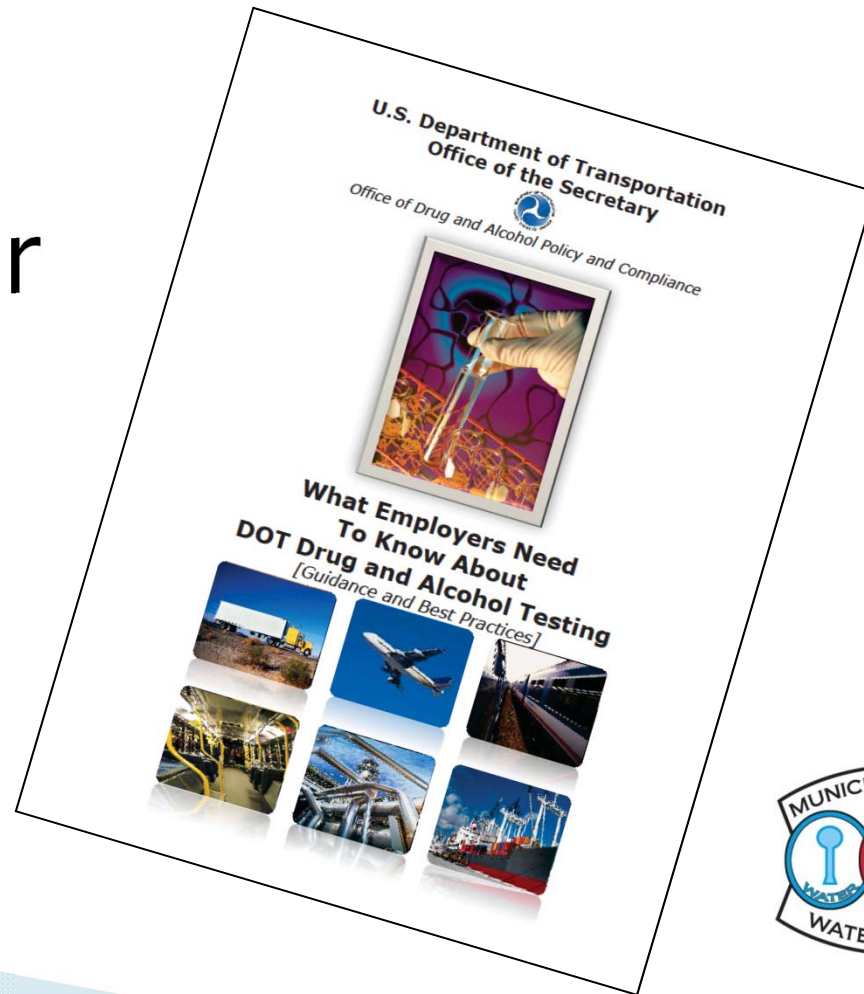




# Time To Get To Work:

[http://www.dot.gov/odapc/employer\\_handbook#](http://www.dot.gov/odapc/employer_handbook#)

## DOT Employer Handbook



# Time To Get To Work:

PHMSA Drug and Alcohol Testing Program Website

<http://www.phmsa.dot.gov/drug/index.html>



The screenshot shows the PHMSA website interface. At the top, the PHMSA logo is displayed with the text "U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration". Navigation links include "Careers", "Contact Us", "FAQs", and "Site Map". A search bar with a "Go" button and "Advanced Search" option is present. Below the header, there are tabs for "For the Public", "Hazmat Safety Community", "Pipeline Safety Community", "Briefing Room", and "Doing Business with PHMSA". The main content area is titled "Drug & Alcohol Testing" and includes a breadcrumb trail: "Home > Drug & Alcohol Testing".

**Home**

**About PHMSA**

- Mission and Goals
- About the Agency
- Key Officials
- Organization
- Calendar

**Promoting Safety & Security**

- Regulations
- Special Permits & Approvals
- International Standards
- Security
- Initiatives

**Encouraging Compliance**

- Training Resources
- Outreach
- Inspections & Enforcement
- Drug & Alcohol Testing

**Supporting Community Response**

- Preparedness & Response
- State Programs & Grants
- Incident Reporting

**PHMSA Resources**

- Data & Statistics
- eForms

**Drug & Alcohol Regulations**

49 CFR Part 199 (PHMSA drug and alcohol testing regulation) and 49 CFR Part 40 (DOT drug and alcohol testing regulation) require operators to conduct drug and alcohol testing of covered employees who perform operation, maintenance, or emergency-response functions regulated by 49 CFR Parts 192, 193, or 195.

- > [49 CFR Part 199 \(PHMSA Regulation\)](#)
- > [49 CFR Part 40 \(DOT Regulation\)](#)

**MIS Reporting**

Management Information System (MIS) report forms are used to collect pertinent drug and alcohol data from pipeline operators.

In accordance with 49 CFR 199.119 and 49 CFR 199.229, pipeline operators subject to 49 CFR part 199 regulations with more than 50 covered employees are required to submit an MIS report annually. Small operators (50 or fewer covered employees) subject to 49 CFR 199 are required to submit an MIS report only upon PHMSA's written notice.

[MIS Reporting Guidance](#)

[Federal Register Notice - CY 2013 Random Drug Rate, Contractor Reporting, and DAMIS UN/PW](#)

- > [MIS Online Reporting](#)

**Drug & Alcohol Testing Menu**

- > [Regulations & Reporting](#)
- > [Inspection Forms](#)
- > [Guidance & Interpretations](#)
- > [Post Accident Drug and Alcohol Testing](#)
- > [Contact Us](#)

**Related Documents**

- > [Final Rule Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Drug and Alcohol Management Information System \(MIS\) Reporting](#)

The page also features a "No Alcohol/Drugs" sign (a red circle with a diagonal slash over a glass of beer and pills) and a "7-203" emergency sign.



# Time To Get To Work: Other Employers



# Time To Get To Work:

## ➤ Policy Results: ✓ WMU Anti-Drug Plan

<p><b>Watertown Municipal Utilities</b> 901 – 4<sup>th</sup> Avenue SW Watertown, SD 57201 (605) 882-6233</p> <p>Original Date of Implementation: August 21, 1990 Plan Revision Date: July 26, 2010 Plan Revision Date: October 1, 2010 Plan Revision Date: September 27, 2011 Plan Revision Date: May 4, 2012</p>	<p style="text-align: right;"><b>Anti-Drug Plan</b></p> <p>U.S. Department of Transportation (DOT) <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> Federal Motor Carrier Safety Administration (FMCSA) <a href="http://www.fmcsa.dot.gov">http://www.fmcsa.dot.gov</a> Pipeline &amp; Hazardous Materials Safety Administration (PHMSA) <a href="http://www.phmsa.dot.gov">http://www.phmsa.dot.gov</a></p>
<p><b>I. INTRODUCTION</b></p> <p>A. Prohibited Drug Policy 3 B. Implementation of Anti-Drug Plan 3 C. Background 4 D. Definitions 4 E. Employer Responsibilities 9 F. Preemption Procedures 9 G. General Responsibilities of Employer under 49 CFR Part 40 9 H. DOT Testing versus Non-DOT Testing Provisions 10 I. Employer's Use of Service Agent to Meet DOT Drug &amp; Alcohol Testing Requirements 10 J. Employer's Responsibility For Obtaining Information From Its Service Agents 10 K. Employer Use of Consent Form 10 L. Where Other Information on Employer Responsibilities maybe found in this Plan 10</p> <p><b>II. DRUG TESTING REQUIREMENTS</b></p>	





# Time To Get To Work:

## Policy Results: Alcohol Misuse Prevention Plan

<p><b>Watertown Municipal Utilities</b> 901 – 4<sup>th</sup> Avenue SW Watertown, SD 57201 (605) 882-6233</p> <p>Original Date of Implementation: August 21, 1990 Plan Revision Date: July 26, 2010</p>	<p><b>Alcohol Misuse Prevention Plan</b> U.S. Department of Transportation (DOT) <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> Federal Motor Carrier Safety Administration (FMCSA) <a href="http://www.fmcsa.dot.gov">http://www.fmcsa.dot.gov</a> Pipeline &amp; Hazardous Materials Safety Administration (PHMSA) <a href="http://www.phmsa.dot.gov">http://www.phmsa.dot.gov</a></p>
<p><b>I. INTRODUCTION</b></p> <p>A. Alcohol Misuse Prevention Policy 3 B. Implementation of Alcohol Misuse Prevention Plan 3 C. Background 4 D. Preemption Provisions 4 E. Definitions 4 F. Company Responsibilities 7 G. Background Procedures 8 H. DOT Testing versus Non-DOT Testing Provisions 9 I. Company's Use of Service Agent to Meet DOT Drug and Alcohol Testing Requirements 9 J. Company's Responsibility for Obtaining Information from Service Agents 9</p> <p><b>II. EMPLOYEE/SUPERVISOR ALCOHOL TESTING PROVISIONS</b></p>	





# Time To Get To Work:

- Program Results:
  - Part of new employee orientation checklist
  - Drug Plan Acknowledgement



DRUG AND ALCOHOL ACKNOWLEDGMENT AND RECEIPT AGREEMENT

I, the undersigned employee have been made aware of the provisions and coverage of Watertown Municipal Utilities' Anti Drug and Alcohol Plans. It outlines the procedures concerning Drug and Alcohol Testing and the requirements by the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Federal Motor Carrier Safety Administration (FMCSA), and the Department of Transportation. I understand that WMU's plans are available for review at local WMU facilities and that I may request at anytime a copy of the plans from the Human Resource Department and they will be provided to me.

I am fully aware, and agree, that I may be discharged or otherwise disciplined for any violation by me of WMU's Anti Drug and Alcohol Plans, for failing a drug or alcohol test, for refusing to provide urine and/or breath specimens when requested by my employer, for the failure to cooperate with the forms and other documents, and/or for any other Drug and Alcohol Testing Program.

I also acknowledge that I have received a copy of my drug and alcohol educational material and I understand that WMU has a confidential Employee Assistance Program for resolving problems associated with substance abuse that I or a dependent family member can access in my local area.

\_\_\_\_\_  
Applicant/Employee Name  
(Please Print)

\_\_\_\_\_  
Applicant/Employee Signature

\_\_\_\_\_  
Date



# Time To Get To Work:

## ➤ Program Results:

### ➤ Supervisor Training

- Indicators of Probable Drug Use – 1 hour
- Indicators of Probable Alcohol Use – 1 hour



# Time To Get To Work:

## ➤ Program Results:



# Time To Get To Work:

## ➤ Program Results:

- What happens if there is a violation of WMU's Drug and Alcohol Plan?
- Law requires immediate removal from safety-sensitive function, but how should we discipline the employee?

**FIRED!**





# Time To Get To Work: ➤ Clear, Written Consequences

## CONSEQUENCES FOR VIOLATIONS OF ALCOHOL MISUSE AND DRUG POLICY:

- A. The illegal use, sale and possession of controlled drugs or substances while off duty and off WMU's premises which results in a criminal conviction is unacceptable. Off-duty alcohol-related criminal convictions are also unacceptable. They may affect the job performance and confidence of the public in WMU's ability to meet its responsibilities. Such off-duty conduct may be proper cause for disciplinary action.
- B. All employees convicted of a drug and/or alcohol violation may be subject to further disciplinary action, up to and including termination of employment, according to the employee misconduct policy of the Personnel Manual.
- C. Any employee who refuses to take a required test, fails to report for a test when scheduled, or fails to successfully complete a required rehabilitation program will be terminated.
- D. Employees who fail a drug and/or alcohol test will be informed of the results of their test. Employees who fail a test will be required to comply with all specified consequences as a condition of their continued employment.
- E. Employees who are terminated for a drug and/or alcohol policy violation may reapply for employment five years after the termination.
- F. Applicants who test non-negative for drugs may reapply after five years.
- G. The cost of the initial drug and/or alcohol test(s) are paid for by the Utilities. Any subsequent testing and/or costs associated with rehabilitation are the responsibility of the employee.
- H. All employees who are "on the clock" will be subject to the following alcohol and/or drug testing:

### ALCOHOL:

TYPE OF TEST	ALCOHOL CONCENTRATION	1 <sup>ST</sup> NON-NEGATIVE	2 <sup>ND</sup> NON-NEGATIVE	3 <sup>RD</sup> NON-NEGATIVE
Random (for employees)	Less than .02	1 day suspension without pay	5 day suspension without pay and SAFE or termination*	Termination
	.02 - .039	5 day suspension without pay and SAFE	10 day suspension without pay and SAFE or termination*	Termination
	.04 and greater	10 day suspension without pay and SAFE	20 day suspension without pay and SAFE or termination*	Termination
Reasonable Suspicion	Less than .02	1 day suspension without pay	5 day suspension without pay and SAFE or termination*	Termination
	.02 - .039	5 day suspension without pay and SAFE	10 day suspension without pay and SAFE or termination*	Termination
	.04 and greater	10 day suspension without pay and SAFE	20 day suspension without pay and SAFE or termination*	Termination
Return to Duty	Less than .02	Termination	Termination	N/A
	.02 - .039	Termination	Termination	N/A
	.04 and greater	Termination	Termination	N/A
Follow-Up	Less than .02	Termination	Termination	N/A
	.02 - .039	Termination	Termination	N/A
	.04 and greater	Termination	Termination	N/A
Post-Accident	Less than .02	Termination	N/A	N/A
	.02 - .039	Termination	N/A	N/A
	.04 and greater	Termination	N/A	N/A

SAFE = Substance Abuse Professional Evaluation

## DRUGS / CONTROLLED SUBSTANCES

TYPE OF TEST	1 <sup>ST</sup> NON-NEGATIVE	2 <sup>ND</sup> NON-NEGATIVE
Pre-employment	Offer of employment rescinded	N/A
Random (CDL and Pipeline only)	10 day suspension without pay and SAFE or termination*	Termination
Reasonable Suspicion	10 day suspension without pay and SAFE or termination*	Termination
Return-to-Duty	Termination	N/A
Follow-Up	Termination	N/A
Post-Accident	Termination	N/A

SAFE = Substance Abuse Professional Evaluation

\* Employees who commit the offense as outlined during the first year of employment will be terminated.

NOTE: Multi-day suspensions are defined as working days, not consecutive days

## DRUG/ALCOHOL OPERATOR CONVICTIONS

CONVICTION:	1 <sup>ST</sup> CONVICTION	2 <sup>ND</sup> CONVICTION	3 <sup>RD</sup> CONVICTION
While operating a Utilities vehicle	Termination	N/A	N/A
While operating a personal vehicle with work permit issued	Completion of Court Recommendations	Completion of Court Recommendations	Completion of Court Recommendations and SAFE
While operating a personal vehicle with loss of license (less than 60 days) if driving is requirement of position	Reassignment* or LWOP* at Employer's Discretion	SAFE and Reassignment* or LWOP* at Employer's Discretion	SAFE and LWOP*
While operating a personal vehicle with loss of license (more than 60 days) if driving is requirement of position	SAFE and Reassignment* at Employer's Discretion	Termination	N/A
While operating a personal vehicle with loss of license and driving is not a requirement of position	No Action Required	Recommend Assistance Through the EAP	Referral to EAP

LWOP = Leave Without Pay | SAFE = Substance Abuse Professional Evaluation | SAP = Employee Assistance Program

\* Waterford Utilities will attempt to reassign employees who have lost their operator's license to a position that does not require driving. This reassignment is at the discretion of the supervisor and will be based on 1) ability to perform other essential functions of the current position or the essential functions of another position (Department and 2) amount of work available when the reassignment is requested.

\* Employees may use accrued vacation instead of Leave Without Pay. Employees may use accrued sick leave instead of Leave Without Pay if leave is eligible for the Family Medical Leave Act (FMLA)





# Time To Get To Work:

## ➤ Program Results:

➤ Obtain Prior Testing Records

➤ DOT Reg 49 CFR Part 40, Section 40.25

§ 40.25 Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?



**Yes!**



# Other Lessons Learned:

## ➤ Keep policies current

➤ <http://www.dot.gov/odapc>


United States Department of Transportation

Home > Resources > For Partners > Drug and Alcohol Testing >

### Office of Drug & Alcohol Policy & Compliance

#### Overview

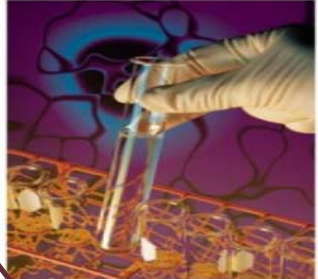
The Office of Drug and Alcohol Policy and Compliance advises the Secretary on national and international drug testing and control issues and is the principal advisor to the Secretary on rules related to the drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. The Office publishes regulations and provides official interpretations on drug and alcohol testing, including how to conduct tests, and the evaluation and treatment procedures necessary for returning employees to duty after testing violations. The Office also coordinates the Department's involvement with the President's National Drug Control Strategy annually.

 Secretary of Transportation Statement  
**Why is this Program so Important?**



#### Most Viewed Information

- [49 CFR Part 40 \(Drug and Alcohol Regulations\)](#)
- [Resources for Employers](#)
- [Documents and Forms](#)
- [49 CFR Part 40 \(Questions and Answers\)](#)
- [Resources for Employees](#)

#### Most Viewed Documents



[Subscribe to ODAPC Email Updates](#)



# Other Lessons Learned:

- Is Random Testing Truly Random?



# Other Lessons Learned:

## ➤ Address Suspected Behavior



# Other Lessons Learned:

## ➤ Difference Between EAP and SAP

- EAP – Employee Assistance Program
- SAP – Substance Abuse Professional
  - A Substance Abuse Professional (SAP) evaluates workers who have violated a DOT drug and alcohol program regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare.
  - Not everyone is certified as a SAP!





# Other Lessons Learned:

- Contractor–Employee Responsibilities
  - PHMSA Regulation – 49 CFR Part 199
  - § 199.245 Contractor Employees
    - Operator is responsible for ensuring that contractors are meeting the requirements of this regulation





# QUESTIONS?

## Contact Information

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