

Council Meeting of  
December 8, 2009

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, CA

**Members of the Council:**

**SUBJECT: Human Resources – Adopt Revised Drug and Alcohol Policy  
Pursuant to the U.S. Department of Transportation Regulations.**

**Expenditure: None.**

**RECOMMENDATION**

Recommendation of the Human Resources Director that City Council adopt a revised Drug and Alcohol Policy pursuant to the U.S. Department of Transportation (DOT) regulations covering employees in safety-sensitive job functions.

Funding: None required for this action.

**BACKGROUND**

In 1991, in response to growing concerns about the risks posed by the use of drugs and misuse of alcohol by transportation industry employees, The United States Congress passed The Omnibus Transportation Employee Testing Act. The Omnibus Act requires mandatory drug and alcohol testing of “safety-sensitive” transportation employees in aviation, maritime, mass transit, railroads and trucking industries. Safety-sensitive employees are those who are required to hold a commercial drivers’ license in order to drive vehicles including transit busses, street sweepers and refuse trucks. Employees who repair and service those vehicles are also included.

The U.S. Department of Transportation (DOT) publishes rules and regulations on who must conduct drug and alcohol tests, how to conduct those tests and the procedures to use when testing. The DOT regulations are administered by several governmental agencies including the Federal Motor Carrier Safety Administration (FMCSA) and the Federal Transit Administration (FTA). The Public Works and Community Services Departments have employees who perform safety-sensitive functions regulated by the FMCSA. The Transit Department is regulated by the FTA.

A brief overview of the DOT drug and alcohol testing requirements is attached (Attachment A). The DOT requires each employer to promulgate a policy that defines its drug and alcohol testing program and requires that the employer’s governing body formally adopt the policy.

## ANALYSIS

The City's current DOT policy covering safety-sensitive employees was adopted by City Council and implemented in January 1995. In December 2008, the FTA conducted a random audit of the City's policy and made several recommendations where the policy did not fully address the current FTA technical requirements.

The audit was performed by reviewing 58 technical and policy compliance issues. A list of the 58 questions along with the FTA's finding for each is attached (Attachment B). The shaded questions represent areas where the City policy did not meet or address the current FTA policy requirement.

Some examples include:

- Question #4: Does the category of covered "safety sensitive" functions include operating a revenue service vehicle, whether in or out of service?

Current policy, section II: "Operating revenue service vehicle"

Proposed policy, section IV: "Operating revenue service vehicle, in or out of revenue service".

- Question #22: Does the policy state that random selection shall be by a scientifically valid method, such as a random number table or a computer-based random number generator?

Current policy, section VE: States that testing will be "unannounced and random". See Types of Drug and Alcohol Testing, Section V E.

Revised policy, section V2d: States selection shall be performed by "a computer-based number generator".

- Question #57: If the policy contains provisions that are not mandated by the FTA, i.e. employer requirements, are those elements clearly identified?

For example, the DOT regulations do not require an employer to terminate or retain and employee who has a positive test. That is an employer decision and must be identified in **BOLD** print.

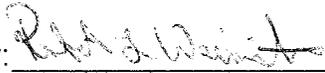
Current policy. Employer elements, such as the consequences for a positive test and disciplinary action are not identified in **BOLD** print.

Revised policy. Consequences for a positive test and disciplinary action are identified in **BOLD** print.

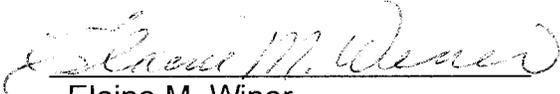
The FTA has reviewed the proposed policy and determined it meets all of their requirements. The City has met and conferred with the employee groups impacted by the policy to receive their input and concurrence. Once the policy is adopted by Council the Departments will provide formal training and issue a copy of the policy to each employee.

Respectfully submitted,

ELAINE M. WINER  
Human Resources Director

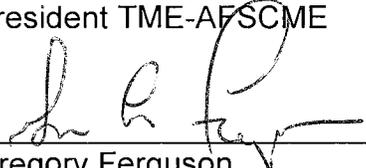
By:   
Robert L. Weinmeister  
Sr. Human Resources Analyst

CONCUR:

  
Elaine M. Winer  
Human Resources Director

  
LeRoy J. Jackson  
City Manager

  
Jeannie Moorman  
President TME-AFSCME

  
Gregory Ferguson  
Vice President TME AFSCME

  
William T. Byron  
President TPSA

Attachments:

- A) Overview of U.S. DOT Drug & Alcohol Testing Requirements
- B) DOT Policy Audit Questions
- C) Current DOT Policy for Safety-Sensitive Employees
- D) Proposed DOT Policy for Safety-Sensitive Employees



## Overview of the DOT Testing Requirements

### What is the Omnibus Act?

- Omnibus Transportation Employees Testing Act of 1991
- Regulations are mandated by the:
  - US Department of Transportation (DOT)
  - Federal Transit Administration (FTA)
  - Federal Motor Carrier Safety Administration (FMCSA)

### What do the regulations require employers to do?

- Employers must conduct drug & alcohol testing of “Safety-Sensitive” employees in the following industries:
  - Aviation
  - Maritime
  - Mass transit
  - Motor carrier
  - Pipeline
  - Railroad

### Who are Safety-Sensitive Employees?

- FTA:
  - Operate a transit vehicle or vehicle requiring a CDL (Class A or B)
  - Dispatch/control movement of a transit vehicle
  - Maintain a transit vehicle
- FHWA:
  - Driving a commercial motor vehicle which requires the driver to have a commercial driver's license (CDL).
  - Inspecting, servicing, or repairing any commercial motor vehicle.

### What alcohol use is prohibited?

- Reporting for duty with a blood alcohol level of 0.04 percent or greater
- Consumption of alcohol within 4 hours prior to performing safety-sensitive functions
- Using alcohol any time while performing safety-sensitive functions
- Within 8 hours following a vehicle accident
- Refusing to submit to a required alcohol test

### What drug use is prohibited?

- Reporting for duty or remaining on duty after employee has used a prohibited controlled substance
- Refusing to submit to a required drug test

### What are the prohibited drugs?

- Amphetamines
- Cocaine
- Marijuana
- Opiates
- Phencyclidine (PCP)

**What type of testing is required?**

- Pre-employment/Pre-assignment
- Post-Accident
- Random
- Reasonable Suspicion
- Return-to-duty & Follow-up

**How does random testing work?**

- Tests are random, unannounced and conducted evenly throughout the year
- FTA requires 25% of employees tested for drugs and 10% tested for alcohol
- FMCSA requires 50% of employees tested for drugs and 10% tested for alcohol

**How is drug testing performed?**

- By analyzing employee's urine specimen
- Test performed at laboratory certified by the Department of Health and Human Services
- Specimen is split into two bottles and sent to lab for analysis
- If bottle A is confirmed positive, employee may request bottle B be tested at another certified lab

**How is alcohol testing performed?**

- Breath testing using evidential breath testing device (EBT)
  - Result less than 0.02 = negative
  - Result between 0.02 - .039 - temporarily removed from duty, must retest less than 0.02 before returning to duty
  - Greater than 0.04 = POSITIVE test

**What are the consequences following a first positive test?**

- Employee is immediately removed from duty
- Referred to the Employee Assistance Program (EAP) for assessment by a Substance Abuse Professional (SAP)
- Cannot return to work until
  - SAP recommended treatment is completed
  - Negative return-to duty drug and alcohol test
  - Submit to unannounced follow-up testing from 1 to 5 years; determined by SAP
  - Disciplinary action may be taken

**What constitutes a refusal to test?**

- Refusal to test = a POSITIVE test. Examples include:
  - Failure to appear for a test
  - Leaving the collection site before completing test
  - Failure to provide a urine sample
  - Failure to cooperate with any part of the process
  - Specimen tampering

## DOT Audit – Policy Questions &amp; Requirements

Shaded questions indicate requirement in current is inconsistent, missing or inadequate.

|   | Policy Requirement  | Regulation   | Requirement Met  |
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| 1 | LOCAL BOARD ADOPTION:<br>Has the policy, as most recently revised, been adopted by the local governing board of the employer or operator, or other responsible individual with appropriate delegation of authority?         |  | PENDING: The revised policy will need to be adopted by the City Council.   |
| 2 | CONTACT PERSON: Does the policy identify the person, office, branch or position designated by the employer to answer employee questions about the anti-drug and alcohol misuse prevention program?                          | Section 655.15(a) states that the policy shall provide: "The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs."   |  |
| 3 | COVERED EMPLOYEES:<br>Does the policy correctly and completely list, or describe, the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program? | Section 655.15(b) states the policy shall include: "The categories of employees who are subject to the provisions of this part."<br>Safety-sensitive functions are described in Section 655.4, Definitions, under "Safety-sensitive." The policy should clarify which jobs are covered because they do or may involve the performance of safety-sensitive duties.  |  |
| 4 | Does the category of covered activities include operating a revenue service vehicle, whether in or out of service?  | Section 655.4 defines safety-sensitive functions as including "Operating a revenue service vehicle, including when not in revenue service."  | Current policy - NO.<br>The description of this type of SS function is missing. See Definition of Safety-Sensitive Employees, Section II.<br><br>Revised policy – YES<br>Description included.<br>See Covered Employees, Section IV. |
| 5 | Does the category of covered activities include maintaining a revenue service vehicle or equipment used in revenue service?   | Section 655.4 defines safety-sensitive functions as including "Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service."   |  |
| 6 | Does the category of covered activities include controlling the dispatch or movement of a revenue service vehicle, and if so, is the category description consistent with Part 655?   | Section 655.4 defines safety-sensitive functions as including "Controlling dispatch or movement of a revenue service vehicle."<br>Part III, Subpart A of the preamble to Part 655 states with regard to dispatchers that "Since each employer uses its own terminology to describe job categories that involve safety-sensitive functions, each employer must continue to decide whether a particular employee performs any of the functions listed in the |  |

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|    |  | definition of 'safety-sensitive function,' including bus dispatchers. FTA will allow each employer to determine whether a particular dispatcher performs or may perform a safety-sensitive function."  |  |
| 7  | Does the category of covered activities include operating a non-revenue service vehicle that requires a CDL?   | Section 655.4 defines safety-sensitive functions as including "Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License."  |  |
| 8  | Does the category of covered activities include carrying a firearm for security purposes?  | Section 655.4 defines safety-sensitive functions as including "Carrying a firearm for security purposes."  |  |
| 9  | COVERED VOLUNTEERS: If an operator has volunteers performing safety-sensitive duties, are the volunteers classified with covered employees (subject to drug and alcohol testing) if: 1) the volunteer is required to hold a CDL, or; 2)the volunteer receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity? | Section 655.4 defines covered employee, stating that "A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity."  |  |
| 10 | ANALYSIS OF SAFETY-SENSITIVE JOB FUNCTIONS: Does the policy indicate which job titles are covered because the employer has determined that the duties require or may require the performance of safety-sensitive duties?   | Section 655.15(b) indicates that the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program shall be included in the policy. The key issue is the type of work performed rather than any particular job title (See preamble to Part 655).<br>Part III, Subpart A of the preamble to Part 655 states ..."Since each employer uses its own terminology to describe job categories that involve safety-sensitive functions, each employer must continue to decide whether a particular employee performs any of the functions listed in the definition of 'safety-sensitive function'..." |  |
| 11 | PROHIBITED DRUG USAGE: Does the policy indicate that employees may be tested for the five specified drugs anytime while on duty?   | Section 655.45(i) states" "A covered employee may be randomly tested for prohibited drug use anytime while on duty."   |  |
| 12 | PROHIBITED BEHAVIOR - ALCOHOL: Does the policy adequately contain specific information concerning employee conduct that is prohibited by the alcohol misuse prevention portion of FTA's rule? The topics include   | Sections 655.32, 655.33, 655.34, 655.43(c) and 655.45(i) as detailed below.  |  |

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|    | <p>the following periods of compliance:</p> <p>1) No usage four hours before performing and while performing a safety-sensitive duty;</p> <p>2) No usage for 8 hours following an accident or until a post-accident alcohol test is performed; and</p> <p>3) Testing is permissible only just before, during and just following the performance of a safety-sensitive duty.</p> |   |  |
| 13 | <p>Alcohol Usage: Does the policy indicate that alcohol use is impermissible for 4 hours prior to performing a safety-sensitive duty, while on-call to perform a safety-sensitive duty and while performing a safety-sensitive duty?</p>  | <p>Section 655.33(a) states: "Each employer shall prohibit a covered employee from using alcohol within 4 hours prior to performing safety-sensitive functions. No employer having actual knowledge that a covered employee has used alcohol within four hours of performing a safety-sensitive function shall permit the employee to perform or continue to perform safety-sensitive functions."</p> <p>Section 655.33(b) states: "An employer shall prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure shall include (1) The opportunity for the covered employee to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her safety-sensitive function [and] (2) The requirement that the covered employee take an alcohol test, if the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function."</p> <p>Section 655.32 states: "Each employer shall prohibit a covered employee from using alcohol while performing safety-sensitive functions."</p> |  |
| 14 | <p>Alcohol Testing: Does the policy indicate that alcohol use by any covered employee required to take a post-accident alcohol test is prohibited for 8 hours following the accident or until the alcohol test is performed, whichever occurs first?</p>  | <p>Section 655.34 states: "Each employer shall prohibit alcohol use by any covered employee required to take a post-accident alcohol test under Section 655.44 for eight hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first."</p>   |  |
| 15 | <p>Alcohol Testing: Does the policy indicate that random and reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties?</p>   | <p>Section 655.45(i) states: "A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions." Section 655.43(c) contains a similar statement for reasonable suspicion alcohol testing.</p>  |  |

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| <p>16</p> | <p>CIRCUMSTANCES OF TESTING: PRE-EMPLOYMENT: Does the policy provide a complete and detailed discussion of the following requirements for pre-employment testing:<br/>                 Negative drug test result received before 1st performance of a safety-sensitive duty;<br/>                 Evidence of successful completion of a rehabilitation program from an applicant or employee who has previously failed a DOT drug test;<br/>                 Testing for an employee who has not performed safety-sensitive duties for 90 consecutive days and has not been in the random pool; and<br/>                 Part 40 compliant if the employer chooses to do alcohol testing?</p> | <p>Section 655.15(d) states that the policy shall include "The specific circumstances under which a covered employee will be tested for prohibited drugs or alcohol misuse under this part."</p>  |  |
| <p>17</p> | <p>Pre-employment drug testing: Does the policy state that:<br/>                 The candidate must produce a negative drug test result prior to first performing a safety-sensitive duty;<br/>                 If the test is canceled, the employee must retake and pass the test before being hired; and<br/>                 An employee being transferred must provide a verified negative urinalysis prior to performing a safety-sensitive function?</p>  | <p>Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result." If the policy specifies that an applicant may not be hired until after a verified negative drug test result, that is an acceptable alternative to the first performance of a safety-sensitive duty.</p> <p>Section 655.41(c) states: "If a pre-employment drug test is canceled, the employer shall require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result."</p> <p>Section 655.41(b) states: "An employer may not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result."</p> | <p>Current policy – NO<br/>                 For applicants the policy states that a positive test will render them ineligible for 6 months. The policy does not specifically state a negative drug test is required before performing SS functions.<br/>                 See Consequences, Section VII A.</p> <p>For transfers, the policy states that a positive test will render them ineligible for 6 months. It does not specifically state a negative drug test is required before performing SS functions.<br/>                 See Consequences, Section VII B.</p> <p>Revised policy – YES<br/>                 See Types of Testing and Requirements Section V 1 a) &amp; b).</p> |
| <p>18</p> | <p>Pre-employment drug testing: Does the procedure for a covered employee or applicant who has previously failed or refused a DOT pre-employment drug test include requiring</p>   | <p>Section 655.41(a)(2) states: "When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62."</p>  | <p>Current policy – NO<br/>                 The requirement that an applicant or transfer with a prior DOT administered positive test must successfully completed a</p>  |

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|    | evidence that the employee has successfully completed a referral, evaluation and treatment plan?   |   | referral, evaluation and treatment plan is not addressed in current policy.<br><br>Revised policy – YES<br>See Section VIII A 1. & 2. – Consequences.   |
| 19 | Pre-employment drug testing: Does the policy include the provision that a covered employee who has not performed a safety-sensitive duty for 90 consecutive days or more and has not been in the employer's random selection pool shall take a pre-employment drug test with a verified negative result before returning to safety-sensitive duties?   | Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."   | Current policy – NO<br>This requirement is not addressed in the current policy.<br><br>Revised policy – YES<br>See Section V 1 b).  |
| 20 | Pre-employment alcohol testing: If the employer chooses to conduct pre-employment alcohol testing, are all the following requirements covered:<br>1) Testing before the first performance of a safety-sensitive function for every covered employee;<br>2) Testing all covered employees for this type of alcohol testing;<br>3) Testing conducted after the employer makes a contingent offer of employment or transfer subject to the employee passing this alcohol test;<br>4) Testing must follow the procedures described in Part 40; and<br>5) The covered employee must not be allowed to begin performing safety-sensitive duties unless the result is a BAC below 0.02. | Section 655.42 states: "An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, the employer must comply with the following requirements:<br>(a) The employer must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).<br>(b) The employer must treat all covered employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others).<br>(c) The employer must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.<br>(d) The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40.<br>(e) The employer must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02." | Current policy – NO, inconsistent.<br>Section V A, Pre-employment Testing, refers only to pre-employment drug testing. While Section VII A, Consequences of a Positive Result, refers to both pre-employment drug and alcohol testing.<br><br>The finding relates to the same deficiency noted in question #17, except in regards to alcohol testing. Under Section VII, it only states that the candidate/applicant will be ineligible for a SS position for 6 months following a positive alcohol test. See Consequences, Section VII B.<br><br>Revised policy – YES<br>See Types of Testing and Requirements, Section V 1 a) & b). |
| 21 | CIRCUMSTANCES; RANDOM TESTING FOR DRUGS AND ALCOHOL: Does the policy describe random testing as: Scientifically valid;   | Section 655.45(e), (g), and (h) state that a compliant random testing program must include the following: (1) selections made using a scientifically valid method; (2) testing spread reasonably throughout all periods of the calendar year; (3) testing is unannounced and  |   |

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|    | Reasonably spread;<br>Unannounced and immediate;<br>and<br>With no discretion by managers<br>(i.e., all covered employees<br>having an equal chance of<br>being selected)?  | immediate; and (4) allows no discretion by personnel<br>as to who is selected or notified to proceed for testing.   |   |
| 22 | Random selection method:<br>Does the policy state that<br>random selection shall be by a<br>scientifically valid method, such<br>as a random number table or a<br>computer-based random<br>number generator?  | Section 655.45(e) states: "The selection of employees<br>for random drug and alcohol testing shall be made by<br>a scientifically valid method, such as a random<br>number table or a computer-based random number<br>generator that is matched with employees' Social<br>Security numbers, payroll identification numbers, or<br>other comparable identifying numbers."  | Current policy – NO<br>The policy only states that<br>the testing will be<br>"unannounced and<br>random"<br>See Types of Drug and<br>Alcohol Testing, Section V<br>E.<br><br>Revised policy – YES<br>Policy states selection<br>performed by "a computer-<br>based number generator".<br>See Types of Testing and<br>Requirements, Section V<br>2 d).                                       |
| 23 | Reasonably spread: Does the<br>policy state that random tests<br>are to be spread reasonably<br>throughout the year?<br>Operationally, this means that:<br>(1) Testing is continuous<br>throughout the year (i.e., testing<br>starts in January and there is no<br>period during which testing is<br>halted); and (2) Testing is<br>conducted on all days and<br>hours during which the transit<br>service is in operation. | Section 655.45(g) states "Each employer shall ensure<br>that . . . the dates for administering random tests are<br>spread reasonably throughout the calendar year.<br>Random testing must be conducted at all times of day<br>when safety-sensitive functions are performed." This<br>ensures that employees will have a reasonable<br>expectation that they might be called for a test on any<br>day and at any time they are at work. | Current policy – NO -<br>inadequate<br>Language states "To the<br>extent feasible, random<br>tests will . . ."<br>See Types of Drug and<br>Alcohol Testing, Section V<br>E.<br><br>Revised policy – YES<br>Language is specific<br>"Testing will be conducted<br>. . ."<br>See Types of Testing and<br>Requirements, Section V<br>2 e).   |
| 24 | Unannounced and immediate:<br>Does the policy state that<br>random test dates are<br>unannounced and immediate?<br>(Employees are required to go<br>for the test upon notification,<br>and to have little opportunity to<br>circumvent the test<br>procedures.)   | Section 655.45(g) states: "Each employer shall ensure<br>that random drug and alcohol tests conducted under<br>this part are unannounced and unpredictable . . ."<br>Section 655.45(h) further states: "Each employer shall<br>require that each covered employee who is notified of<br>selection for random drug or random alcohol testing<br>proceed to the test site immediately."   | Current policy – NO,<br>inadequate.<br>Language states the<br>"guideline" is to have<br>"employees tested within<br>one hour of being notified<br>of the random test<br>requirement." Implies<br>there is discussion.<br>See Types of Drug and<br>Alcohol Testing, Section V<br>E.<br><br>Revised policy – YES<br>Language is specific<br>"Selected employees will<br>not be notified until |

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|    |  |  | immediately prior to the time that they are required to proceed to the collection site." See Types of Testing and Requirements, Section V 2 e).   |
| 25 | No discretion: Does the policy state that each covered employee shall have an equal chance of being tested each time selections are made?  | Section 655.45(e) states "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator . . . , each covered employee shall have an equal chance of being tested each time selections are made."  | Current policy – NO<br><br>Revised policy – YES<br>Specific language states "Every covered employee will have an equal probability of being selected each time the random selection procedure is performed." See Types of Testing and Requirements, Section V 2 d). |
| 26 | CIRCUMSTANCES: POST-ACCIDENT: Required testing for Drugs and Alcohol. Does the policy describe post-accident testing as:<br>Meeting FTA thresholds;<br>Meeting drug and alcohol testing time limits; and<br>Requiring employees to remain "readily available" for testing?   | Section 655.44 outlines the FTA criteria for conducting post-accident tests.   |   |
| 27 | FTA Thresholds: Does the policy state the FTA post-accident testing thresholds as follows:<br>A fatality;<br>Bodily injury requiring medical attention away from the scene of the accident or<br>If the mass-transit vehicle is a rubber-tire vehicle and any of the involved vehicles is towed away;<br>If the mass transit vehicle is a rail vehicle or vessel and the mass transit vehicle is removed from revenue service? | Section 655.4 (Accident) defines the FTA criteria for a covered accident after which drug and alcohol testing must be conducted, as follows:<br>"Accident means an occurrence associated with the operation of a vehicle, if as a result:<br>(1) An individual dies; or<br>(2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or<br>(3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or<br>(4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation."<br>If company-specific elements are also included, these must be identified as the employer's own criteria for completing post accident tests under the employer's own authority. | Current policy – NO.<br>Definitions not complete - "immediate medical treatment" missing.<br>See Types of Drug and Alcohol Testing, Section V D.<br><br>Revised policy – YES<br>See Types of Testing and Requirements, Section V 3 b 2), Post Accident Testing.     |

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| <p>28</p> | <p>Who must be tested: FATALITY? Does the policy state that, in a fatality, the following individuals must be tested:<br/>All surviving covered employees operating the mass transit vehicle at the time of the accident; and<br/>All other covered employees whose performance could have contributed to the accident?</p>  | <p>Section 655.44(a)(1)(i) states: "As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the mass transit vehicle at the time of the accident. Post-accident drug and alcohol testing of the operator is not required under this section if the covered employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 389.303(a)(1) or (b)(1)."<br/>Section 655.44(a)(1)(ii) states: "The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p> |  |
| <p>29</p> | <p>Who must be tested: NON-FATALITY? Does the policy state that, in a non-fatal accident, the following individuals must be tested:<br/>All covered employees operating the mass transit vehicle unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision; and<br/>All other covered employees whose performance could have contributed to the accident?</p> | <p>Section 655.44(a)(2)(i) states: "As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p>   |  |
| <p>30</p> | <p>TIME To Complete Post-Accident DRUG Test: Does the policy state that the employer must complete post-accident testing as soon as possible, not longer than 32 hours following the accident?</p>   | <p>Section 655.44(b) states: "An employer shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident."</p>   |  |
| <p>31</p> | <p>TIME To Complete Post-Accident ALCOHOL Test: Does the policy state that the employer must:<br/>Attempt to complete the test within 2 hours of the accident; and<br/>If not able to obtain a specimen within 2 hours, file a report why not able and continue attempts to obtain specimen; and<br/>If not able to obtain a specimen in 8 hours, cease attempts to obtain a specimen and update the two-hour written report?</p>                      | <p>Section 655.44(a)(2)(ii) states: "If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record. Records shall be submitted to FTA upon request of the Administrator."</p>  | <p>Current policy – NO, inadequate. Language is not specific enough. See Types of Drug and Alcohol Testing Required, Section V C.<br/><br/>Revised policy – YES See Types of Testing and Requirements, Section V 3 c 1).</p> |

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| 32 | <p>Requirement to remain "Readily Available" for testing: Does the policy state that a covered employee subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing?</p> | <p>Section 655.44(c) states: "A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing."</p>  | <p>Current policy – NO<br/>This requirement is not addresses in current policy.</p> <p>Revised policy – YES<br/>See Types of Testing and Requirements, Section V 3 c 4).</p>  |
| 33 | <p>Requirement to remain "Readily Available" for testing: Does the policy state that accident testing is stayed while employee assists in resolution of the accident or receives medical attention following the accident?</p>  | <p>Section 655.44(e) states: "Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered 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."</p>  | <p>Current policy – NO<br/>This requirement is not addresses in current policy.</p> <p>Revised policy – YES<br/>See Types of Testing and Requirements, Section V 3 c 4).</p>  |
| 34 | <p><b>CIRCUMSTANCES: REASONABLE SUSPICION:</b><br/>Does the policy state that reasonable suspicion testing is required when:<br/>One or more trained supervisors or company officials can<br/>Articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by<br/>Observing the appearance, behavior, speech or body odors of the covered employee?</p>                                   | <p>Section 655.43(b) states: "An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations."<br/>Further, Part III, Subpart E, Section C of the preamble to Part 655 states: "FTA also notes that the proposed bar to an employer requiring two or more trained supervisors to make such referrals is not included in the final rule. FTA also agrees that an employer should be permitted to authorize and train other company officers to make reasonable suspicion observations . . . ."</p> | <p>Current policy – NO, inadequate.<br/>Does not state "trained" supervisor must make the observations.<br/>See Types of Drug and Alcohol Testing Required, Section V C.</p> <p>Revised policy – YES<br/>See Types of Testing and Requirements, Section V 4 a).</p> |
| 35 | <p><b>CIRCUMSTANCES: RETURN-TO-DUTY AND FOLLOW-UP TESTS (drug and alcohol):</b> If the company has a second-chance policy, does the policy require that these tests be conducted as specified in 49 CFR Part 40?</p>  | <p>The policy should be clear on whether an employee who refuses or fails a test may be permitted to return to safety-sensitive duties.<br/>Section 655.15 -Policy statement contents- states:<br/>"The ... policy...shall include the following:<br/>(h) The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40."<br/>If there is a second chance policy, Section 655.46</p>  |   |

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|    |  | states: "Where a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of 0.04 or greater, the employer, before returning the employee to duty to perform a safety-sensitive function, shall follow the procedures outlined in 49 CFR Part 40."  |  |
| 36 | PROCEDURES: Does the policy include a statement that all drug and alcohol testing will be conducted in accordance with 49 CFR Part 40? This covers the requirement of Section 655.15(e) to include the procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee. | Section 655.51 states: "The drug and alcohol testing procedures in 49 CFR Part 40 apply to employers covered by this part, and must be read together with this part, unless expressly provided otherwise in this part."<br>The preamble to Part 655, Part III, Subpart B, Section A states: "FTA also believes that it is reasonable for employers to incorporate by reference 49 CFR Part 40 in their Policy Statements and make it available for review by employees when requested."   |  |
| 37 | REQUIREMENT TO SUBMIT-Drug Testing: Does the policy include the requirement that a covered employee submit to drug tests administered in accordance with Part 655?   | Section 655.49(a) states: "Each employer shall require a covered employee to submit to a post-accident drug and alcohol test required under Section 655.44, a random drug and alcohol test required under Section 655.45, a reasonable suspicion drug and alcohol test required under Section 655.43, or a follow-up drug and alcohol test required under Section 655.47. No employer shall permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions."  |  |
| 38 | REQUIREMENT TO SUBMIT-Alcohol Testing: Does the policy include the requirement that a covered employee submit to alcohol tests administered in accordance with Part 655?   | Section 655.49(a) states "Each employer shall require a covered employee to submit to a post-accident drug and alcohol test required under Section 655.44, a random drug and alcohol test required under Section 655.45, a reasonable suspicion drug and alcohol test required under Section 655.43, or a follow-up drug and alcohol test required under Section 655.47. No employer shall permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions."   |  |
| 39 | DILUTE NEGATIVE POLICY; Does the policy contain the transit operator's determination concerning whether or not employees who produce dilute negative specimens will be required to take another test immediately under non-observed conditions. If the operator has determined to require retesting, has that decision been made known in advance to employees, either   | Section 40.197 (b) through (e) states: (b) If the MRO informs you that a negative drug test was dilute, you may, but are not required to, direct the employee to take another test immediately. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see Sec. 40.67(b) and (c)).<br>(c) You must treat all employees the same for this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment test situations, but not in random test situations). You must | Current policy – NO<br>Dilute negative specimens are not addressed in current policy.<br><br>Revised policy – YES<br>See Testing Procedures, Section VI. |

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|           | <p>through inclusion in the policy or through another method?</p>   | <p>inform your employees in advance of your decisions on these matters.<br/>                 (d) If you direct the employee to take another test, you must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.<br/>                 If you direct the employee to take another test, the result of the second test--not that of the original test--becomes the test of record, on which you rely for purposes of this part.</p>   |  |
| <p>40</p> | <p>REFUSALS DEFINED: Does the policy state that the following elements are circumstances constituting a refusal:<br/>                 Refusals for both drug and alcohol testing;<br/>                 Drug testing - additional refusals;<br/>                 Alcohol testing - additional refusals; and<br/>                 No claim that refusal to take a test required under company authority will be considered as a refusal to take a DOT-required test.</p>  | <p>Section 655.15(g) requires that the policy include "A description of the kind of behavior that constitutes a refusal to take a drug or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy." Refusals are defined in Sections 40.191 and 40.261. Under Sections 40.191(e) and 40.261(d), the refusal to take a non-DOT drug or alcohol test or sign a non-DOT form is not a refusal to take a DOT test.</p>  |  |
| <p>41</p> | <p>Refusal - Drug and Alcohol Testing: Are all of the following included:<br/>                 1) Failure to appear in a reasonable time except for pre-employment tests;<br/>                 2) Failure to remain until the testing process is complete;<br/>                 3) Failure to provide a specimen;<br/>                 4) Failure to provide a sufficient specimen with no medical explanation;<br/>                 5) Failure to undergo a medical evaluation as required by a MRO or DER; and<br/>                 6) Failure to cooperate with any part of the testing process?</p> | <p>Section 40.191(a) lists circumstances that constitute refusals for drug testing and Section 40.261(a) lists circumstances that constitute refusals for alcohol testing.</p>   |  |
| <p>42</p> | <p>Refusals: Does the policy state that failure to appear in a timely fashion (except for pre-employment tests) for drug and alcohol tests is a refusal?</p>  | <p>Section 40.191(a) states: "As an employee, you have refused to take a drug test if you: (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer. Consistent with applicable DOT agency regulations, 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 called by a C/TPA (see Section 40.61(a))." A similar statement for alcohol testing is found in Section 40.261(a)(1).</p> | <p>Current policy – NO, inadequate.<br/>                 The behaviors that constitute a refusal are not described in enough detail.<br/>                 See Refusal To Take A Test, Section X.<br/><br/>                 Revised policy – YES<br/>                 See Refusals To Test and Uncompleted Tests,</p> |

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|    |   |   | Section VII A.   |
| 43 | Refusals: Does the policy state that the failure to remain until the testing process is complete for drug and alcohol tests is a refusal?             | Section 40.191(a)(2) states: "As an employee, you have refused to take a drug test if you: Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see Section 40.63(c) of this part) for a pre-employment test is not deemed to have refused to test." A similar statement for alcohol testing is found in Section 40.261(a)(2).  | Current policy – NO<br>The behaviors that constitute a refusal are not described in enough detail.<br>See Refusal To Take A Test, Section X.<br><br>Revised policy – YES<br>See Refusals To Test and Uncompleted Tests, Section VII A. |
| 44 | Refusals: Does the policy state that failure to provide a breath or urine specimen in alcohol and drug testing is a refusal?                          | Section 40.191(a)(3) states: "As an employee, you have refused to take a drug test if you: Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see Section 40.63(c) of this part) for a pre-employment test is not deemed to have refused to test." A similar statement for alcohol testing is found in Section 40.261(a)(3).                        | Current policy – NO<br>The behaviors that constitute a refusal are not described in enough detail.<br>See Refusal To Take A Test, Section X.<br><br>Revised policy – YES<br>See Refusals To Test and Uncompleted Tests, Section VII A. |
| 45 | Refusals: Does the policy state that failure to provide a sufficient specimen with no medical explanation in drug and alcohol tests is a refusal?     | Section 40.191(a)(5) states: "As an employee, you have refused to take a drug test if you: Fail 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 (see Section 40.193(d)(2))." A similar statement for alcohol testing is found in Section 40.261(a)(4).   |  |
| 46 | Refusals: Does the policy state that failure to undergo a medical evaluation as required by the MRO or DER for drug and alcohol testing is a refusal? | Section 40.191(a)(7) states: "As an employee, you have refused to take a drug test if you: Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Section 40.193(d) of this part. 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." A similar statement for alcohol testing is found in Section 40.261(a)(5). | Current policy – NO<br>The behaviors that constitute a refusal are not described in enough detail.<br>See Refusal To Take A Test, Section X.<br><br>Revised policy – YES<br>See Refusals To Test and Uncompleted Tests, Section VII A. |
| 47 | Refusals: Does the policy state that failure to cooperate with any part of the testing process for drug and alcohol testing is a refusal?             | Section 40.191(a)(8) states: "As an employee, you have refused to take a drug test if you: Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)." A similar statement for alcohol testing is found in Section 40.261(a)(7).   |  |

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| 48 | <p>Refusal - Drug Testing: Does the policy state that the following are refusals in drug testing:</p> <ul style="list-style-type: none"> <li>Failure to permit monitoring or direct observation;</li> <li>Failure to take a 2nd test as directed by the collector or employer; and</li> <li>Have an adulterated or substituted test result verified by an MRO?</li> </ul> | Sections 40.191(a) and (b).  |  |
| 49 | <p>Refusals: Does the policy state that the failure to permit monitoring or observation under drug testing is a refusal?</p>  | <p>Section 40.191(a)(4) states: "As an employee, you have refused to take a drug test if you: In a case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see Sections 40.67(i) and 40.69(g))."</p>                                   | <p>Current policy – NO<br/>See Refusal To Take A Test, Section X.</p> <p>Revised policy – YES<br/>See Refusals To Test and Uncompleted Tests, Section VII A.</p> |
| 50 | <p>Refusals: Does the policy state that failure to take a second test as directed by the collector or employer under drug testing is a refusal?</p>   | <p>Section 40.191(a)(6) states "As an employee, you have refused to take a drug test if you: Fail or decline to take a second test the employer or collector has directed you to take."</p>  | <p>Current policy – NO<br/>See Refusal To Take A Test, Section X.</p> <p>Revised policy – YES<br/>See Refusals To Test and Uncompleted Tests, Section VII A.</p> |
| 51 | <p>Refusals: Does the policy state that that the MRO's verification of a test as adulterated or substituted constitutes a refusal?</p>  | <p>Section 40.191(b) states: "As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test."</p>   | <p>Current policy – NO<br/>See Refusal To Take A Test, Section X.</p> <p>Revised policy – YES<br/>See Refusals To Test and Uncompleted Tests, Section VII A.</p> |
| 52 | <p>Refusal - Alcohol Testing: Does the policy state that refusal to sign the certification at Step 2 of the ATF constitutes a refusal?</p>  | <p>Section 40.261(a)(6) states: "As an employee, you are considered to have refused to take an alcohol test if you: Fail to sign the certification at Step 2 of the ATF (see Sections 40.241(g) and 40.251(d))."</p>   |  |
| 53 | <p>Refusals: Does the policy address only FTA-required testing under these categories of refusals, not any other employer-required drug or alcohol testing?</p>   | <p>Section 40.191(e) states: "As an employee, when you refuse to take a non-DOT test or to sign a non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test." A similar statement for alcohol testing is found in Section 40.261(d).</p> |  |
| 54 | <p>Consequences of a failed or refused drug test:<br/>Does the policy describe the consequences for a covered employee who has a verified positive drug test result or</p>  | <p>Section 655.61(a)(1) states "Immediately after receiving notice from a medical review officer (MRO) or a consortium/third party administrator (C/TPA) that a covered employee has a verified positive drug test result, the employer shall require that the covered employee cease performing a safety-sensitive</p>          |  |

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|           | <p>refuses to submit to a drug test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function; and<br/>Does the policy state that the individual will be referred to a substance abuse professional?</p>   | <p>function."<br/>Section 655.61(a)(3) states "If an employee refuses to submit to a drug or alcohol test required by this part, the employer shall require that the covered employee cease performing a safety-sensitive function."<br/>Section 655.62 states "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAP's) and counseling and treatment programs."</p>  |  |
| <p>55</p> | <p>CONSEQUENCES OF A FAILED OR REFUSED ALCOHOL TEST:<br/>Does the policy describe the consequences for covered employees found to have violated the alcohol misuse prevention prohibitions, including the requirement that the employee be removed immediately from safety-sensitive functions; and<br/>Does the policy state that the individual will be referred to a substance abuse professional?</p> | <p>Section 655.61(a)(2) states: "Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the employer shall require that the covered employee cease performing a safety-sensitive function."<br/>Section 655.61(a)(3) states: "If an employee refuses to submit to a drug or alcohol test required by this part, the employer shall require that the covered employee cease performing a safety-sensitive function."<br/>Section 655.62 states: "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAP's) and counseling and treatment programs."</p> |  |
| <p>56</p> | <p>CONSEQUENCES OF BREATH ALCOHOL CONCENTRATION (BAC) IN RANGE OF .02 TO .039: Does the policy describe the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04?</p>  | <p>Section 655.35(a) states: "No employer shall permit a covered employee tested under the provisions of subpart E of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform or continue to perform safety-sensitive functions, until (1) The employee's alcohol concentration measures less than 0.02; or (2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.<br/>Section 655.35(b) states: "Except as provided in paragraph (a) of this section, no employer shall take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law."</p>  |  |

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| <p>57</p> | <p><b>EMPLOYER SPECIFIC ELEMENTS:</b><br/>                 If the employer implements elements of an anti-drug program and alcohol misuse prevention program that are in addition to those required by Section 655, does the policy give covered employees specific information concerning which provisions are mandated by the FTA rules and which are not?<br/>                 Are any such additional policies or consequences clearly and obviously described as being based on independent authority?</p> | <p>Section 655.15(j) states: "The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part."</p>  | <p>Current policy – NO, inadequate<br/>                 Employer elements, such as the "second chance" consequence were not identified in the policy by BOLD type font.</p> <p>Revised policy – YES<br/>                 The policy highlights in BOLD type font provisions that are not required or are in addition the DOT requirements.</p> |
| <p>58</p> | <p><b>PROVISIONS CONTRARY TO FTA REGULATIONS:</b> Do any provisions found in the policy have the effect of thwarting the FTA regulations?</p>   | <p>Section 655.6(a) states: "Except as provided in paragraph (b) of this section, this part preempts any state or local law, rule, regulation, or order to the extent that: (1) Compliance with both the state or local requirement and any requirement in this part is not possible; or (2) Compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this part."</p> | <p>Current policy – YES<br/>                 An example cited by the FTA audit is the policy allows applicants to re-apply after six months without proof of completing the SAP referral, evaluation and treatment process.<br/>                 See</p> <p>Revised policy – NO</p>  |
|           | <p><b>THIS CONCLUDES THE REVIEW OF THE ANTI-DRUG AND ALCOHOL MISUSE PREVENTION POLICY STATEMENT</b></p>   |  |  |





**ADMINISTRATIVE MEMORANDUM 20: ADDENDUM POLICY  
DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL POLICY**

**ADDENDUM #1: City of Torrance Drug and Alcohol Policy Pursuant To The U.S. Department Of Transportation Regulations**

**I. ADDENDUM POLICY PURPOSE**

Effective January 1, 1995, the City of Torrance must comply with the U. S. Department of Transportation regulations implementing the Omnibus Transportation Employee Testing Act of 1991. Specifically, the City must comply with the regulations of the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA). This policy sets forth the rights and obligations of safety-sensitive employees. The federal regulations shall prevail over this addendum policy in the event of any conflict between the two.

If you are a safety-sensitive employee covered by these requirements, you should familiarize yourself with the provisions of this addendum policy. Compliance with this addendum policy is a condition of your employment. You should also be aware that you are still required to comply with the provisions of the City's Fitness for Duty/Drug and Alcohol Policy (Administrative Memorandum No. 20). Specifically, the obligations and requirements as set forth below are in addition to existing obligations and requirements under City Administrative Memorandum No. 20 (May 1991).

Complaints concerning the application of this procedure will be resolved through the grievance process as outlined in applicable Memoranda of Understanding, up to and including binding arbitration. Discipline which results from this addendum policy shall be administered in accordance with procedures described in City Policy and Procedure 39, Disciplinary Action.

**II. DEFINITION OF SAFETY-SENSITIVE EMPLOYEES**

Beginning January 1, 1995, City of Torrance employees filling the positions listed in Section III, who perform any of the job duties listed below, will be subject to the drug and alcohol testing requirements described in this policy addendum. These covered employees shall be called "safety-sensitive" employees.

The Federal Transit Administration defines a "safety-sensitive" function as any of the following duties:

- Operating revenue service vehicles (e.g., driving a bus);
- Operating a non-revenue service vehicle, when required to be operated with a Commercial Driver's License;
- Controlling the dispatch or movement of revenue service vehicles;
- Maintaining revenue service vehicles or equipment in revenue service;
- Carrying firearms for security relating to the transit system.

The Federal Highway Administration defines a safety-sensitive function as driving any of the following vehicles:

- 1) A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of over 10,000 pounds;
- 2) A vehicle with a GVWR of at least 26,001 pounds;
- 3) A vehicle designed to transport 16 or more passengers, including the driver; or
- 4) A vehicle placard under Hazardous Materials Regulations and used to transport hazardous materials;

Covered employees also include supervisors who possess a Commercial Driver's License and who perform these functions or who are immediately available to perform these functions.

### III. POSITIONS SUBJECT TO THIS POLICY ADDENDUM

Employees in the positions listed below, who possess a Commercial Driver's License and who perform any of the safety-sensitive job duties listed in Section II, will be subject to the provisions of this addendum policy:

- Airport Worker
- Bus Operator
- Cement Finisher
- Construction Equipment Operator
- Customer Service Supervisor
- Electrician
- Emergency Water Repair Technician
- Equipment Attendant
- Fire Apparatus Mechanic
- Fleet Services Manager
- Fleet Services Supervisor
- Groundskeeper
- Heavy Equipment Operator
- Lead Bus Operator
- Light Equipment Operator
- Mechanic
- Park Construction Supervisor
- Park Equipment Operator
- Park Services Supervisor
- Relief Bus Operator
- Refuse Truck Operator
- Refuse Worker
- Sanitation Services Administrator
- Semi-Skilled Laborer
- Senior Groundskeeper
- Senior Mechanic
- Senior Tree Trimmer
- Senior Water Quality Inspector
- Senior Welder
- Sewer Maintenance Worker
- Street Maintenance Leader
- Street Maintenance Administrator
- Street Services Supervisor
- Transit Supervisor
- Tree Trimmer
- Water Quality Inspector
- Water Service Supervisor
- Water Service Technician I, II and III
- Welder

### IV. PROHIBITED BEHAVIOR

The following conduct is prohibited by federal regulations and may result in discipline, up to and including the termination of a safety-sensitive employee:

- A. Reporting for duty or remaining on duty while having an alcohol concentration level of 0.02 or greater;
- B. Consumption of alcohol within four (4) hours prior to beginning work in a safety-sensitive position;
- C. Consumption or possession of alcohol while performing a safety-sensitive function;
- D. Reporting for duty or remaining on duty when the employee has used any controlled substances, unless such use is prescribed by a physician who has advised the employee that the controlled substance does not adversely affect his/her ability to perform safety-sensitive functions;
- E. Refusal to take an alcohol and/or drug test pursuant to these regulations. A safety-sensitive employee who refuses to submit to a required drug and/or alcohol test will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substance test.
- F. Consumption of alcohol during the eight hours immediately following an accident, unless the employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.
- G. Reporting for duty or remaining on duty if the employee tests positive for controlled substances.

The federally-prohibited drugs (and their metabolites) are: marijuana, cocaine, opiates (e.g., heroin, morphine, codeine), phencyclidine (PCP), and amphetamines (e.g., methamphetamine).

For the purposes of this addendum policy, "alcohol use" means the consumption of any beverage, mixture, or preparation (including medication) containing alcohol. "Work assignment" also includes any time period in which a covered employee is "on-call" or on a "split shift" (for bus operators).

When designated safety-sensitive employees are contacted by their supervisor/manager to perform "call-out" duty, they shall not be coerced or otherwise ordered to report for such duty when they inform their supervisor/manager of consumption of alcohol in violation of this addendum policy.

## V. TYPES OF DRUG AND ALCOHOL TESTING REQUIRED

### A. Pre-employment Testing

After an offer of employment has been made, applicants for job classifications listed in Section III, who will be performing safety-sensitive duties, will be required to submit to pre-employment drug testing.

### B. Pre-assignment Testing

The pre-employment testing requirement also applies to any non-"safety-sensitive" City employees promoted, transferred or assigned to any of the job classifications listed in Section III.

### C. Reasonable Suspicion Testing

A supervisor's and/or a manager's determination that reasonable suspicion exists shall be based upon specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

A supervisor and/or a manager may order a drug test of an employee subject to this addendum policy any time during the employee's workday. An alcohol test may only be ordered immediately before (up to 30 minutes), during, or immediately after (before sign-out while still at the worksite) the performance of safety-sensitive functions, or while the employee is "on-call" or between "splits" (for bus operators).

An employee may have a representative, a friend, or a witness present if he/she desires. However, there will be no unreasonable delay in conducting the drug and/or alcohol analysis.

A reasonable suspicion alcohol test must be administered within two hours of the observation. If not, the supervisor and/or the manager must document why the test was not promptly conducted. No alcohol test may be administered after eight hours following the observation.

### D. Post-Accident Testing

#### **Federal Transit Administration (FTA) Provision**

Post-accident drug and alcohol testing will be conducted on employees following an accident where the employee's performance cannot be completely discounted as a contributing factor. Not only will the operator of the vehicle be tested, but so will any other covered employee whose performance may have contributed to the accident, such as a maintenance worker.

The decision as to whether or not to test the employee will be left to the supervisor or manager, using the best information available at the time of the decision. The presumption is for testing. The only reason an employee will not be tested following an accident is if a determination is made that the employee's performance could not have been a contributing factor. However, if a fatality occurs, the employee will be tested irrespective of whether his/her involvement may be discounted.

An accident occurs in the following circumstances:

- When an individual dies as a result of an occurrence involving a vehicle;
- When an individual suffers bodily injury as a result of an occurrence involving a vehicle; or
- When a vehicle suffers disabling damage. Disabling damage means damage to the vehicle which precludes departure from the scene in its usual manner in daylight after simple repairs.

**Federal Highway Administration (FHWA) Provision**

Post-accident drug and alcohol testing will be conducted on employees following an accident involving a commercial motor vehicle. An accident occurs when, as a result of an occurrence involving the vehicle, an individual dies or when a State or local law enforcement authority issues a citation to the covered employee for a moving violation arising from the accident.

**Testing Guidelines (FTA and FHWA Regulations)**

Post-accident alcohol tests should be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident. (If an alcohol test is not administered within two hours following the accident, the supervisor/manager must document the reason(s) why the test was not promptly administered).

**E. Random Testing**

Federal regulations require that employees subject to this addendum shall be tested for drugs and alcohol on an unannounced and random basis.

The annual percentage rate for random drug and alcohol testing shall be concurrent with the minimum percentage required by the Federal regulations.

A random drug test of a safety-sensitive employee may be performed at any time during the workday. A random alcohol test may only be ordered immediately before (up to 30 minutes), during, or immediately after (before sign-out while still at the worksite) the performance of safety-sensitive functions, or while the employee is "on-call" or between "splits" (for bus operators).

To the extent feasible, the random tests will be spread equally throughout the year. On the day of the test, the employee(s) shall be relieved from duty at the time of the test. The supervisor will be responsible for making arrangements to ensure transportation of the employee(s) to the collection site. For random tests, the employees(s) need not be accompanied by a supervisor to the collection site.

The following "guidelines" will apply when conducting random drug and alcohol tests. Supervisors will arrange to have employees tested within one hour of being notified of the random test requirement. Supervisors will attempt to test employees no less than one hour before the end of the employee's work shift.

**F. Return-to-Duty/Follow-up Testing**

Before a safety-sensitive employee is allowed to return to work, after having engaged in any of the prohibited behaviors listed in Section IV, that employee must:

- 1) Be referred to the City's Employee Assistance Program (EAP) for evaluation by a Substance Abuse Professional (SAP) and may be required to undergo treatment to cure his/her alcohol or drug abuse;
- 2) Be confirmed fit for duty by the City's Medical Review Officer (MRO), a licensed physician knowledgeable in substance abuse disorders;
- 3) Pass a "Return-to-Duty" test.

A "Return-to-Duty" test will include testing for prohibited drugs and/or alcohol. The employee must have a verified negative drug test result or an alcohol test result of less than 0.02 to return to a safety-sensitive position.

Once allowed to return to duty, all employees who have engaged in any of the prohibited behaviors listed in Section IV will be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the Substance Abuse Professional (SAP) with a minimum of six tests performed during the first 12 months after the employee has returned to duty.

## VI. TESTING PROCEDURES

Alcohol and drug tests shall be conducted in conformance with current federal regulations, concerning collection and chain of custody procedures. The federally-prohibited drugs (and their metabolites) are: marijuana, cocaine, opiates (e.g., heroin, morphine, codeine), phencyclidine (PCP), and amphetamines (e.g., methamphetamine).

For the purposes of this policy, if the test results for prohibited drugs are below federal cutoff levels, the test results will be reported as negative. (NOTE: These federal cutoff levels are subject to change at any time by the U. S. Department of Health and Human Services.)

### A. Drug Testing

#### 1. Collection Site Protocol:

Only one specimen at a time will be collected by a collection site person. The collection shall not be observed, except as provided under DOT Regulations 49 CFR, Part 40.

Applicant/employee must:

- Present pictured identification upon reporting for specimen collection.
- Sign a consent form authorizing the collection site to perform the test and permit release of this medical information to the City of Torrance. These forms must be signed in the presence of and witnessed by a representative of the collection site.
- Fill out the applicable portions of the Custody and Control Form and read specimen collection procedures before collection.

The employee will be instructed, not to alter his/her urine specimen with water, soap, cleansing agents or any other material(s) that could adulterate a specimen. He/she shall also be advised not to flush the toilet or run water until specimen has been given to the collector.

The employee will return the specimen to collection site staff. Staff will separate 30 ml. of the specimen into a primary specimen bottle and at least 15 ml. into a secondary bottle. The secondary bottle will not be tested initially, but will be held, in the event that the employee requests a retest.

Both bottles will be shipped with copies of the control and custody form to a Department of Health and Human Services certified laboratory.

#### 2. Initial Test of Urine

Initial testing will be performed on the primary sample using an immunoassay test. If results are negative, no further testing will be required and a report will be forwarded to the Medical Review Officer (MRO) who is responsible for collecting, interpreting and recording results. The MRO will advise an authorized representative of the City of Torrance Human Resources Department that the results are negative.

#### 3. Confirmation Test of Urine

Whenever a positive result is obtained on initial drug test, a confirmation drug test will be performed. All confirmations shall be by quantitative analysis - Gas Chromatography/Mass Spectrometry (GC/MS).

Results of confirmation testing will be immediately forwarded to the MRO by the testing laboratory. If the test is positive, the secondary sample shall be kept in frozen storage for one year from the date of its receipt to allow re-testing.

#### 4. Informing the Employee of Positive Results

The Medical Review Officer (MRO), a licensed physician knowledgeable in substance abuse disorders and trained to evaluate and interpret test results, will receive laboratory results generated under this testing program. The MRO will be responsible for interpreting the test results in light of the employee's medical history and biomedical information.

The MRO will inform the employee that a positive test has been indicated and arrange to meet or speak with the employee before finalizing the test result. Nothing shall be placed in the record, nor any action taken, until the result is final.

A positive test result will be considered final, if the employee elects not to meet or speak with the MRO, or if the MRO determines that there is no legitimate medical explanation for the result, including legally prescribed medications.

Final drug test results are reported to the designated employer representative, Rob Weinmeister, Sr. Human Resources Analyst, (310) 618-2960, in the Human Resources Department.

#### B. Alcohol Testing

Collection Site Protocol - Applicant/Employee must:

- Present picture identification upon reporting for specimen collection.
- Complete and sign the required breath alcohol testing form. A refusal to sign the form will be considered a refusal to take the test.
- The Breath Alcohol Technician (BAT), who operates the breathalyzer, will explain the process to employee.
- The BAT shall compare the test result shown on the machine with that on the printout. If the test result shows a blood alcohol level of .02 or greater, a confirmation test shall be performed. In such cases, the employee will be asked to wait 15, but no longer than 30 minutes, before taking the confirmation test.
- Before the confirmation test, the BAT will perform an air blank test to ensure the breathalyzer is calibrated at 0.00. The employee will again be asked to exhale forcefully into the breathalyzer.
- The results will be transmitted to an authorized representative of the City of Torrance Human Resources Department.

### VII. CONSEQUENCES OF A POSITIVE TEST RESULT

#### A. Pre-employment Test

A candidate will not be hired for any position listed in Section II if he/she tests positive for alcohol or any drug prohibited by this addendum policy. A positive test result on either the drug screen and/or the alcohol breath test will render a candidate ineligible for any safety-sensitive position for a minimum of six months.

#### B. Pre-assignment Test

A positive test result on the drug test or an alcohol concentration level of 0.04 or greater will render the employee ineligible for a safety-sensitive position for a minimum of six months. An employee whose alcohol test result is between 0.02 and 0.04 will also be ineligible but will be allowed one retest after 24 hours have elapsed. Failure to pass the alcohol test a second time will render the employee ineligible for assignment to a safety-sensitive position for a minimum of six months.

#### C. Reasonable Suspicion Testing; Post-Accident Testing

First positive test: The employee will be referred to the City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until that employee is confirmed "fit for duty" by the MRO and tests negative for alcohol and/or controlled substances covered by

these rules and regulations. Depending upon the circumstances that led to the testing, disciplinary action, up to and including termination, may be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)

Second positive test: The employee will be referred to the EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until he/she is confirmed "fit for duty" by the MRO and tests negative for alcohol and/or controlled substances covered by this policy. Disciplinary action, up to and including termination, will be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)

Upon removal from duty due to a verified positive drug and/or alcohol test, the safety-sensitive employee is eligible to use his/her sick or vacation leave or apply for a medical leave of absence.

NOTE: The procedures listed above are guidelines. Action taken will depend upon the severity of the circumstances and the safety-sensitive employee's previous record, especially the drug and/or alcohol test record.

#### D. Random Testing

First positive test: The employee will be referred to the City's EAP for evaluation by a Substance Abuse Professional (SAP). An employee holding a safety-sensitive position will be removed from his/her position until that employee is confirmed "fit for duty" by the MRO and tests negative for alcohol and/or controlled substance(s) covered by these rules and regulations.

Second positive test: The employee will be referred to City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until the employee is confirmed "fit for duty" by the MRO and tests negative. Disciplinary action, up to and including termination, will be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)

A safety-sensitive employee who has been removed from his/her job duties due to a verified positive drug and/or alcohol test is eligible to use his/her sick or vacation leave or apply for a medical leave of absence.

NOTE: More severe action may be warranted, depending on a safety-sensitive employee's previous drug and/or alcohol test record.

#### E. Alcohol Concentration Levels between 0.02 and 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his/her job duties for at least 8 hours for transit employees and at least 24 hours for Commercial Driver's License holders. The City will then retest the employee. Before returning to his/her safety-sensitive position, the employee's alcohol concentration must be below 0.02. The employee may be subject to progressive discipline for repeated occurrences between 0.02 and 0.04 alcohol levels. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)

NOTE: The supervisor/manager shall arrange to have an employee transported home safely if that employee tests positive for alcohol (0.02 or greater).

### VIII. EMPLOYEE NOTIFICATION FOLLOWING POSITIVE TEST RESULT

Following notification by the Human Resources Department of a positive test result, the supervisor will arrange to meet with the employee immediately to review the test result and to explain the mandated follow-up steps. Following such notification, the employee will be eligible to use sick leave, vacation leave or apply for a medical leave of absence.

Upon request, any employee removed from a safety-sensitive position following a positive test result shall be granted a meeting with the department head or designee to "show cause" why removal should not have been necessary. The "show cause" meeting must be requested by the employee prior to completion of what would have been the employee's first scheduled work shift following removal.

Upon receipt of a timely request, the department head or his/her designee shall conduct the "show cause" meeting prior to completion of what would have been the employee's second scheduled work shift following removal. Should the employee prevail at the "show cause" meeting, all sick/vacation leave used, or time lost, shall be reinstated.

Any employee dissatisfied with the result of a "show cause" meeting may file a grievance challenging the testing procedures, the test results, or the conclusions of the "show cause" meeting. The grievance shall be processed pursuant to procedures contained in the applicable MOU. The results of the grievance process shall be conclusive of all issues that were raised or could have been raised by the grievance.

## **IX. RETESTS**

Any employee who tests positive for prohibited drugs may submit a request in writing to the Human Resources Department for the split sample to be tested. This request must be received within 72 hours of the employee's notification by the supervisor/manager. If the secondary sample fails to confirm the results of the first test, then the MRO shall cancel the report of the initial test.

An employee making a request for a retest will be required to reimburse the City the cost of the additional analysis and all costs associated with the transfer of the specimen to another laboratory, including shipping and handling. If the test results in the employee passing the drug test, the City shall reimburse any costs collected from the employee.

## **X. REFUSAL TO TAKE A TEST**

If an employee fails to provide a urine sample, as required, or adequate breath for the breathalyzer test, without a valid medical explanation, or engages in conduct that clearly obstructs the testing process, after receiving notification of the requirements to be tested, the action shall be considered a refusal to take a test. Non-cooperative actions also include alteration of consent forms, refusal to cooperate with the collection of test specimens, and specimen tampering. Any refusal to submit to a test shall be considered equivalent to a positive test result.

## **XI. REFUSAL OR FAILURE TO COMPLY WITH TREATMENT RECOMMENDATIONS**

Refusal or failure to comply with treatment and after-care recommendations under this addendum policy will be grounds for termination.

## **XII. RETURN TO WORK**

### **A. After Mandatory Referral**

An employee wishing to return to work after a mandatory referral to a Substance Abuse Professional (SAP), must agree to the terms of a Return-to-Work Agreement which shall be established by the City. That agreement may include, but is not limited to, the following:

1. A release to work statement from an approved treatment specialist, as well as from the SAP.
2. A plan, designed by the SAP, setting out after-care and follow-up treatment procedures through the SAP and the EAP.
3. A review and release for work by the City's Medical Review Officer (MRO).

4. A negative test for drugs and/or alcohol.
5. Consent to submit to continued periodic and unannounced drug and/or alcohol testing as established by the SAP.
6. A statement of expected work-related behaviors.
7. Signed acknowledgment by employee that violation of the agreement will be grounds for termination.

Failure to successfully complete a treatment program, or to comply with the return-to-work agreement, or a positive drug and/or alcohol test after return to work will be grounds for termination.

#### B. After Voluntary Referral

1. Employees who voluntarily enter a substance abuse treatment program and request a leave of absence, with or without pay, must:
  - a. Submit to a test for drugs and/or alcohol, and test negative before returning to a safety-sensitive position; and
  - b. Submit a Release to Work from the City's MRO and/or SAP as designated by the City.
  - c. Consent to a Return-to-Work Agreement

### XIII. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's personnel file. They will be included in a separate confidential medical file. The reports or test results may be disclosed to City Management on a strictly need-to-know basis and to the tested employee upon request. Disclosure, without patient consent, may also occur when:

- A. The disclosure is compelled by law or by judicial or administrative process;
- B. The disclosure is required by the Federal Transit Administration (FTA), the National Transportation Safety Board (NTSB), or other regulatory agency;
- C. The information is requested by a subsequent employer, if the employee has expressly authorized the particular records be transmitted to that employer;
- D. The information has been placed at issue in a formal dispute between the tested employee or applicant and the City of Torrance;
- E. The information is to be used in administering an Employee Assistance Program (EAP); and
- F. The information is needed by medical personnel for the diagnosis or treatment of the employee or applicant who is unable to authorize disclosure.

### XIV. FEDERALLY-REQUIRED RECORD KEEPING

The City is obligated by federal regulations to maintain records of drug and alcohol misuse prevention programs, report the results in a management information system (MIS), and have controlled access to the recorded information. The following record retention requirements shall apply:

- 1 year-- Verified negative drug tests, alcohol test results less than 0.02, canceled tests;
- 2 years-- Documentation of the collection process for tests, the names of covered employees attending training on prohibited drug use, documentation of training provided to supervisors for reasonable suspicion;
- 5 years-- Alcohol test results 0.02 or greater, verified positive drug test results, documentation of refusals to take required tests, calibration documentation, employee evaluations and referrals by substance abuse professionals, annual calendar year MIS summary reports required by federal agencies.

### XV. EFFECTIVE DATE

The effective date of these rules and regulations is January 1, 1995.





# City of Torrance

## Drug and Alcohol Policy/Procedures For Employees in Safety-Sensitive Job Functions

In accordance with the U.S. Department of Transportation,  
Federal Transit Administration and the  
Federal Motor Carrier Safety Administration  
(CFR Part 40, as amended, Part 382 and Part 655)

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## City of Torrance

### SUBSTANCE ABUSE / ALCOHOL MISUSE PROGRAM

As required by the United States Department of Transportation

Implementation Dates:

Federal Motor Carrier Safety Administration (FMCSA) – Substance Abuse/Alcohol Misuse = 01/1/1995

Federal Transit Authority (FTA) - Substance Abuse/Alcohol Misuse = 01/01/1996

## I. INTRODUCTION

The City of Torrance has written and implements its Anti-Drug/Alcohol Misuse Program to ensure compliance with Federal Regulations of the Department of Transportation. This Program is implemented in addition to the City's Drug-Free Workplace Program (Administrative Memo #20). In the event that Federal Regulations conflict with the City's Administrative Memo #20, the Federal Regulations shall prevail. In the event that Federal Regulations fail to provide language for a particular situation, the employee shall be subject to other applicable City Policies. This Program will inform the reader in the places where the rules differ by having different categories or another clear method of separating the rules. **DOT allows the City's program to be stricter than their regulations as long as language specific to the City's program is identified. Therefore, where this Program goes beyond the requirements of DOT, the text is highlighted in bold print. Complaints concerning the application of this policy will be resolved through the grievance process as outlined in applicable Memoranda of Understanding, up to and including binding arbitration.** However, the consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal are not subject to arbitration.

### A. Policy Statement

1. The purpose of this policy is to establish an Anti-Drug Program/Alcohol Misuse Program for Public Works, Park Services and Transit Department Employees that complies with the Department of Transportation's (DOT) 49 CFR Parts 382, 655, and 40, as amended. Part 382 requires employers to test drivers who are required to obtain a commercial driver's license (CDL) for the illegal use of alcohol and controlled substances and was effective on January 1, 1995. Part 655, which replaced parts 653 and 654 effective January 1, 2001, requires that Transit Employees who maintain, operate, or control the movement of transit vehicles be tested for controlled substances and alcohol. DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. This policy incorporates the DOT requirements for DOT covered safety-sensitive employees.

Participation in this program is a requirement of all safety sensitive employees, and therefore, is a condition of employment.

2. Any questions in relation to this program should be directed to the DOT Program Manager, Robert Weinmeister, Sr. Human Resources Analyst, telephone number: 310-618-2960. Additional information regarding DOT regulations can also be found at <http://transit-safety.volpe.dot.gov/DrugAndAlcohol/Regulations/Regulations/default.asp>.

## II. PROHIBITED SUBSTANCES

A. Controlled Substances: Covered employees are prohibited by the Department of Transportation from using marijuana (includes all hemp products), cocaine, opiates, phencyclidine (PCP), and amphetamines at any time.

- B. Alcohol: The consumption/use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body while performing safety- sensitive functions is prohibited.

### III. PROHIBITED CONDUCT

Any covered employee who engages in the following prohibited conduct will be removed from performing safety sensitive functions and **may be subject to disciplinary action, up to and including termination.**

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- (2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee must take an alcohol test, if the covered employee claims ability to perform his or her safety-sensitive function.
- (3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- (4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- (5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- (6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- (7) Consistent with the Drug-free Workplace Act of 1988, all covered employees are prohibited from engaging in unlawful manufacturing, distributing, dispensing, possessing, or using prohibited substances in the work place including County premises and vehicles. In addition, covered employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction.

**The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. It is, however, the employee's responsibility to inform their physician of the employee's job duties and determine from the physician, or other health care professional, whether or not the prescribed drug may impair their job performance or mental or motor function. It is the responsibility of the employees to advise their supervisor when the doctor, or other health care professional, has recommended they stop driving while taking the medication.**

In the event that an employee's drug screen comes back positive due to a prescription drug it shall be the employee's responsibility to provide the Medical Review Officer with proof of a valid prescription in order for test results to be ruled negative.

## IV. COVERED EMPLOYEES

This policy applies to every employee whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined herein, and any person applying for such positions.

Under FMCSA, an employee is performing a safety sensitive function if they are:

- Driving a commercial motor vehicle which requires the driver to have a commercial driver's license (CDL).
- Inspecting, servicing, or repairing any commercial motor vehicle.
- Waiting to be dispatched to operate a commercial motor vehicle.
- Performing all other functions in or upon a commercial motor vehicle.
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments being loaded or unloaded.
- Performing driver requirements associated with an accident.
- Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Under FTA, you are performing a safety sensitive function if you perform any of the following:

- Operation of a revenue service vehicle, in or out of revenue service.
- Operation of a non-revenue vehicle requiring a CDL.
- Controlling movement or dispatch of a revenue service vehicle.
- Security personnel who carry firearms.
- Maintenance (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used on revenue service.
- Contractor employees that stand in the shoes of Transit System employees also have to comply.

Covered employee means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function. This includes any time-period in which a covered employee is "on-call" or on a "split shift" (for Bus Operators). When designated safety-sensitive employees' are contacted by their supervisor/manager to perform "call-out" emergency duty, they shall not be coerced or otherwise ordered to report for such duty when they inform their supervisor/manager of consumption of alcohol in violation of this policy.

See Attachment B for a list of covered FMCSA and FTA positions by job title.

## V. TYPES OF TESTING AND REQUIREMENTS

Covered employees are subject to following types of tests:

### 1. Pre-Employment Testing

- a) Applicants: A pre-employment drug and alcohol test will be conducted when an applicant is selected to be hired for a position covered in this policy. Said individual will not perform covered safety-sensitive functions until he/she passes the pre-employment drug test and a BAC test of less than 0.02.

b) Current Employees: A pre-employment drug test will be conducted when a current employee transfers from a position not covered by this policy into a position covered in this policy. The employee will not perform covered safety-sensitive functions until he/she passes the pre-employment drug test and a BAC test of less than 0.02.

All safety sensitive employees who have not performed a safety-sensitive function for 90 or more consecutive calendar days, regardless of the reason, and have been out of the random testing pool during that time period, must successfully pass a pre-employment drug and alcohol test prior to the performance of any safety-sensitive function.

If a pre-employment test is canceled, the applicant will be required to submit to and pass another pre-employment test with verified negative results before performing a safety-sensitive function.

## 2. Random Testing

a) All employees working in a position covered by this policy are subject to unannounced testing based on random selection. A covered employee may be randomly tested for prohibited drug use anytime while on duty. An employee shall only be tested for alcohol while the employee is performing, just before the employee is to perform, or just after the employee has performed safety-sensitive functions.

b) The annual FMCSA minimum\_testing requirement is to perform drug tests on 50% and alcohol tests on 10% of the average number of covered positions. The annual FTA minimum testing requirement is to perform drug tests on 25% and alcohol tests on 10% of the average number of safety-sensitive employees.

(c) All persons will be subject to be randomly picked for drug testing at each unannounced random testing date. A person may be randomly picked more than once or not picked at all during the annual period. Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.

d) The random selection procedure will be a computer-based number generator. Every covered employee will have an equal probability of being selected each time the random selection procedure is performed.

e) Random testing will be done on a weekly basis. Testing will be conducted on different days of the week and throughout all hours of the work day during the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection. Selected employees will not be notified until immediately prior to the time that they are required to proceed to the collection site.

f) If an employee is temporarily unavailable, or it is their day off, the name will be held until their next shift within the same testing period. No employee shall be excused because of operational difficulties.

g) Random notifications should be conducted as discreetly as possible in order to ensure the confidentiality and integrity of the process.

## 3. Post-Accident Testing:

Employees working in positions covered by this policy whose performance either contributed to an accident or cannot be completely discounted as a contributing factor to the accident will be tested.

a) FMCSA - Definition of a Qualifying Accident

As soon as practicable following an accident involving a commercial motor vehicle, the City shall test for alcohol and controlled substances each surviving driver:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

b) FTA - Definition of a Qualifying Accident

- (1) Whenever there is loss of human life each surviving safety-sensitive employee on duty in the mass transit vehicle and safety-sensitive employees not on the vehicle whose performance could have contributed to the accident shall be tested for alcohol and controlled substances.
- (2) A non-fatal accident is defined as an occurrence associated with the operation of a revenue service vehicle in which an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident. Each employee whose performance could have contributed to the accident shall be tested for drug use and alcohol misuse. An accident does not necessarily mean that a collision occurred. An individual falling on the bus and needing to be taken to the hospital could be defined as an accident. The driver, and other safety-sensitive employees involved, would need to be tested unless they can be completely discounted as a contributing factor to the accident.
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, or any non-revenue service vehicle, and one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, "disabling damage" means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage that can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare is available; or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

c) Time Frame for Testing Employees Following Accident

(1) The employee will be tested for controlled substances as soon as possible, but no later than 32 hours after the accident. Because certain drugs or drug metabolites do not remain in the body for extended periods of time, testing should be as soon as possible. Alcohol tests should be conducted within 2 hours and must be performed within 8 hours. Any employee involved in an accident must refrain from using alcohol for eight hours or until he/she undergoes a post accident alcohol test.

(2) As soon as practicable following an accident, the City shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an alcohol test is required, but is not administered within two (2) hours following the accident, the Supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test is not administered within eight (8) hours following the accident, the Supervisor shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. These records shall be made available to FMCSA or FTA upon request.

(3) The decision not to administer a test shall be based on the Supervisor's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident.

(4) A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the on-scene supervisor of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the City to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for an injured employee following an accident or to prohibit a covered 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.

(5) All reasonable steps will be taken to obtain a urine sample for the testing of controlled substances from an employee after an accident. In case of a conscious but hospitalized employee, the hospital or medical facility will be requested to obtain a sample and if necessary, reference will be made to the DOT drug testing requirements.

(a) If an employee who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional) and refuses to be tested, that is a test refusal.

d) Process for Obtaining Specimen Collection/Documentation Following Accident

(1) Supervisor shall discreetly inform the employee that there is reason to believe that their performance contributed to the accident or cannot be completely discounted as contributing factor to the accident.

(2) The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany him/her to and from the collection site.

(3) The supervisor will complete Post-Accident Record of Decision form (Attachment B) and record the reasons that support the determination to conduct a post-accident test. This documentation should be prepared and signed by the supervisor within 24 hours of

the accident or before the results of the tests are released, whichever is earlier, if possible.

(4) Drivers shall be provided with necessary post-accident information, procedures, and instructions prior to the driver operating a CMV so that drivers will be able to comply with the requirements of Part 382.

(a) FMCSA and FTA regulations stipulate that the results of breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test, shall be considered to meet the requirements of Part 382, provided such tests conform to applicable Federal, State, or local requirements, and that the results of the tests are obtained by the employer. In the event that the City is unable to conduct a FTA post-accident alcohol and/or drug test due to circumstances beyond its control (i.e. employee is unconscious, incarcerated, etc.), results from local or state law enforcement officers may be used in lieu of FTA tests if provided results are consistent with state and local law.

**(5) After-hour and holiday post-accident tests shall be collected at Western Medical Group, 21081 S. Western Ave, Torrance CA 90501, (310) 782-3300.**

#### 4. Reasonable Cause Testing

a) When there is reasonable cause/suspicion to believe that an employee covered by this policy is using a prohibited drug or using alcohol while on duty, the employee will be required to take a test for controlled substances and/or alcohol. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or City official who is trained in detecting the signs and symptoms of drug use per Section XI.B of this policy. The supervisor will complete the Reasonable Suspicion Record of Decision form (Attachment C) and document the circumstances and observations that support the determination to conduct a reasonable suspicion test.

b) A decision to test must be based on specific contemporaneous articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. Alcohol testing is authorized only if the observations are made during, just preceding or just after the period of the work day that the employee is performing a covered function.

c) If an alcohol test is required, but is not administered within two (2) hours following the request for the test, the supervisor/manager shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test is not administered within eight (8) hours following the request, the supervisor/manager shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. These records shall be completed by the employee's supervisor and forwarded to the Program Manager for inclusion in the drug and alcohol files. These records shall also be made available to FMCSA and FTA upon request.

#### d) Process for Obtaining Specimen Collection/Documentation

1) The supervisor/manager shall discreetly inform the employee that there is reason to believe that some substance is affecting their performance. The manager will ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. If there is still a reasonable belief that drugs or alcohol are a

factor in the situation, a request for testing should be made; if no reasonable belief is determined, then no request for testing should be made. If a decision is made to test, the manager will inform the employee that they are being requested to accompany the appropriate supervisor/manager to the specimen collection site to provide a urine/breath specimen, and will inform the employee that the consequence of refusal to submit to testing is equivalent to having a positive test result.

**2) A supervisor or other appropriate personnel shall accompany the employee to and from the collection site. The employee may have a representative, a friend, or a witness present if he/she desires. However, there will be no unreasonable delay, (i.e. no more than 15 minutes waiting for employee representative to arrive before proceeding to collection facility), in conducting the drug and/or alcohol analysis.**

**3) After returning from the collection site, the employee shall not be allowed to perform covered functions pending the results of the drug test. The employee shall not be allowed to operate any City vehicle or equipment due to the reasonable cause belief that the employee may be under the influence of a prohibited substance.**

4) Notwithstanding the absence of a reasonable suspicion alcohol and/or drug test under this section, no employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol or drugs, as shown by the behavioral, speech, and performance indicators of alcohol misuse or drug use, nor shall the City permit the employee to perform or continue to performs safety sensitive functions until: 1) Negative drug test results are reported; AND 2) An alcohol test is administered and the driver's breath alcohol concentration measures less than 0.02; OR twenty four hours have elapsed following the determination that there was reasonable suspicion to believe that the employee had violated the alcohol prohibitions of this program (8 hours for FTA) .

## 5. Return To Duty Testing

a) Before a covered employee may return to work and begin the performance of a safety sensitive function after engaging in prohibited conduct, the employee must:

(1) Have been referred to a Substance Abuse Professional (SAP) for treatment and subsequently recommended by the SAP for return to duty;

(2) Undergo a return-to-duty controlled substance test that results in a verified negative test result; and

(3) Undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

## 6. Follow-up Testing

a) An employee who is afforded a "second chance" and is allowed to return to work after engaging in prohibited conduct and completes the requirements in section XII of this policy will be subject to unannounced follow-up alcohol and/or drug testing as directed by a substance abuse professional (SAP).

b) A minimum of 6 unannounced, follow-up tests must be administered within the first 12 months after the employee has returned to duty. The SAP can direct additional testing

during this period or for an additional period up to a maximum of 60 months from the date that the employee returned to duty. The SAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary.

c) Follow-up testing for alcohol may be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions. Follow-up testing for drugs may be conducted anytime the covered employee is on duty.

d) An employee who is undergoing follow-up testing shall remain in the random pool and be randomly tested if his/her number is selected.

## VI. TESTING PROCEDURES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. Drug tests can be performed any time an employee is on duty. An alcohol test can be performed when the employee is actually performing a safety-sensitive duty, just before, or just after the performance of a safety-sensitive duty.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted in accordance with the procedures put forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result.

**Drug Tests:** The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Urine specimens will be collected using the split specimen collection method described in 49 CFR Part 40. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. The current cut-off limits expressed in nanograms per milliliter (ng/ml) are as follows:

| Drug or Metabolite                                   | Initial Test Level | Confirmation Test Level  |
|--|--------------------|--|
| Marijuana Metabolites<br>a. THC                      | 50 ng/ml           | 15 ng/ml   |
| Cocaine Metabolites<br>(Benzoylecgonine)             | 300 ng/ml          | 150 ng/ml  |
| Phencyclidine (PCP)                                  | 25 ng/ml           | 25 ng/ml   |
| Amphetamines<br>a. Amphetamine<br>b. Methamphetamine | 1000 ng/ml         | 500 ng/ml 500 ng/ml (Specimen must also contain amphetamine at a concentration $\geq$ 200 ng/ml) |
| Opiate Metabolites                                   | 2000 ng/ml         | 2000 ng/ml 2000 ng/ml 10 ng/ml (Test   |

|  |  |   |
|--|--|---|
| a. Codeine<br>b. Morphine<br>c. 6 acetylmorphine |  | for 6-AM conducted only when specimen contains morphine at a concentration $\geq$ 2000 ng/ml) |
|--|--|---|

The test results from the laboratory will be reported to a Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result. The MRO will contact the employee, notify the employee of the positive laboratory result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to the program manager. If a legitimate explanation is found, the MRO will report the test result as negative.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer.

In instances where the employee produces a dilute specimen, he or she must undergo a second test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

Upon notification that a drug test is required, an employee will report immediately after notification to the drug collection site and provide a specimen of his/her urine.

**Alcohol Tests:** Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using a NHTSA-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing form will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed breath alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours under FTA rules and for 24 hours under FMCSA rules unless a retest results in a concentration measure of less than 0.02. Employees with a BAC of 0.04 or greater will be removed from a covered function and referred to the SAP for evaluation.

Observed collections are required in the following circumstances:

- All return-to-duty tests;
- All follow-up tests;
- Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;

- Anytime a collector observes materials brought to the collection site that clearly indicates an attempt to tamper with a specimen;
- Anytime a collector observes employee conduct that clearly indicates an attempt to tamper with a specimen;
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

## VII. REFUSALS TO TEST AND UNCOMPLETED TESTS

Compliance with this drug/alcohol testing plan is a condition of employment. Refusal to take a required drug/alcohol test or failure of a drug/alcohol test shall result in removal from performing covered functions. Behavior that constitutes a refusal is treated equivalent to a positive test.

### A. You have refused to take a test if you:

- Fail to provide a breath or urine sample without a valid medical reason (confirmed by a physician);
- Provide an insufficient volume without valid medical explanation;
- Adulterate, substitute or tamper with a specimen;
- Fail to appear at the collection site within a reasonable time (does not apply to pre-employment tests);
- Leave the scene of an accident without just cause prior to submitting to a test;
- Leave the collection facility prior to test completion;
- Fail to permit an observed or monitored collection when required;
- Fail to take a second test when required;
- Fail to undergo a medical examination when required by the MRO or DER;
- Fail to cooperate with any part of the testing process ;
- Fail to sign Step 2 of alcohol test form;
- Once test is underway, fail to remain at site and provide a specimen;
- Or the MRO verifies that you provided an adulterated/substituted sample;
- Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- Admit to the collector or MRO that you adulterated or substituted the specimen.

### B. Shy Bladder

If an employee is unable to provide at least 45 milliliters of urine collection site personnel shall direct the individual to drink not more than 40 ounces of fluids and, after a period up to three (3) hours time, attempt to provide a complete sample. If employee is still not able to give an adequate sample the MRO shall refer the individual for a medical evaluation to determine if the individual's inability to provide a sample is a genuine medical condition or constitutes a refusal to test. An employee's refusal to be examined by a physician shall be regarded as a refusal to test.

## VIII. CONSEQUENCES OF ENGAGING IN PROHIBITED BEHAVIOR

### A. Pre-employment Test

1. Applicants: **An applicant who refuses or fails a pre-employment drug or alcohol test will not be hired for any covered position.** Any applicant who has previously refused or failed a pre-employment drug or alcohol test administered under Part 382 or 655 must provide proof of successful completion of a referral, evaluation and treatment plan meeting DOT requirements, prior to being considered for employment.

2. Current Employees: An employee who refuses or fails a pre-employment drug or alcohol test will not be eligible for assignment to a covered position. Any employee who has previously refused or failed a pre-assignment drug or alcohol test administered under Part 382 or 655 must provide proof of successful completion of a referral, evaluation and treatment plan meeting DOT requirements, prior to being assigned to a covered position.

**A positive test result on the drug test or an alcohol concentration level of 0.04 or greater will also render the employee ineligible for a safety-sensitive position for a minimum of six months. An employee whose alcohol test result is between 0.02 and 0.039 percent will also be ineligible, but will be allowed one retest after 24 hours have elapsed. Failure to pass the alcohol test a second time will render the employee ineligible for assignment to a safety-sensitive position for a minimum of six months.**

### B. Random.

First positive test: The employee will be referred to the City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until City receives written documentation from the SAP that employee has successfully completed a referral, evaluation and treatment plan meeting DOT requirements and passed a return to work drug/alcohol test.

Second positive test: The employee will be referred to the City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until City receives written documentation from the SAP that employee has successfully completed a referral, evaluation and treatment plan meeting DOT requirements and passed a return to work drug/alcohol test. **Disciplinary action, up to and including termination, will be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)**

**A safety-sensitive employee who has been removed from his/her job duties due to a verified positive drug and/or alcohol test is eligible to use his/her sick or vacation leave or apply for a medical leave of absence.**

**NOTE: More severe action may be warranted, depending on a safety-sensitive employee's previous drug and/or alcohol test record.**

### C. Reasonable Suspicion & Post-Accident Tests

First positive test: The employee will be referred to the City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until City receives written documentation from the SAP that employee has successfully completed a referral, evaluation and treatment plan meeting DOT requirements and passed a return to work drug/alcohol test. **Depending upon the circumstances that led to the testing, disciplinary action, up to and including termination, may be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)**

Second positive test: The employee will be referred to the City's EAP for evaluation by a SAP. The employee will be removed from his/her safety-sensitive position until City receives written documentation from the SAP that employee has successfully completed a referral, evaluation and treatment plan meeting DOT requirements and passed a return to work drug/alcohol test. **Disciplinary action, up to and including termination, will be taken. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)**

**Upon removal from duty due to a verified positive drug and/or alcohol test, the safety-sensitive employee is eligible to use his/her sick or vacation leave or apply for a medical leave of absence.**

**NOTE: The procedures listed above are guidelines. Action taken will depend upon the severity of the circumstances and the safety-sensitive employee's previous record, especially the drug and/or alcohol test record.**

**D. Alcohol Concentration Levels between 0.02 and 0.039 percent**

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.039 percent will be removed from his/her job duties for at least 8 hours for FTA covered employees and at least 24 hours for FMCSA covered employees. The City will then retest the employee. Before returning to his/her safety-sensitive position, the employee's alcohol concentration must be below 0.02. **The employee may be subject to progressive discipline for occurrences between 0.02 and 0.039 percent. (Note: Disciplinary action taken pursuant to City of Torrance Disciplinary Action Policy #39.)** The supervisor/manager shall arrange to have an employee transported home safely if that employee tests positive for alcohol at 0.02 percent or greater.

## **IX. EMPLOYEE NOTIFICATION FOLLOWING POSITIVE TEST RESULT**

**Following notification by the Human Resources Department of a positive test result, the supervisor will arrange to meet with the employee immediately to review the test result and to explain the mandated follow-up steps. Following such notification, the employee will be eligible to use sick leave, vacation leave or apply for a medical leave of absence.**

**Upon request, any employee removed from a safety-sensitive position following a positive test result shall be granted a meeting with the department head or designee to "show cause" why removal should not have been necessary. The "show cause" meeting must be requested by the employee prior to completion of what would have been the employee's first scheduled work shift following removal.**

**Upon receipt of a timely request, the department head or his/her designee shall conduct the "show cause" meeting prior to completion of what would have been the employee's second scheduled work shift following removal. Should the employee prevail at the "show cause" meeting, all sick/vacation leave used, or time lost, shall be reinstated.**

**Any employee dissatisfied with the result of a "show cause" meeting may file a grievance challenging the testing procedures, the test results, or the conclusions of the "show cause" meeting. The grievance shall be processed pursuant to procedures contained in the applicable MOU. The results of the grievance process shall be conclusive of all issues that were raised or could have been raised by the grievance.**

## X. EVALUATION / REHABILITATION

The Substance Abuse Professional (SAP) must be a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

The SAP will perform responsibilities and retain confidential records as required by 49 CFR Part 40, as amended.

An employee who fails a drug test, alcohol test (0.04 or greater), or refuses to be tested will be referred to a substance abuse professional who shall determine what assistance the employee needs in resolving problems associated with alcohol misuse or drug use. Applicants not hired or employees who are to be terminated as a result of a violation of this policy shall also be referred to the SAP. Each employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program and shall be subject to unannounced follow-up alcohol and controlled substances tests. Return to work following an SAP referral will be conditioned upon consent for substance/alcohol retesting as scheduled by the SAP for a time period not to exceed 60 months.

**The employee may use accrued sick or vacation leave or apply for a medical leave of absence during the time he/she is participating in an approved DOT rehabilitation program. Refusal, failure to comply with, successfully complete the treatment and after-care recommendations or a positive follow-up drug or alcohol test will be grounds for termination.**

### Voluntary Admission and Referral to Employee Assistance Program

**Employees who voluntarily submit to rehabilitation program prior to testing positive on a drug or alcohol test will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. Voluntary requests for treatment must be made prior to any pending drug/alcohol test or disciplinary action. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.**

## XI. RETURN TO WORK

### A. After Mandatory Referral

**An employee wishing to return to work after a mandatory referral to a Substance Abuse Professional (SAP), must agree to the terms of a Return-to-Work Agreement which shall be established by the City. That agreement may include, ~~but is not limited to,~~ the following:**

- 1. A release to work statement from an approved treatment specialist, as well as from the SAP.**
- 2. A plan, designed by the SAP, setting out after-care and follow-up treatment procedures through the SAP and the EAP.**
- 3. A negative test for drugs and/or alcohol.**
- 4. Consent to submit to continued periodic and unannounced drug and/or alcohol testing as established by the SAP.**

**5. Signed acknowledgment by employee that violation of the agreement will be grounds for termination.**

**Failure to successfully complete a treatment program, or to comply with the return-to-work agreement, or a positive drug and/or alcohol test after return to work will be grounds for termination.**

## **XII. MEDICAL REVIEW OFFICER (MRO)**

A. The MRO must be a licensed physician or doctor of osteopathy who is responsible for receiving laboratory results generated by the Commercial Motor Vehicle and the Transit Division drug testing program, and who has knowledge of substance abuse disorders and has approved medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

B. The MRO will perform responsibilities, perform notifications, and retain confidential records as required by 49 CFR Part 40 as amended.

## **XIII. TESTING LABORATORY**

The City shall use a drug testing laboratory certified under DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988 and subsequent amendments.

The testing laboratory will comply with all methods and procedures of 49 CFR Part 40, as amended. The laboratory shall have a qualified individual to assume professional, organizational, educational, and administrative responsibility for the laboratory's urine drug testing facility.

## **XIV. EMPLOYEE AND SUPERVISOR TRAINING**

A. Every employee covered by this policy will receive the following drug use/alcohol misuse education:

1. Drug/alcohol information will be periodically distributed and displayed in the work areas.
2. Copies of this policy will be displayed in the work area. This information will be discussed at the time that it is handed out so that the employees understand its content. Every new employee receives a copy of the entire Policy.
3. The hot line telephone number for the Employee Assistance Program is 1-800-695-9355, 24-hours per day, seven days a week.

D. Supervisors/Managers will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

## **XV. Recordkeeping**

A. The City of Torrance will keep the following records for the periods specified. These records will be maintained in the Office and under the supervision of the Program Manager.

1. Five years. The following records shall be maintained for a minimum of five years:

- a) Records of employee alcohol test results that indicate an alcohol concentration of 0.02 or greater,
- b) Records of employee verified positive controlled substances test results,
- c) Documentation of refusals to take required alcohol and/or controlled substances tests.
- d) Calibration documentation,
- e) Employee evaluation and referrals shall be maintained for a minimum of five years, and
- f) A copy of each annual calendar year MIS summary.

2. Two years. Records related to the alcohol and controlled substances collection process (except calibration of EBT devices) and training shall be maintained for a minimum of two years.

3. One year. Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

**B. Types of Records. The following specific records shall be maintained:**

1. Records related to the collection process:

- a) Collection log books if used.
- b) Calibration documentation for evidential breath testing devices.
- c) Documentation of breath alcohol technician training.
- d) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
- e) Documents generated in connection with decisions on post-accident tests.
- f) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.
- g) Consolidated annual calendar year (MIS) summaries.

2. Records related to test results:

- a) The employer's copy of the alcohol test form, including the results of the test.
- b) The employer's copy of the chain of custody and control form.
- c) Documents sent by the MRO to the employer.
- d) Documents related to the refusal of any covered employee to submit to a required alcohol test.
- e) Documents presented by a covered employee to dispute the result of an alcohol or controlled substances test.
- f) Documentation of SAP referrals for all positive tests.

4. Records related to evaluations:

- a) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.
- b) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

5. Record(s) related to the employer's MIS annual testing data.

6. Records related to education and training:

- a) Materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse.
- b) Documentation of the driver's signed receipt of education materials.
- c) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion.

d) Certification that any training conducted complies with DOT's requirements for such training.

7. Records related to drug testing:

- a) Agreements with collection site facilities, laboratories, medical review officers, and consortia;
- b) Names and positions of officials and their role in the employer's alcohol and controlled substances testing programs;
- c) Quarterly laboratory statistical summaries of urinalysis required by §40.111(d) The employer's drug testing policy and procedures.

C. Location of Records. All records required shall be made available for inspection at the City within two business days after a request has been made by an authorized representative of the FMCSA or FTA.

D. Access to Facilities and Records

1. Except as required by law or expressly authorized or required by DOT, the City shall not release covered employee information that is contained in the records required to be maintained.

2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. The City shall promptly provide the records requested by the employee. Access to employee's records shall not be contingent upon payment for records other than those specifically requested.

3. The City is required to obtain pursuant to an employee's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested within the preceding two years, which are maintained by the driver's previous DOT covered employers.

a) This information shall be maintained and reviewed by the City no later than 14 calendar days after the first time a driver performs safety-sensitive functions for an employer, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions.

b) If the driver stops performing safety-sensitive functions for the employer before expiration of the 14 day period or before the employer has obtained the required information, the City must still obtain the information.

c) The City must provide to each of the driver's DOT-covered employers within the two preceding years the driver's specific, written authorization for release of the information.

d) The release of any information may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The City shall maintain a written, confidential record with respect to each past employer contacted.

e) The City may not use a driver to perform safety-sensitive functions if the employer obtains information on the driver's alcohol test with a BAC of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent substance abuse professional evaluation and/or determination under § 40.25.

## XVI. ANNUAL REPORTING OF TESTING RESULTS

A. The City shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs. By March 15 of each year, the City shall complete the annual summary covering the previous calendar year.

B. If the City is notified, during the month of January, of a request by the FMCSA and/or FTA to report the employer's annual calendar year summary information, the City shall prepare and submit the report to FMCSA and/or FTA by March 15 of that year. The report shall be in the form and manner prescribed by FMCSA and/or FTA in its request. When the report is submitted to FMCSA and/or FTA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official.

C. Each annual calendar year summary containing information on controlled substances and alcohol screening test results shall include the following informational elements:

1. Number of covered employees subject to parts 382 & 655;
2. Number of covered employees subject to testing under the anti-drug rules or alcohol misuse rules of more than one DOT agency, identified by each agency;
3. Number of urine specimens collected by type of test;
4. Number of positive test results, verified by a MRO, by type of test and type of drug;
5. Number of negative controlled substance tests verified by a MRO by type of test;
6. Number of persons denied a position as a employee following a pre-employment verified positive controlled substances test and/or a pre-employment alcohol test that indicates an alcohol concentration of 0.04 or greater;
7. Number of employees with tests verified positive by a medical review officer for multiple controlled substances;
8. Number of employees who refused to submit to an alcohol or drug test required by this program;
9. (a) Number of screening alcohol tests by type of test; and (b) Number of confirmation alcohol tests, by type of test;
10. Number of confirmation alcohol tests indicating an alcohol concentration of 0.02 or greater but less than 0.04 by type of test;
11. Number of confirmation alcohol tests indicating an alcohol concentration of 0.04 or greater, by type of test;
12. Number of employees who were returned to duty (having complied with the recommendations of a MRO/SAP), in the reporting period, who previously: (a) had a verified positive controlled substance test result, or (b) Engaged in prohibited alcohol misuse under the provisions of this program;

13. Number of employees who were administered alcohol and drug tests at the same time, with both a verified positive drug test result and an alcohol test result indicating an alcohol concentration of 0.04 or greater; and
14. Number of employees who were found to have violated any non-testing prohibitions and any action taken in response to the violation.

## **XVII. CONTRACTORS HIRED BY THE CITY**

A. Contractors hired by the City that fall under 49 CFR Part 655 shall be required to submit a copy of their Anti-Drug/Alcohol Misuse Program and may also be required to submit quarterly reports that state: number of employees tested, type of test, number of positive drug tests and resulting action for those that tested positive, number of alcohol tests that indicated a BAC of 0.04 or greater and resulting action, number of alcohol tests that indicated a BAC of 0.02 or greater, but less than 0.039 and resulting action, for that period. The contractor shall make clear the job titles of employees who will perform any work or functions covered by Part 655 under said contract. Names may also be included if clarification is necessary. Failure to submit an Anti-Drug/Alcohol Misuse Program that complies with DOT Part 655 and Part 40 may result in the rejection of offerer's bid. Failure to submit quarterly reports or annual MIS reports may result in a default of contract as stated in the project's specifications and contract documents. Although not required by FMCSA, *the City may require contractors to show evidence of compliance with Part 382.*

B. The contractor shall allow access to property and records by a City representative, FMCSA, FTA or any DOT agency with regulatory authority over the operator for the purpose of monitoring the operator's compliance with the requirements of Parts 382, 655, and 40, as amended.

## **XVIII. CONFIDENTIALITY**

A. Each individual's record of testing and results under this policy will be maintained private and confidential. Except as provided by law or expressly authorized by DOT regulations, the results of individual drug/alcohol tests will not be released to anyone without the specific, written consent of a safety-sensitive employee authorizing release of the information to an identified person. Prior to testing, the individual will be informed about who will receive test data (e.g., testing laboratory, MRO, Program Manager, Supervisor if removal from a safety-sensitive function is necessary).

B. All written records will be stored in locked containers or in a secure location with access available only by the Program Manager and DOT upon request.

C. Drug and alcohol testing and/or rehabilitation records shall only be released to subsequent DOT covered employers upon written consent from the covered employee. Then only the specific information requested by the employee shall be released.

## **XIX. Glossary of Acronyms**

BAC - Breath alcohol concentration  
 BAT - Breath Alcohol Technician  
 CFR - Code of Federal Regulations  
 COC - Chain of Custody form  
 CMV- Commercial Motor Vehicle  
 CPL - Conforming products list  
 DAPM – Drug & Alcohol Program Manager  
 DER – Designated Employer Representative  
 DHHS - Department of Health and Human Services

DOT - Department of Transportation  
 EAP - Employee Assistance Program  
 EBT- Evidential breath testing (device)  
 FMCSA- Federal Motor Carrier Safety Administration  
 FTA - Federal Transit Administration  
 GC/MS - Gas chromatography/mass spectrometry  
 MIS - Management Information System  
 MRO - Medical Review Officer  
 NHTSA- National Highway Traffic Safety Association  
 NTSB - National Transportation Safety Board  
 PCP - Phencyclidine  
 QAP - Quality assurance plans (for EBT's)  
 RSPA- Research and Special Programs Administration  
 SAP - Substance Abuse Professional

## **XX. TERMS AND DEFINITIONS**

*Accident* - The definition of an accident can be found under Post-Accident Testing.

*Air Blank* - A reading by an EBT of ambient air containing no alcohol.

*Alcohol* - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

*Alcohol Concentration*- The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device.

*Alcohol use* - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

*Blind Sample or Blind Performance Test* - A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

*Breath Alcohol Technician* - An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

*Canceled or Invalid Test*-In drug testing, a drug test that has been declared invalid by a Medical Review Officer . A canceled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing, a test that is deemed to be invalid under Part 40 Subpart N – Problems in Alcohol Testing.

*Certification* - A recipient's (of federal funds) written statement, authorized by the organization's governing board or other authorizing official, that the recipient has complied with the provisions of this part. (FTA)

*Chain of Custody* - Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health & Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.

*Collection Site* - A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

*Collection Site Person* - A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen provided by those individuals.

*Commercial Motor Vehicle (CMV)*- means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle 1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds; or 2) Has a gross vehicle weight rating of 26,001 pounds; or 3) Is designed to transport 16 or more passengers, including the driver; or 4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

*Confirmation Test*- For alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing it means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

*Contractor* -A person or organization that provides a service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement.

*Covered Position (Safety-sensitive position)* -A duty position or job category that requires the performance of safety-sensitive (covered) function(s) as described below.

*Covered Function (safety-sensitive function)* means 1) FMCSA: operation of a commercial motor vehicle. 2) FTA: (a) Operating a revenue service vehicle, including when not in service; (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; (c) Controlling dispatch or movement of a revenue service vehicle; (d) Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives sections 18 funding and contracts out such services; (e) Carrying a firearm for security purposes.

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

*DOT Agency* -An agency of the United States Department of Transportation administering regulations related to drug or alcohol testing. The Federal Motor Carrier Safety Administration and Federal Transit Administration are DOT agencies.

*Drug Metabolite* - The specific substance produced when the human body metabolizes a given drug as it passes through the body and is excreted in the urine.

*Drug Test* - The laboratory analysis of urine specimen collected in accordance with 49 CFR Part 40 and analyzed in a DHHS-approved laboratory.

*Education* -Efforts that include the display and distribution of informational materials, a community service hot-line telephone number for employee assistance, and the City's policy(ies) regarding drug use in the workplace.

*Employee Assistance Program (EAP)* - A program provided to assist employees in dealing with drug or alcohol dependency and other personal problems. Rehabilitation and reentry to the work force are usually arranged through an EAP.

*Employer or operator* - 1) FMCSA: means any person who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. 2) FTA: A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors. 3) RSPA: the owner or operator of a pipeline or LNG facility subject to part 192, 193 or 195 of 49 CFR.

*Evidential breath testing device (EBT)* -An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath and placed 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.

*Federal Motor Carrier Safety Administration (FMCSA)* - The DOT operating authority that regulates commercial motor vehicles.

*Large Operator* - 1) FMCSA & RSPA: an employer who has more than 50 covered employees. 2) FTA: A recipient or sub-recipient primarily operating in an area of 200,000 or more in population.

*Medical Review Officer (MRO)* - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

*Performing a covered function:* An employee is considered to be performing a covered functions during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.

*Post-Accident Test* - A drug test administered to an employee when an accident has occurred and the employee performed a safety-sensitive function that either contributed to the accident, or cannot be completely discounted as a contributing factor in the accident.

*Pre-Employment Test* - A drug test given to an applicant or employee who is being considered for a safety-sensitive position. The applicant or employee must be informed of the purpose for the urine collection prior to actual collection.

*Prohibited Drug* -Marijuana (including all hemp products), cocaine, opiates, phencyclidine (PCP), and amphetamines.

*Random Test* - A drug test of safety-sensitive employees who are selected on a scientifically defensible random and unannounced basis. The number of tests performed is based on a percentage of safety-sensitive employees as directed by DOT.

*Reason to Believe* - Objective information indicating that a particular individual may alter or substitute a urine specimen.

*Recipient -FTA*: An entity receiving Federal financial assistance under Section 3, 9, or 18, of the FT Act, or under Section 103(e)(4) of Title 23 of the United States Code.

*Refuse to submit or test*- means that a covered employee (1) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement for urine testing; or (3) engages in conduct that clearly obstructs the testing process.

*Return to Duty Test* - An initial drug or alcohol test prior to return to duty and additional unannounced drug tests (Follow-up Tests) given to employees performing in safety-sensitive functions who previously tested positive, or refused, a drug/or alcohol test and are returning to safety-sensitive positions.

*Revenue Service Vehicle* - A vehicle used to transport passengers, including a bus, van, car, railcar, locomotive, trolley car, trolley bus, ferry boat, or a vehicle used on a fixed guideway or inclined plane.

*Screening test (initial test)*. In alcohol testing, it means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his/her system. In controlled substances testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

*Small Operator* - 1) FMCSA: an employer who has less than 50 covered employees. 2) FTA: A recipient or subrecipient primarily operating in an area of less than 200,000 in population

*Specimen Bottle* - The bottle that, after being labeled and sealed, is used to transmit a urine sample to the laboratory.

*Split Specimen* - An additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive.

*Substance Abuse Professional (SAP)* - The Substance Abuse Professional for this program must be a 1) licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or 2) an addiction counselor certified by the National Association of alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

*Training* - Providing information about the effects and consequences of drug use on personal health, safety, and the work environment; and about manifestations and behavioral clues that may indicate drug use and abuse.

*Verified Positive (drug test result)* - A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use.

## **XXI. EMPLOYEE INFORMATION ON THE EFFECTS OF ALCOHOL MISUSE/CONTROLLED SUBSTANCE USE**

A. Effects of alcohol and controlled substances on a person's health, work, and personal life include: Disruption of sleep; changes in eating patterns, commonly not eating as much and therefore, weight loss; mood swings; depression; increased physical ailments (i.e., headaches, colds, stomach problems); decreased motivation; withdrawal from family and friends; quicker to anger; neglects obligations and is not as attentive; does not handle stress; changes friends; excuses use of alcohol.

B. Signs and symptoms of controlled substance use or alcohol misuse which could effect work performance include: Reporting to work late; calling in sick often; unauthorized absences; smell of alcohol on a person; taking long or frequent breaks; change in personality - more angry or less friendly; decreased motivation: an "I don't care" attitude; thinking and concentration not as sharp; more prone to accidents; forgetfulness; less attentive to appearance; appearing tired; sleeping on the job.

For additional information, see Attachment A – Drug and Alcohol Fact Sheets.

## Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for employment and relaxation during social gatherings. However, 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.

### **Signs and Symptoms of Use**

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech (Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

### **Health Effects**

The chronic consumption of alcohol (average of three servings per day of beer 12 ounces), whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

### **Social Issues**

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

### **The Annual Toll**

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.

- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

### **Workplace Issues**

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

## **Amphetamine 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. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

### **Description**

- Amphetamine is sold in counterfeit capsules or as white, flat, double-scored "minibennies." It is usually taken by mouth.
- Methamphetamine is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.
- Trade/street names include Biphedamine, Delcobese, Desotyn, Detedrine, Chetrol, Ritalin, Speed, Meth, Crank, Crystal, Monster, Black Beauties, and Rits.

### **Signs and Symptoms of Use**

- Hyperexcitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Heightened aggressive behavior

### **Health Effects**

- Regular use produces strong psychological dependence and increasing tolerance to drug.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.
- Withdrawal from the drug may result in severe physical and mental depression.

### **Workplace Issues**

- Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.
- Low-dose amphetamine use will cause a short-term improvement in mental and physical functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.

### Cocaine Fact Sheet

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. 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.

#### **Description**

- The source of cocaine is the coca bush, grown almost exclusively in the mountainous regions of northern South America.
- Cocaine Hydrochloride—"snorting coke" is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within **minutes and lasts 40 to 50 minutes** per "line" (about 60 to 90 milligrams). Common paraphernalia include a single-edged razor blade and 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.
- Cocaine Base—a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and is up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven seconds. Common paraphernalia includes a "crack pipe" (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp, or small butane torch for heating.
- Trade/street names include Coke, Rock, Crack, Free Base, Flake, Snow, Smoke, and Blow.

#### **Signs and Symptoms of Use**

- Financial problems
- Frequent and extended absences from meetings or work assignment
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent nonbusiness visitors, delivered packages, phone calls
- Unusual defensiveness, anxiety, agitation
- Wide mood swings
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High blood pressure, heart palpitations, and irregular rhythm
- Hallucinations
- Hyperexcitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness.

#### **Health Effects**

- Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson's disease could also occur.
- Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks.
- Strong psychological dependency can occur with one "hit" of crack. Usually, mental dependency occurs within days (crack) or within several months (snorting coke). Cocaine causes the strongest mental dependency of any known drug.
- Treatment success rates are lower than for other chemical dependencies.
- Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled in the last four years.
- Cocaine overdose was the second most common drug emergency in 1986—up from 11th place in 1980.

### **Workplace Issues**

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.

## **Cannabinoids (Marijuana) Fact Sheet**

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood- and perception-altering effects it produces.

### **Description**

- Usually sold in plastic sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed, sometimes tarlike substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil. It may also be sold in an oily liquid.
- Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense.
- 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.
- Trade/street names include Marinol, THC, Pot, Grass, Joint, Reefer, Acapulco Gold, Sinsemilla, Thai Sticks, Hash, and Hash Oil.

### **Signs and Symptoms of Use**

Reddened eyes (often masked by eyedrops) Slowed speech Distinctive odor on clothing Lackadaisical "I don't care" attitude Chronic fatigue and lack of motivation Irritating cough, chronic sore throat.

### **Health Effects**

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.

- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection. The U.S. government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

### **Pregnancy Problems and Birth Defects**

- The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes.
- Chronic smoking of marijuana in males causes a decrease in sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users.
- Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone.
- Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life.
- In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver and water on the brain and spine.
- Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant's feet and hands.
- One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies.
- Fetal exposure may decrease visual functioning and causes other ophthalmic problems.

### **Mental Function**

Regular use can cause the following effects:

- Delayed decision-making
- Diminished concentration
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery
- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements
- Erratic cognitive function
- Distortions in time estimation
- Long-term negative effects on mental function known as "acute brain syndrome," which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition.

### **Acute Effects**

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency

- Panic Paranoid reaction
- Unpleasant distortions in body image.

### **Workplace Issues**

- The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance.
- A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 1978.
- Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.

## **Opiates (Narcotics) Fact Sheet**

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

### **Description**

- Natural and natural derivatives—opium, morphine, codeine, and heroin
- Synthetics—meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan)
- May be taken in pill form, smoked, or injected, depending upon the type of narcotic used.
- Trade/street names include Smack, Horse, Emma, Big D, Dollies, Juice, Syrup, and China White.

### **Signs and Symptoms of Use**

- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy
- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation
- Impaired respiration.

### **Health Effects**

- IV needle users have a high risk for contracting hepatitis and AIDS due to sharing of needles.
- Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity.
- Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

### **Social Issues**

- There are over 500,000 heroin addicts in the U.S., most of whom are IV needle users.
- An even greater number of medicinal narcotic-dependent persons obtain their narcotics through prescriptions.
- Because of tolerance, there is an ever-increasing need for more narcotic to produce the same effect.
- Strong mental and physical dependency occurs.
- The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

### **Workplace Issues**

- Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident.

- Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.

### **Phencyclidine (PCP) Fact Sheet**

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. 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.

#### **Description**

- PCP is sold as a creamy, granular powder and is often packaged in one-inch square aluminum foil or folded paper "packets."
- It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine.
- Trade/street names include Angel Dust, Dust, and Hog.

#### **Signs and Symptoms of Use**

- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat
- Dizziness.

#### **Health Effects**

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction.
- Misdiagnosing the hallucinations as LSD induced, and then treating with Thorazine, can cause a fatal reaction.
- Use can cause irreversible memory loss, personality changes, and thought disorders.

There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation. The third phase is a drug-induced schizophrenia that may last a month or longer. The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

#### **Workplace Issues**

- PCP abuse is less common today than in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs.

## List of Covered Positions

|                     |
|---------------------|
| <b>Attachment B</b> |
|---------------------|

NOTE: The determining factor as to whether an employee is subject to this policy is based upon their job duties and assignments. See Section IV, Covered Employees, for a list of safety sensitive functions covered under this policy.

### FMCSA:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Cement Finisher</li> <li>• Construction Equipment Operator</li> <li>• Electrician</li> <li>• Equipment Attendant</li> <li>• Fleet Services Manager</li> <li>• Fleet Services Supervisor</li> <li>• Equipment Operator</li> <li>• Lead Maintenance Worker</li> <li>• Heavy Equipment Operator</li> <li>• Mechanic</li> <li>• Maintenance Worker</li> <li>• Park Services Supervisor</li> <li>•</li> </ul> | <ul style="list-style-type: none"> <li>• Sanitation Truck Operator</li> <li>• Sanitation Services Manager</li> <li>• Senior Mechanic</li> <li>• Senior Water Quality Inspector</li> <li>• Senior Welder</li> <li>• Waste Water Technician</li> <li>• Street Services Supervisor</li> <li>• Tree Trimmer</li> <li>• Water Quality Inspector</li> <li>• Water Service Supervisor</li> <li>• Water Service Technician I, II and III</li> <li>•</li> </ul> |
|---|--|

### FTA:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Bus Operator</li> <li>• Business Manager</li> <li>• Dispatcher</li> <li>• Fleet Services Manager</li> <li>• Fleet Services Supervisor</li> <li>• Mechanic</li> </ul> | <ul style="list-style-type: none"> <li>• Maintenance Worker</li> <li>• Relief Bus Operator</li> <li>• Senior Mechanic</li> <li>• Transit Supervisor</li> <li>• Transit Director</li> </ul> |
|---|--|



# CITY OF TORRANCE

## POST-ACCIDENT RECORD OF DECISION

ATTACHMENT D

**Attachment C**

### Testing Instructions

**Manager/Supervisor:** This form is to document the action taken following an accident involving a City-owned vehicle that may meet DOT post-accident drug/alcohol testing requirements. DOT policy requires the testing of the vehicle operator and any other employees whose performance could have contributed to the accident.

- Complete a "Post-Accident Record of Decision" form.
- If the testing criteria is met (see below) complete the "Notification of Required Testing" form.
- Escort the employee to the testing facility.
- Give the staff the "Notification of Required Testing" form so they can complete their portion.
- Transport the employee back to the work site and forward this form to Human Resources.

### Accident Information

Employee: \_\_\_\_\_ Employee ID: \_\_\_\_\_ Job Title: \_\_\_\_\_

Date of accident: \_\_\_\_\_ Time: \_\_\_\_\_ AM / PM

Location \_\_\_\_\_ Vehicle #: \_\_\_\_\_ Route#: \_\_\_\_\_ Run #: \_\_\_\_\_

Description of Accident: \_\_\_\_\_

### Post-Accident Testing Criteria

| <u>FMCSA Covered Employees</u>  | <u>FTA Covered Employees</u>  |
|---|---|
| <p>1) Was there a fatality?<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - go to question #2. ↓</p> <p>2) Did driver receive a citation for a moving violation?<br/> <input type="checkbox"/> YES - go to question #3. ↓<br/> <input type="checkbox"/> NO - stop. Do not test.</p> <p>3) Did anybody require medical attention away from the scene of the accident?<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - go to question #4. ↓</p> <p>4) Did either vehicle sustain "disabling damage?" (see other side for definition).<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - stop. Do not test.</p> | <p>1) Was there a fatality?<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - go to question #2. ↓</p> <p>2) Did anybody require medical attention away from the scene of the accident?<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - go to question #4. ↓</p> <p>3) Did either vehicle sustain "disabling damage?" (see below for definition).<br/> <input type="checkbox"/> YES - test is required.<br/> <input type="checkbox"/> NO - stop. Do not test.</p> |

If a test is required the driver must be tested unless the employee's performance can be completely discounted as a contributing factor to the accident. Can the employee's performance be completely discounted?

NO \_\_\_\_\_ YES \_\_\_\_\_ Explain why: \_\_\_\_\_

### CITY OF TORRANCE

### Post-Accident Record of Decision

If a post-accident test is required, any other employee(s) whose performance could have contributed to the accident must also be tested. (Example: Drive states there was a brake failure and the brakes were recently serviced by a Sr. Mechanic.) List any employee whose performance could have contributed to the accident.

#### Where To Test

Mon to Fri 8am to 7pm / Sat & Sun 9am to 5 pm

Use when Care Station is closed

**Care Station Medical Group**  
2382 Crenshaw Blvd., Suite #5  
Torrance, CA 90501  
(310) 618-9200

**Western Medical Group**  
21080 S. Western Ave., Suite 150  
Torrance, CA 90501  
(310) 782-3300

Facility used: \_\_\_\_\_ Care Station

\_\_\_\_\_ Western Medical Group

#### Drug & Alcohol Testing Information

Time of Accident: \_\_\_\_\_ AM / PM

Time arrived at collection site: \_\_\_\_\_ AM / PM

Time of alcohol test (see the employee's copy of the "Alcohol Testing Form"): \_\_\_\_\_ AM / PM

Elapsed time between the accident and alcohol test: \_\_\_\_\_

Was the Alcohol Test performed within 2 hours of the accident (If more than 8 hours have passed the attempt to test must stop and the reason stated below): NO \_\_\_ YES \_\_\_

If NO, state reason: \_\_\_\_\_  
\_\_\_\_\_

Was the Drug Test performed within 32 hours of the accident? (If more than 32 hours have passed the attempt to test must stop and the reason stated below): NO \_\_\_ YES \_\_\_

If no, state reason: \_\_\_\_\_  
\_\_\_\_\_

Print Supervisor Name \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

\* **DISABLING DAMAGE** is damage that precludes the departure of any vehicle from the scene of an accident in its usual manner in daylight hours after simple repairs. **Disabling damage includes:** damage to vehicles that could have been operated, but would have caused further damage if so operated. **Disabling damage does not include:** damage that could be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no space tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperable.

#### For Drug & Alcohol Program Manager Use

DAPM initials: \_\_\_\_\_

Alcohol test performed within 2 hours? NO \_\_\_ YES \_\_\_

Alcohol test performed before drug test? NO \_\_\_ YES \_\_\_

Testing forms completed accurately? NO \_\_\_ YES \_\_\_

If NO to any of the above explain here: \_\_\_\_\_  
\_\_\_\_\_

Follow-up action taken: \_\_\_\_\_  
\_\_\_\_\_



# CITY OF TORRANCE

## Reasonable Suspicion Record of Decision

ATTACHMENT D

|                     |
|---------------------|
| <b>Attachment D</b> |
|---------------------|

**Manager/Supervisor:** This form is to be used to substantiate and document the objective facts and circumstances leading to a reasonable suspicion determination. After careful observation of the employee's behavior, please check **all** of the short-term indicators that denote a possible link to the employee's use of prohibited alcohol or drugs. **See the back of this form for additional instructions.**

### Employee Information

Name \_\_\_\_\_ ID# \_\_\_\_\_ Job Title \_\_\_\_\_

Date \_\_\_\_\_ Time Observed: From \_\_\_\_\_ AM / PM To: \_\_\_\_\_ AM / PM

Location of employee when reasonable suspicion evaluation was made (be specific):  
\_\_\_\_\_

Evaluating Supervisor: \_\_\_\_\_

Other Supervisors present: \_\_\_\_\_

### Observations (Check all that apply)

|   |  |   |   |
|---|--|---|---|
| Eyes:   | <input type="checkbox"/> Bloodshot/red             | <input type="checkbox"/> Glassy/watery    | <input type="checkbox"/> Fixed/ blank stare     |
|   | <input type="checkbox"/> Constricted (tiny) pupils | <input type="checkbox"/> Heavy eyelids    | <input type="checkbox"/> Other: _____           |
|   | <input type="checkbox"/> Dilated (large) pupils    |   |   |
| Breath/Body Odor:   | <input type="checkbox"/> Alcohol                   | <input type="checkbox"/> Marijuana        | <input type="checkbox"/> Other: _____           |
| Speech:   | <input type="checkbox"/> Confused                  | <input type="checkbox"/> Stuttered        | <input type="checkbox"/> Incomplete sentences   |
|   | <input type="checkbox"/> Slurred                   | <input type="checkbox"/> Mumbled          | <input type="checkbox"/> Other: _____           |
|   | <input type="checkbox"/> Not understandable        | <input type="checkbox"/> Rambled          |   |
| Body Movements:   | <input type="checkbox"/> Falling                   | <input type="checkbox"/> Needs support    | <input type="checkbox"/> Unsteady walk          |
|   | <input type="checkbox"/> Swaying                   | <input type="checkbox"/> Stumbling        | <input type="checkbox"/> Tremors / twitches     |
|   | <input type="checkbox"/> Drowsy/sleepy             | <input type="checkbox"/> Shaky hands/body | <input type="checkbox"/> Other: _____           |
| Body Appearance:  | <input type="checkbox"/> Flushed or pale           | <input type="checkbox"/> Sweating         | <input type="checkbox"/> Frequent swallowing    |
|   | <input type="checkbox"/> Disheveled appearance     | <input type="checkbox"/> Dry mouth        | <input type="checkbox"/> Repeated wetting lips  |
|   | <input type="checkbox"/> Heavy/quick breathing     |   | <input type="checkbox"/> Other: _____           |
| Behavior/Attitude:  | <input type="checkbox"/> Excited                   | <input type="checkbox"/> Combative        | <input type="checkbox"/> Irrational             |
|   | <input type="checkbox"/> Quick tempered            | <input type="checkbox"/> Talkative        | <input type="checkbox"/> Verbally abusive       |
|   | <input type="checkbox"/> Disoriented               | <input type="checkbox"/> Uncooperative    | <input type="checkbox"/> Inappropriate laughing |
| Unusual Behavior:   | <input type="checkbox"/> Hiccoughing               | <input type="checkbox"/> Belching         | <input type="checkbox"/> Vomiting               |
|   | <input type="checkbox"/> Fighting                  | <input type="checkbox"/> Crying           | <input type="checkbox"/> Other: _____           |
| Did the employee admit to using drugs or alcohol? NO _____ YES _____  |  |   |   |
| Did you see a drug or alcohol being used? NO _____ YES _____  |  |   |   |
| Did you see any drug paraphernalia or alcohol containers? NO _____ YES _____  |  |   |   |
| If you answered YES to any of the questions explain what you observed or heard:<br>_____<br>_____                         |  |   |   |
| Any other unusual actions/behavior made by the employee? NO _____ YES _____   |  |   |   |
| Explain: _____  |  |   |   |
| Document any explanation or statements made by the employee regarding the incident, circumstances, etc.<br>_____<br>_____ |  |   |   |
| List any witnesses to employee's behavior: _____  |  |   |   |

---

**Decision To Test**

Reasonable Suspicion Test Ordered: YES \_\_\_\_\_ NO \_\_\_\_\_

Reasonable Suspicion Test Refused: YES \_\_\_\_\_ NO \_\_\_\_\_

If the employee refuses to test instruct him/her that any refusal to test is treated the same as a positive test.

---

**Testing Information**

Time you first observed employee: \_\_\_\_\_ AM / PM

Time employee signed "Notification of Required Testing" form: \_\_\_\_\_ AM / PM

Time you arrived at testing facility: \_\_\_\_\_ AM / PM

Time you left the testing facility: \_\_\_\_\_ AM / PM

 \_\_\_\_\_ AM / PM  
 Signature of Evaluating Supervisor                      Date                      Time

---

**Testing Instructions**

- Complete the "Reasonable Suspicion Record of Decision" form
- Meet privately with the employee to explain what you have observed and that you are ordering he/she submit to a test.
- Complete the "Notification of Required Testing" form and have the employee sign to acknowledge they understand the test is required under the DOT regulations.
- Once you have advised the employee of a required test you must immediately escort the employee to the collection site.
- Advise the employee he/she may have a representative accompany them to the collection site. HOWEVER, there can not be any unreasonable delay in proceeding to the collection facility or in completing the test.
- Any refusal to submit to testing will be treated the same as a positive test.
- Give the facility the "Notification of Required Testing" form so they can complete their portion.
- Remain there with the employee until the test is completed.
- Drive the employee back to the work site.
- The employee can NOT perform safety-sensitive functions until a negative result is confirmed by the MRO. Arrange for the employee to be taken home by a relative or friend.
- Forward any paperwork given to you to Robert Weinmeister in Human Resources.

---

**Where To Test (check one)**

- Care Station, 2382 Crenshaw Blvd. (Mon-Fri 8am-7pm; Sat-Sun 9am-5pm)  
 Western Medical Group, 21081 S. Western Ave. # 150 (Open 24 hours/day)

**For Drug & Alcohol Program Manager Use**

Drug test result: Positive \_\_\_\_\_ Negative \_\_\_\_\_ Not conducted \_\_\_\_\_

Alcohol test result: Positive \_\_\_\_\_ Negative \_\_\_\_\_ Not conducted \_\_\_\_\_

Were there any procedural errors identified? YES \_\_\_\_\_ NO \_\_\_\_\_

If yes explain: \_\_\_\_\_

Describe remedial action taken: \_\_\_\_\_

\_\_\_\_\_



**CITY OF TORRANCE**  
**Notification of Required Testing**  
**Pursuant to the US DOT Regulations**  
**49 CFR Part 40, 382 and 655**

For collection

**Attachment E**

Date: \_\_\_\_\_ St \_\_\_\_\_  
Time employee arrived: \_\_\_\_\_ am / pm  
Time test completed: \_\_\_\_\_ am / pm  
**Employee MUST return with this form**

**This form MUST be completed for ALL tests**

**Employee Identification**

To: \_\_\_\_\_ ID No: \_\_\_\_\_ Position: \_\_\_\_\_  
*Employee Name (print)*

Department: \_\_\_\_\_ Division: \_\_\_\_\_

Pursuant to the US DOT Regulations 49 CFR Part 40, 382 and 655, as amended, all safety-sensitive employees/applicants are required to submit to drug and alcohol testing.

- The date, location and reason for the test are stated below.
- This form must be presented to the collection site staff.
- This form must be returned to your supervisor after the test.
- Behavior that constitutes a refusal to test is treated equivalent to a positive test.

I acknowledge receipt of this notification and understand I must proceed immediately to the collection site indicated below. After the test is complete return this form to your supervisor.

\_\_\_\_\_  
*Employee Signature*                      \_\_\_\_\_ *Date*                      \_\_\_\_\_ *Time* AM / PM

**Test Information**

Collection site:  Care Station, 2382 Crenshaw Blvd. (Mon-Fri 8am-7pm; Sat-Sun 9am-5pm)  
 Western Medical Group, 21081 S. Western Ave. # 150 (Open 24 hours/day)

Date test scheduled: \_\_\_\_\_

Date notice given to employee: \_\_\_\_\_ Time given: \_\_\_\_\_ AM / PM

If this notice was NOT given to the employee on the scheduled test date you must indicate the reason why:

\_\_\_\_\_

Type of test:     Drug                       Alcohol                       Both  
Reason for Test:  Pre-Employment             Post-Accident             Random  
                          Reasonable Suspicion     Return-to-duty             Follow-Up

Manager/Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For Drug & Alcohol Program Manager Use**

Were any errors found on the following forms:

- Notification form            NO \_\_\_\_\_ YES \_\_\_\_\_ Explain: \_\_\_\_\_
- Custody & Control form    NO \_\_\_\_\_ YES \_\_\_\_\_ Explain: \_\_\_\_\_
- Drug testing result form    NO \_\_\_\_\_ YES \_\_\_\_\_ Explain: \_\_\_\_\_
- Alcohol testing result form NO \_\_\_\_\_ YES \_\_\_\_\_ Explain: \_\_\_\_\_
- MRO verification form      NO \_\_\_\_\_ YES \_\_\_\_\_ Explain: \_\_\_\_\_

Follow-up action taken: \_\_\_\_\_  
\_\_\_\_\_

Distribution: Original to Robert Weinmeister, Human Resources    Copy to collection site

**Please take a few minutes to read the following  
which describes your role in the collection process.**

The specimen collection procedures are established by the US DOT. Failure to follow the procedures will be considered a refusal to test. The following is a summary of the specimen collection process:

1. At the collection site you will be asked to show your driver's license or City ID badge to identify yourself.
2. Before entering the restroom to provide a specimen you will be asked to remove extra clothing (jacket, coat, hat, etc.). Purses, handbags, etc. must remain with outer garments, outside the restroom.
3. You will be asked to empty your pockets and show the contents to the Collector.
4. You will be asked to wash your hands before entering the bathroom to provide a specimen.
5. You will be provided a sealed specimen bottle and the Collector will unwrap it in your presence.
6. After providing the specimen, you should observe the Collector check the specimen for its volume, temperature and color.
7. If the specimen shows signs of tampering (for example: unusual color, presence of foreign objects or material) or is outside of the acceptable temperature range (90-100 F), DOT Regulations require you to provide a second specimen under direct observation.
8. The Collector will complete the Federal Control Custody Form and place tamper proof seals over the specimen bottles. You will initial the seals, sign the Control Custody Form and receive a copy of the form.

**Refusal to test:**

Per the DOT Regulations a refusal to test is considered a positive test. Examples of a refusal to test include (see policy for complete list):

- Failure to cooperate with any part of the collection process.
- Failure to immediately report to the collection site after receiving this notice.
- Leaving the collection site before completing test.
- Failure to provide a urine sample without a valid medical explanation from the MRO.
- Specimen tampering.

*If you have any questions during the collection  
process, do not hesitate to ask the collection staff.*



**CITY OF TORRANCE**  
**Acknowledgement of Receipt**  
**FTA Covered Employee**

**Attachment F**

My signature below certifies that I have received a copy of the following materials:

1. Administrative Memorandum No: 20 - Addendum Policy: City of Torrance Drug and Alcohol Policy Pursuant to the U.S. Department of Transportation Regulations
2. Clean Sober and Safe: An Employee Drug Awareness Handbook
3. U.S. DOT Publication: What Every Employee Need To Know About Drug & Alcohol Testing

In addition, I certify that I have received 60 minutes of training on the effects and consequences of alcohol misuse and prohibited drug use on health, safety, personal life, and the work environment, and on the signs and symptoms, which may indicate such use.

I understand that it is my responsibility to become familiar with the information contained in these documents. I further understand that if any of the information is unclear or if I have any questions, it is my responsibility to ask for clarification from my supervisor, department head or a representative from the Human Resources Department.

\_\_\_\_\_  
 Name (Print)

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Emp. ID

\_\_\_\_\_  
 Hire Date

\_\_\_\_\_  
 Department

\_\_\_\_\_  
 Job Title

Send original to Robert Weinmeister, Human Resources Department



**CITY OF TORRANCE**  
**Acknowledgement of Receipt**  
**FMCSA Covered Employee**

**Attachment F**

My signature below certifies that I have received a copy of the following materials:

4. Administrative Memorandum No: 20 - Addendum Policy: City of Torrance Drug and Alcohol Policy Pursuant to the U.S. Department of Transportation Regulations
5. Clean Sober and Safe: An Employee Drug Awareness Handbook
6. U.S. DOT Publication: What Every Employee Need To Know About Drug & Alcohol Testing

I understand that it is my responsibility to become familiar with the information contained in these documents. I further understand that if any of the information is unclear or if I have any questions, it is my responsibility to ask for clarification from my supervisor, department head or a representative from the Human Resources Department.

\_\_\_\_\_  
 Name (Print)

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Emp. ID

\_\_\_\_\_  
 Hire Date

\_\_\_\_\_  
 Department

\_\_\_\_\_  
 Job Title

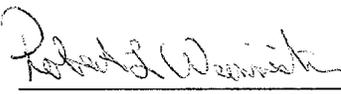
Send original to Robert Weinmeister, Human Resources Department

By agreement of the undersigned this Drug and Alcohol Policy/Procedures For Employees in Safety-Sensitive Job Functions is recommended to the City Council for adoption on December 8, 2009.

Signed this 30 day of November, 2009

Management:

  
 Aram Chaparyan  
 Assistant to the City Manager

  
 Robert L. Weinmeister  
 Sr. Human Resources Analyst

Employee Representative:

  
 Jeannie Moorman  
 President TME-AFSCME

  
 Gregory Ferguson  
 Vice President TME-AFSCME

  
 William T. Byron  
 President TPSA