

CITY OF AUSTIN PERSONNEL PROCEDURES

Section Name: Employee Relations Division

Subject: City of Austin Alcohol and Drug Testing Procedures

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Human Resources Director Approval: _____

Policy Reference: City of Austin Alcohol and Drug Testing Policy for Drivers of Commercial Motor Vehicles

Purpose: This Procedure implements the provision of the City of Austin Personnel Policies that complies with the requirements of the Omnibus Transportation Employee Testing Act of 1991.

Procedure(s): The following are the Pre-employment, Change in Duty/Post Leave, Post Accident, Random, Reasonable Suspicion, Return to Duty, and Follow-up Alcohol and Drug testing procedures for City employees required to hold commercial driver’s licenses to drive commercial motor vehicles.

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I. DEFINITIONS

Accident - An occurrence involving a commercial motor vehicle in which one of the following occurs: a fatality, an injury is treated away from the scene, a vehicle or property is damaged or a vehicle is required to be towed from the scene.

Alcohol and Drug Program Coordinator - A designated employee in the Human Resources Department, who is responsible for administering the City's Alcohol and Drug Testing Program for City Drivers of Commercial Motor Vehicles and coordinating alcohol and drug testing for City Commercial Drivers.

Alcohol Concentration -The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liter of breath.

Applicant – A person seeking employment or re-employment with the City or a City employee seeking a promotion, reclassification, or transfer to a new position.

Breath Alcohol Technician (BAT) - A trained and certified individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.

Change in Duty/Post Leave Testing - Drug testing administered to drivers prior to beginning to perform safety sensitive functions when:

- 1) an employee's required duties have expanded to include the operation of a commercial motor vehicle, or
- 2) a driver has not been performing commercial driving duties for 30 or more days as a result of light duty which precludes them from driving or leave i.e., family leave, leave of absence, vacation, military leave, Workers' Compensation or any other reason,

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 or a breathalyzer for the presence of alcohol. (Exception: The Collector may use a mobile testing unit at a site different than the usual collection site as stipulated by the Alcohol and Drug Program Coordinator.)

Collector – A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates the and completes the CCF (“Custody and Control Form”).

Commercial Driver - Any person who operates a commercial motor vehicle including, but not limited to, full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers, and independent, owner-operator contractors who are either directly employed by or under contract to the City or who operate a commercial motor vehicle at the direction of or with the consent of the City. For the purposes of pre-employment/pre-duty testing only, the term driver includes any person applying to the City for any job, which requires or could require the driving of a commercial motor vehicle.

Commercial Motor Vehicle - 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 rating of more than 10,000 pounds; or

- 2) Has a gross vehicle weight rating of 26,001 or more 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 requires the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Controlled Substances - The terms controlled substances and drugs are interchangeable and have the same meaning in these procedures. Both terms refer to marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamine).

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

Drugs - The terms drugs and controlled substances are interchangeable and have the same meaning in these procedures. Both terms refer to marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamine).

Department of Transportation (DOT) - The federal agency regulating drug and alcohol testing required by the Omnibus Transportation Employee Testing Act of 1991, as amended.

Employee Assistance Program (EAP) - A professional, confidential counseling service provided by the City of Austin to help the commercial driver and family members resolve personal problems such as, but not limited to, drug and alcohol dependency.

Evidential Breath Testing (EBT) - A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Product's List of Evidential Breath Measurement Devices" (CPL).

Facility - Any City work site where there are commercial drivers who operate, or could be called upon to operate, a commercial motor vehicle.

Follow-up Testing - Alcohol and drug testing conducted following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances. Testing will be unannounced and the number and frequency of tests will be determined by the substance abuse professional.

Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City's drug testing program. This person has knowledge of substance abuse disorders and 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.

Negative Dilute - A dilute specimen which does not contain prohibited amounts of a controlled substance. The MRO will determine if the test will be re-administered or if the employer can accept it as a negative test result based upon criteria found in the DOT regulations. If the test is not cancelled by the MRO and re-administered, it will be treated as a Negative result.

Negative Result - An alcohol test result with an alcohol concentration below .02. A drug urinalysis, reveals no "detectable" level of controlled substances, prohibited by DOT. A negative drug result could

also mean a positive result that was reported to the MRO, and as a result of the MRO's review, was determined to be negative in accordance with DOT regulations.

Pending Test – A test that requires additional information from the employee to verify preliminary test results.

Positive Dilute – A dilute specimen which contains prohibited amounts of a controlled substance. Positive dilute results are treated in all ways as a positive result per DOT regulations.

Positive Result - An alcohol test result with an alcohol concentration at or above .02. A drug urinalysis that reveals the presence of a verified test result, which indicates a detectable level of a controlled substance prohibited by the DOT.

Post-Accident Testing - Alcohol and drug testing conducted following an accident that involves a human fatality, an injury treated away from the accident scene, or a vehicle or property damaged or the removal of a vehicle (by towing) and a commercial driver receives a citation for a violation resulting from the accident while operating a commercial motor vehicle.

Pre-Employment Testing – A drug test conducted before an applicant is hired in a position requiring a commercial driver's license and the operation of a commercial motor vehicle.

Public Road (highway) - The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Highway means any road, street, or way, whether on public or private property, open to public travel.

Random Testing - Alcohol and drug testing of commercial drivers randomly-selected from a list of all commercial drivers who operate a commercial motor vehicle. Testing times and dates are unannounced and are conducted with unpredictable frequency throughout the year.

Reasonable Suspicion Testing - Alcohol and drug testing conducted when a trained supervisor or City official has reasonable suspicion to believe that a commercial driver has violated the U.S. Department of Transportation Regulations upon which these procedures are based. The determination of Reasonable Suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the driver.

Return to Duty Testing - Alcohol and/or drug testing conducted before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in a prohibited conduct regarding alcohol misuse or drug use. A return-to-duty alcohol test must indicate a breath alcohol concentration of less than 0.02, and a drug test result indicating a verified negative. The driver must also be evaluated by a substance abuse professional and participate in any assistance program prescribed.

Safety Sensitive Function - Any of the following functions as defined by DOT:

- 1) All time spent at a facility or other property, waiting to be dispatched, unless the commercial driver has been relieved from duty by the employer.
- 2) All time spent inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR's), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- 3) All time spent at the driving controls of a commercial motor vehicle.
- 4) All time, other than driving time, spent on or in a commercial motor vehicle.

- 5) All time spent loading or unloading a commercial motor vehicle; supervising, or assisting in the loading or unloading of a vehicle; attending a vehicle being loaded or unloaded; or remaining in readiness to operate a vehicle.
- 6) All time spent performing the commercial driver requirements associated with an accident.
- 7) All time spent repairing, obtaining assistance for, or remaining in attendance with a disabled vehicle.

Self-Declaration - An employee who voluntarily admits that he or she has a problem with the misuse of alcohol and/or drugs.

Single Point of Contact (SPOC) - The designated individual(s) at any given City facility, who has the responsibility to coordinate the alcohol and drug testing procedures for CDL drivers in that department.

Substance Abuse Professional (SAP) - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Supervisor - The individual assigned responsibility for directing activity of the work group and enforcing policies and procedures.

Trained Supervisor - A supervisor that has completed the training relating to the DOT regulations regarding alcohol and drug use and reasonable suspicion of commercial motor vehicle drivers.

Urinalysis - A chemical analysis of a sample of urine used to determine a detectable level of a controlled substance.

II. PROHIBITIONS

Each covered employee is required to comply with the provisions of federal law, which include the following requirements:

- A. No commercial driver shall report for duty or remain on duty to perform a safety-sensitive function while having an alcohol concentration of 0.04 or greater.
- B. No commercial driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol or any product containing alcohol.
- C. No commercial driver shall use alcohol while performing safety-sensitive functions.
- D. No commercial driver shall perform safety-sensitive functions within four hours after using alcohol, regardless of the driver's actual alcohol concentration.
- E. No commercial driver who is required to undergo post-accident alcohol testing shall use alcohol for eight hours following the accident, or until he or she undergoes the test, whichever occurs first.
- F. No commercial driver shall refuse to submit to any alcohol or controlled substance test required under the law.

- G. No commercial driver shall report for duty or remain on duty to perform a safety-sensitive function if the driver uses any controlled substances, except when the controlled substance is used pursuant to the instructions of a physician and the physician has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- H. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
- I. Any commercial driver who is tested for alcohol and found to have an alcohol concentration of 0.02 or greater, but less than 0.04 will not be permitted to perform safety sensitive functions until directed by his or her supervisor, but not less than 24 hours following administration of the test.
- J. Each covered employee must notify their supervisor immediately of any changes to their driving/license status. This includes any tickets, arrests, accidents or any other behavior, on or off duty, that effects their driving ability (i.e. CDL restrictions, suspensions, etc.)

III. PRE-EMPLOYMENT TESTING

All applicants for employment with the City of Austin to positions requiring a commercial driver's license are subject to pre-employment drug testing. Additionally, the City is required by law to obtain test results from prior employers if the applicant holds a CDL. The test results, which will be obtained, are only those from testing programs administered under DOT regulations.

Applicants whose prior testing records reflect positive tests within the past three years will not be hired. The testing procedures that follow apply to all applicants for positions requiring a Commercial Driver's License (CDL), whether current or prospective employees. (**Note:** This applies to non-CDL holders and CDL holders applying for a CDL position.) Signage indicating alcohol and drug testing requirements will be posted at locations accepting employment applications.

All applicants shall also meet the criteria of an Applicant as described in the COA Driver Safety Program. This includes but is not limited to having a valid driver's license, being "eligible" under the Status Section of the Texas DPS Driver Record, and having no more than 6 points as determined by the Program.

- A. For vacant jobs requiring a CDL, the hiring Department will submit to the Human Resources Department a request to advertise the position, and will forward the following:
 - 1) The essential function worksheet for the position to be filled,
 - 2) The advertisement for the position,
 - 3) A statement that the position requires a Commercial Driver's License (CDL).
- B. The following statement will be included in the job bulletin for positions that require a CDL:

"This position requires a Commercial Driver's License. The top applicant must comply with the Alcohol and Controlled Substance Testing rules as outlined by the City of Austin Alcohol and Drug Policy for Drivers of Commercial Motor Vehicles. The applicant shall also meet the criteria of an Applicant as described in the COA Driver Safety Program."

- C. Job applications for Citywide or externally advertised positions will be accepted as designated by HRD.
- D. Job applications will be referred to the hiring supervisor.
- E. The department will identify the applicants to be interviewed. During the interview, applicants will be notified that if they are selected for the job, they will be subject to pre-employment drug testing.
- F. The hiring Department will select the top applicant. The top applicant will be required to provide a copy of their driving record for the last ten years (Note: This is a “Type 3” driving record from Texas Department of Public Safety). The top applicant will be required to complete and sign the CDL Acknowledgement and Release of Information Form. This form authorizes the release to the City of Austin, of alcohol and drug test results for the past three years from the applicant's previous employer(s).
- G. The hiring Department will send the signed CDL Applicant packet for the top applicant to the Alcohol and Drug Program Coordinator at HRD.
- H. The Alcohol and Drug Program Coordinator will provide the release authorization forms to the previous employers of the top applicant.
- I. The hiring Department representative will contact the Alcohol and Drug Program Coordinator for scheduling of drug testing for the applicant.
 - 1) The Alcohol and Drug Program Coordinator will schedule the testing, and will notify the hiring Department SPOC of the scheduled test.
 - 2) The Department SPOC will direct the applicant to the collection site. The SPOC will remind the applicant of the expectations regarding the timeliness of submitting to the test before being considered a refusal.
 - 3) An applicant who refuses a pre-employment test will no longer be considered for the position according to City of Austin’s Personnel Policies.
- J. Each job offer is contingent upon the applicant's successful completion of a drug test, which must produce negative results.
 - 1) A new hire will not begin working in any capacity until the HRD Contact Person has communicated to the department that the applicant has successfully completed the drug test.
 - 2) A **positive** test result will cause the offer to be rescinded, and the applicant will be ineligible to be hired in any capacity with the City for a period of three years.
 - 3) A **negative-dilute** test result will cause the offer to be rescinded, and the applicant will be ineligible for hire into a CDL position for a period of three months.
- K. The following chart indicates hiring outcomes based on the results of drug testing and testing responses from previous employers within the last three years:

<u>Response</u> from <u>Test Result</u>	<u>Previous Employer(s)</u>	<u>Hiring Result</u>
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Negative	Negative	Hire
Negative	Positive	No Hire
Negative-Dilute	Negative	No Hire
Negative-Dilute	Positive	No Hire
Positive	Positive	No Hire
Positive	Negative	No Hire
Positive	No Response	No Hire
Negative	No Response*	Hire

*The top applicant will be asked if he or she had a positive drug test result with any previous employer. If the answer is "no" and a positive response from a previous employer is later received, the employee will be dismissed for falsifying his or her application according to City of Austin's Personnel Policies.

The Alcohol and Drug Program Coordinator will communicate all test results to the Departmental SPOC. If an applicant has a Positive result, the SPOC will contact the applicant and inform them of their result.

Any applicant with a positive test result on a pre-employment test will be ineligible for employment with the City for a period of three years. If the applicant is a current City employee, they will be in violation of the City of Austin Personnel Policies and shall be subject to the same disciplinary actions as outlined in the City's Drug Free Workplace policy.

The City shall notify a driver of the results of a pre-employment controlled substance test conducted under the DOT regulations. The driver may request such results within 60 calendar days of being notified of the disposition of the employment application. Such requests will be processed as per section XIII of this procedure.

IV. CHANGE IN DUTY/POST LEAVE TESTING

Current employees with the City of Austin whose assigned duties (not a job position number change) have expanded to include the operation of a commercial motor vehicle or who have been on leave from their duties for thirty (30) or more calendar days, are subject to change in duty/post leave testing prior to assuming or resuming safety sensitive duties.

The Department SPOC will notify the Alcohol and Drug Program Coordinator to schedule the employee for drug testing.

- 1) The Alcohol and Drug Program Coordinator will schedule the testing and will notify the SPOC of the scheduled test. The SPOC will direct the employee to the collection site.
- 2) An employee who refuses to test may be dismissed.
- 3) An employee who tests positive will be referred to a SAP for evaluation and, if necessary, treatment recommendation. The employee will be subject to return to duty and follow up testing as prescribed in Sections VIII and IX of these procedures.

- 4) An employee will not begin or resume safety sensitive duties until the Alcohol and Drug Program Coordinator has communicated to the employee's department the results of the drug test.

V. POST-ACCIDENT TESTING

The City requires commercial drivers to submit to alcohol and drug testing, as provided below, if they are involved in an accident **while operating a commercial motor vehicle**. (Note: This *does not apply* when an employee holds a commercial driver's license, but is not operating a commercial vehicle at the time of an accident.)

A. Notification Procedures:

- 1) The commercial driver involved in the accident will immediately notify his or her departmental dispatch office, the City's emergency dispatch office, or his or her supervisor that an accident has occurred.
- 2) If the departmental dispatch office is notified and the commercial driver states that the Austin Police Department (APD) has not yet been notified, the dispatcher will contact both the supervisor on-call and APD. In the event the accident occurs outside the City limits, the commercial driver or the departmental dispatch office will notify the appropriate law enforcement agency.
- 3) The individual who first receives notification of the incident will investigate to determine whether the occurrence is an accident under the terms defined above by verifying the following three criteria:
 - a. Was there a human fatality?
-or-
 - b. Was medical treatment administered away from the scene of the accident, AND was a citation issued to the City commercial driver?
-or-
 - c. Was any disabled vehicle towed from the scene, AND was a citation issued to the City commercial driver?

If the answer to any one of the three above questions is "yes", the occurrence qualifies under the DOT regulations, and the driver must be tested.

- 4) If the answer to all of the above questions is "no", the occurrence does not qualify under DOT regulations and alcohol and drug testing will not be conducted. (If reasonable suspicion exists, refer to the Reasonable Suspicion Section of these procedures.)
- 5) If there was a human fatality, post-accident testing is required regardless of who was issued a citation, if any.
- 6) Failure to report an incident may result in disciplinary action up to and including dismissal in conjunction with City and /or department policies and procedures.
- 7) Prior to taking a driver in for testing, the Departmental SPOC **must** be contacted for authorization to test. The Departmental SPOC, upon verifying that the circumstances warrant DOT Testing

according to the above criteria, will contact the Alcohol and Drug Program Coordinator in HRD to arrange testing and provide required authorizations.

- 8) If the accident requires post-accident testing, a supervisor will report to the accident scene to transport the commercial driver to a collection site at the direction of the Departmental SPOC.
- 9) Events occurring outside of regular hours will follow an abbreviated notification process wherein the Departmental SPOC or their designated back-up will be notified by the driver's supervisor of the event, and the SPOC will provide authorization and coordination of the post-accident test with the testing facilities. If necessary, the mobile unit will be contacted and dispatched by the SPOC for immediate testing.
- 10) A commercial driver involved in an accident shall remain readily available for post-accident testing or may be deemed by the City to have refused to submit to testing.
 - a. Drivers must remain available for alcohol testing for up to 8 hours after the accident.
 - b. Drivers must remain available for drug testing for up to 32 hours after the incident.
- 11) When an alcohol test is required and a mobile unit is not available, a supervisor will transport the commercial driver to the appropriate collection site for a test.
 - a. If the required alcohol test is not administered within two hours following the accident, the supervisor will document the reason why the test was not taken.
 - b. If the required alcohol test is not administered within eight hours following the accident, the supervisor will cease attempts to test and prepare a record documenting the reason why the test was not taken.
 - c. A copy of this record will be forwarded to the Alcohol and Drug Program Coordinator in HRD.
- 12) When a urine sample collection is required a supervisor will transport the commercial driver to the appropriate collection site for urine sample collection.
 - a. If the required urine sample is not collected within thirty-two hours following the accident, the supervisor shall cease attempts to administer a controlled substance test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
 - b. A copy of this record will be forwarded to the Alcohol and Drug Program Coordinator in HRD.
- 13) If the commercial driver is injured, ensuring that the commercial driver receives medical attention takes precedence over the requirement to conduct drug and alcohol testing.

VI. RANDOM TESTING

All covered commercial drivers will be tested for alcohol and controlled substances at a rate consistent with the minimums established annually by the Federal Department of Transportation for random testing. Random testing will be unannounced and will occur at unpredictable times. An employee could be randomly selected for testing more than once per year.

A. Procedure for Selecting Commercial Drivers for Testing:

The City of Austin will contract with a qualified vendor to conduct required testing to detect violations of DOT rules and regulations. Departments will be required to provide the Alcohol and Drug Program Coordinator with a monthly updated list of commercial drivers who operate, or could be called upon to operate, a commercial motor vehicle. To initiate testing, the following steps will be followed:

- 1) The Alcohol and Drug Program Coordinator in HRD will contact the vendor and request that a random list of names of the City drivers of commercial motor vehicles be generated.
- 2) The random list of names will be delivered to the Alcohol and Drug Program Coordinator. The list of names will be delivered via e-mail or overnight mail. The list of names used for this testing will be kept in a locked storage unit at all times while not in use. Access will be limited to authorized employees only.
- 3) Each Department Director will notify the Alcohol and Drug Program Coordinator of the name of the SPOC within each department. An alternate person will also be identified, in the event the primary contact cannot be reached.

B. Notification of Testing:

- 1) The Alcohol and Drug Program Coordinator will notify the vendor, in advance, of the date, time, location and number of employees to be tested for alcohol and/or drugs.
- 2) The Alcohol and Drug Program Coordinator will notify the Department SPOC by email on the day before testing is to occur. **This information will remain confidential until the day of testing.**
- 3) On the day of testing, the Department SPOC will **notify the appropriate supervisor** of the testing requirements.
- 4) The supervisor will:
 - a. Confirm that the commercial driver(s) to be tested has reported to work.
 - b. Ensure that the selected commercial driver(s) are escorted to testing immediately upon notifying the employee of the requirement to test.
 - c. Upon arrival at the testing facility and informed of the requirement of an **alcohol** test, confirm that the commercial driver(s) to be tested for alcohol was, is, or will be performing a safety sensitive function.

VII. REASONABLE SUSPICION TESTING

The City of Austin requires alcohol and drug testing of drivers of commercial motor vehicles for the presence of controlled substances or alcohol when a determination of reasonable suspicion is made. The supervisor's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the commercial driver.

A. Conditions For Reasonable Suspicion:

- 1) The determination of reasonable suspicion that the commercial driver has violated Department of Transportation regulations can only be made by supervisors or managers who have received training which has been approved by the Human Resources Department and which meets necessary educational requirements. Appropriate training is defined as:
 - a. At least one hour of training concerning recognition of the symptoms of alcohol use, and
 - b. At least one hour of training concerning recognition of the symptoms of controlled substances use.
- 2) If the commercial driver is suspected of alcohol use, reasonable suspicion testing may be based only on the trained supervisor's observations made during, just preceding, or just after the period of the workday during which the commercial driver is required to be in compliance with Department of Transportation regulations.
- 3) Alcohol testing based on reasonable suspicion will only be conducted before, during or after performing a safety sensitive function.
- 4) Trained Supervisors will monitor the following symptoms, as indicators of the possible use of alcohol and/or controlled substances:
 - a. Body Odor
 - b. Appearance
 - c. Speech
 - d. Behavior
 - e. With regard to controlled substances only, observations may include indications of the chronic and withdrawal effects of controlled substances
- 5) A trained supervisor must request, when at all possible, that another trained supervisor verify his or her observations. In some cases, such verification may not be possible or practical -- such as when the supervisor and the commercial driver are in a remote location and no other trained supervisor is available to observe the commercial driver.
- 6) If an untrained supervisor (i.e., a supervisor who has not received alcohol and drug training) suspects that a commercial driver is under the influence of alcohol or drugs, he or she must:
 - a. Immediately stop the commercial driver from performing safety sensitive functions,
 - b. Make sure the commercial driver does not constitute a danger to him/herself or others, and
 - c. Document the observation in writing, and wait until a trained supervisor can confirm the suspicion. If a trained supervisor is not available to confirm the suspicion, the untrained supervisor should handle the situation according to other applicable personnel policies.
Confirmation by a trained supervisor must occur prior to testing the commercial driver.
- 7) Each supervisor is required to document in writing the specific facts, symptoms, or observations that form the basis for the determination that reasonable suspicion exists and that testing of the commercial driver is warranted.

- 8) In circumstances where the trained supervisor making the determination of reasonable suspicion and the commercial driver's immediate supervisor are not the same person, the trained supervisor making the determination of reasonable suspicion is responsible for notifying the commercial driver's immediate supervisor of the intent to test. The immediate supervisor will then assume the responsibility for coordinating the testing of the commercial driver.
- 9) The immediate supervisor will **notify the department SPOC** and will contact the Alcohol and Drug Program Coordinator for final approval to test the commercial driver.
- 10) Once approval to test has been obtained from the Alcohol and Drug Program Coordinator, the following applies:
 - a. The commercial driver must be tested **within two hours** after the initial observation and determination that alcohol testing based on reasonable suspicion is warranted.
 - If alcohol testing is not conducted within two hours following the observation, the supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
 - If alcohol testing is still not administered within eight hours following the observation, the supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
 - A copy of this record will be forwarded to the Alcohol and Drug Program Coordinator in the HRD within 24 hours.
 - b. A urine sample must be collected **within thirty-two (32) hours** after the initial observation and determination that drug testing based on reasonable suspicion is warranted.
 - If the urine sample is not collected within thirty-two (32) hours following the observation, the supervisor shall cease attempts to administer a controlled substance test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
 - A copy of this record will also be forwarded to the Alcohol and Drug Program Coordinator in HRD.
- 11) After testing has been conducted, the immediate supervisor making the referral must complete the Behavior/Incident Documentation Form. Copies of the form, along with any other documentation that supports the determination of reasonable suspicion, must be forwarded by the supervisor to the Department Director and to the Alcohol and Drug Program Coordinator within 24 hours of the observed behavior, or before the results of the tests are received, whichever is earlier.
- 12) The employee will not be returned to safety sensitive duties until a verified negative result is reported to the department by HRD.

VIII. RETURN TO DUTY TESTING

The City requires commercial drivers to submit to return to duty alcohol and drug testing, as provided by DOT regulations.

A. Conditions For Return to Duty Testing:

- 1) Any time a commercial driver is removed from safety sensitive duties for a violation of the alcohol and drug regulations, they are required to submit to a return to duty test prior to returning to their safety sensitive duties and after completing the rehabilitation program assigned by the SAP. Any one of the following conditions will require commercial drivers to be tested for alcohol and/or controlled substances before returning to safety sensitive duties:
 - a. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration of .04 or greater.
 - b. Refusing to submit to a required alcohol or controlled substances test.
 - c. Reporting for duty, remaining on duty, or performing a safety sensitive function if the driver was tested positive for controlled substances
 - d. The employee self-discloses the illicit use of a controlled substance or alcohol prior to assuming safety sensitive duties as defined in Section X of this procedure.

B. Referral/Evaluation and Testing Process:

Drivers who have been removed from safety sensitive duties as outlined above will be evaluated by a Substance Abuse Professional (SAP), who will determine what assistance, if any, the employee needs in resolving problems with alcohol and/or controlled substances. The driver will be required to release any evaluation information prior to return to duty testing.

Before a driver returns to duty requiring the performance of a safety sensitive function, the driver shall undergo the following:

- 1) A return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or:
- 2) A controlled substances test with a verified negative result if the conduct involved a controlled substance.

The City may direct the driver to undergo return to duty testing for both alcohol and controlled substances, if the SAP determines that return to duty testing for both alcohol and controlled substances is necessary for that particular driver.

C. Notification Procedures:

- 1) The SAP will notify the Alcohol and Drug Program Coordinator that the driver is eligible to undergo return to duty testing **following the driver's completion of the prescribed program.**
- 2) The Alcohol and Drug Program Coordinator will notify the **SPOC** that return to duty testing has been approved.
- 3) The SPOC will contact the driver and instruct him/her to report to the collection site for testing. **The SPOC will notify the supervisor when the driver is eligible to return to work.**

- 5) Before the driver returns to duty requiring the performance of a safety sensitive function, an alcohol test result of less than 0.02 and/or verified negative test result for controlled substances must be accomplished.

IX. FOLLOW-UP TESTING

The City requires commercial drivers to submit to alcohol and drug testing as provided below.

A. Follow Up Testing will be required when:

- 1) The involved driver has been identified being in violation of prohibitions described in VIII.A, and
- 2) The driver has been evaluated by a SAP and has completed the prescribed treatment plan, and
- 3) The driver has completed Return to Duty testing with an alcohol test result less than 0.02, if the conduct involved alcohol, or a controlled substances test with a verified negative result, if the conduct involved a controlled substance.

B. Evaluation and Rehabilitation Process:

- 1) A SAP will evaluate the employee to determine if the rehabilitation program prescribed has been followed and will formulate an appropriate follow-up testing program.
- 2) The driver will be subject to unannounced follow-up alcohol and controlled substances testing, following the driver's return to duty.
- 3) The number and frequency of such follow-up testing will be directed by the SAP and consist of at least six (6) tests in the first twelve (12) months following return to duty testing.
- 4) The City will direct the driver to undergo follow-up testing for both alcohol and controlled substances if the SAP determines that follow-up testing for both alcohol and controlled substances is necessary for that particular driver.
- 5) Follow-up testing shall not exceed 60 months from the date of the driver's return to duty.
- 6) The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered if the SAP determines that such testing is no longer necessary.

C. Notification and Testing Procedures:

- 1) The SAP will contact the Alcohol and Drug Program Coordinator and indicate the number, type, and frequency of tests to be accomplished.
- 2) The Alcohol and Drug Program Coordinator will contact the SPOC just prior to testing. This contact will be unannounced and in accordance with the SAP's instructions.
- 3) The supervisor will escort the driver immediately to the collection facility to be tested.

D. Transfers:

- 1) The Director of HRD must approve personnel transfers of CDL drivers to another department if the employee is in the follow-up program.
 - a. Employees performing safety sensitive duties must complete their prescribed follow-up program even if moved into a new department.

X. SELF-DECLARATION

In compliance with the Drug-Free Workplace Act of 1988, the Texas Worker's Compensation Act and the City's Drug-Free Work Place Policy, a commercial driver may voluntarily notify his or her supervisor or manager that he or she has a problem with the misuse of alcohol and/or drugs. **An employee who self-declares will not be considered to have tested positive for purposes of responding to employer testing verification requests.**

Conditions for self-declaration occur when a commercial driver admits he or she has a problem with the misuse of alcohol and/or drugs.

A. Self -declaration cannot occur:

- 1) After a driver has been notified of selection for random testing, when a driver has been notified of testing for reasonable suspicion, immediately after an accident, prior to post accident testing, or
- 2) during the interval time between the collection of a urine sample and receiving the test results, or
- 3) after the driver has begun performing safety sensitive duties.

B. Notification Procedures:

- 1) The employee may notify his or her supervisor or manager that he or she has a problem with the misuse of alcohol and/or drugs.
- 2) The supervisor will immediately remove the commercial driver from performing driving or other safety sensitive functions.
- 3) The supervisor will notify the SPOC of the commercial driver's self-declaration.
- 4) The SPOC will notify the HRD Alcohol and Drug Program Coordinator of the commercial driver's removal from safety sensitive functions and request the driver be removed from the CDL random list.
- 5) The supervisor will notify the commercial driver that he or she will be required to complete a substance abuse treatment program.
- 6) The commercial driver will not perform driving duty or other safety sensitive functions until she or he has satisfactorily completed a substance abuse program and has a negative return to duty test.
- 7) If the employee tests positive during follow-up, the disciplinary process is initiated as outlined in COA Administrative Bulletin entitled Discipline for Violations of Alcohol and Drug Policy for Commercial Motor Vehicle Drivers.

C. Prohibition:

- 1) An employee is prohibited from self-declaration more than once during their employment with the City of Austin.

XI. TESTING REQUEST PROCEDURE

In order for commercial driver(s) to be tested under any of the preceding causes, HRD must provide coordination and authorization with the testing facilities. No driver may be sent for testing until they have authorization from their Departmental SPOC to proceed.

If it is determined that a commercial driver requires testing under any of the criteria outlined in this procedure, they or their supervisor **must** contact their Departmental SPOC for authorization, and provide sufficient detail that a determination of testing can be made. The Departmental SPOC will then contact HRD for final approval and coordination with the testing provider for the test. Upon receiving approval from HRD, the Departmental SPOC will release the supervisor and the driver for testing.

If the Departmental SPOC and their designated back-up are unavailable, HRD may be contacted directly for authorization as necessary.

After-Hours Testing Requests

All testing requests, except as outlined as follows, will be made during regular business hours even if the test itself is made outside business hours due to the driver's schedule.

Post-Accident events occurring outside of regular hours will follow an abbreviated notification process wherein the Departmental SPOC or their designated back-up will be notified by the driver's supervisor of the event, and the SPOC will provide authorization and coordination of the post-accident test with the testing facilities upon verification that the circumstances meet the appropriate criteria as outlined in Section V of this procedure. If necessary, the mobile unit will be contacted and dispatched by the SPOC for immediate testing.

Reasonable Suspicion events occurring outside of regular business hours will follow an abbreviated notification process. Upon a trained supervisor making a determination that testing is required under the reasonable suspicion criteria in Section VII of this procedure, the Alcohol and Drug Program Coordinator will be contacted on their Cell phone for final approval and coordination of testing. If the A & D Program Coordinator does not respond within 10 minutes, then the HRD Employee Relations Manager will be contacted on their cell phone.

No other testing will be arranged outside the normal process during regular business hours.

XII. ALCOHOL AND DRUG TESTING PROCEDURE

In order for commercial driver(s) to be tested, they shall be transported to the collection site in a City vehicle by an individual in a supervisory capacity (hereinafter referred to in these procedures as the "designated supervisor"). (**Note:** Exception if testing is required after-hours, the COA's vendor for testing may bring a mobile testing unit to a remote site.) The procedures provided below will be followed for Post-Accident, Random, Follow-Up and Reasonable Suspicion alcohol and drug testing:

A. Alcohol:

Alcohol test will be conducted by an EBT Device to determine breath alcohol concentration and will be administered by a certified Breath Alcohol Technician (BAT).

- 1) For purposes of alcohol testing, the supervisor(s) will confirm whether the commercial driver(s) are, will be, or have been performing safety sensitive functions.
- 2) The supervisor(s) will inform the commercial driver(s) that they must stop whatever function they are performing, or are preparing to perform, in order to be tested for alcohol.
- 3) If a commercial driver indicates at the time of notification that he or she is sick, the supervisor must still request that the commercial driver take the alcohol test or provide a sample for the drug test. If the commercial driver:
 - a. refuses to be tested,
 - b. refuses to sign the DOT Alcohol Testing Form (ATF), or
 - c. becomes hostile or threatening, or
 - d. attempts to leave the testing site before completion of test, or
 - e. fails to comply with directions given by testing site personnel

all attempts to test shall cease, and such circumstances will be considered as refusal to test and **will** result in dismissal according to Administrative Bulletin 94-02 part B.

- 4) In the event the designated supervisor needs to be tested, an alternate supervisor must be designated to transport all those to be tested to the collection site.
- 5) Alcohol testing will be conducted at the collection site, in accordance with the latest version of the Department of Transportation and Federal Highway Administration's regulations.

B. Drug:

Drug testing will be conducted by urinalysis and will be conducted in a laboratory approved by the US Department of Health and Human Services. Each urine specimen collected will be divided into two specimens (a "split specimen").

- 6) If the commercial driver is tested for alcohol and controlled substances at the same time, and if the commercial driver has a negative test result for alcohol (less than .02), the designated supervisor will transport the commercial driver back to the work site to resume normal job duties. Results of drug testing may not be available for up to 72 hours (or more) from the time the test is conducted. Therefore, the commercial driver will continue to perform normal job duties until otherwise notified, unless the commercial driver is tested for Reasonable Suspicion or Post Accident. If being tested for Reasonable Suspicion or Post Accident, the commercial driver will be reassigned to non-safety sensitive duties and no City Business driving of non-commercial vehicles until test results are available.
- 7) If the commercial driver
 - a. refuses to be tested,
 - b. refuses to sign the Federal Custody and Control Form (CCF), or
 - c. becomes hostile or threatening, or
 - d. leaves the testing site before providing the test specimen, or

- e. fails to comply with directions given by testing site personnel,

all attempts to test shall cease, and such circumstances will be considered as refusal to test and **will** result in dismissal according to Administrative Bulletin 94-02 part B.

- 8) If the commercial driver is tested for controlled substances and for alcohol at the same time, and if the commercial driver has a **positive alcohol test result of between .02 and .039, (inclusive)**, the designated supervisor will follow the steps outlined under "Alcohol and Drug Test Results," in Section XIII, A.2.

Should a supervisor or employee require clarification regarding any testing procedures they may contact the HRD Alcohol and Drug Program Coordinator.

XIII. ALCOHOL AND DRUG TEST RESULTS

Personnel at the collection site will inform the designated supervisor of the alcohol testing results. In circumstances where the designated supervisor and the commercial driver's immediate supervisor is not the same person, the designated supervisor is responsible for notifying the commercial driver's immediate supervisor of the test results. The supervisors have the responsibility of maintaining the confidentiality of all commercial drivers' alcohol test results.

A. Alcohol:

- 1) If the commercial driver is tested for alcohol only, and the test result is negative (less than .02) personnel at the collection site will inform the designated supervisor of the test result, and the designated supervisor will transport the commercial driver back to the worksite to resume normal job duties.
- 2) No Action will be taken relating to the results of an Alcohol Test until the Alcohol and Drug Program Coordinator has been provided verified results in writing from the testing vendor.
- 3) In accordance with the City of Austin's personnel policies, if the commercial driver's alcohol test result is between .02 and .039, the commercial driver will be:
 - a. Removed from duty, and
 - b. Ordered to report to duty at the next scheduled shift
- 4) If the commercial driver's alcohol test result is .04 or above, the commercial driver will be:
 - a. Removed from duty, and
 - b. Referred to a SAP for a violation of the DOT Alcohol and Drug regulations. The driver will not be able to return to safety sensitive duties until the return to duty process has been followed as outlined in Section VIII.
- 5) Commercial drivers with a confirmed alcohol test above .02 will be required to leave the work site. Each department is responsible for making a reasonable effort to arrange safe transportation for the commercial driver.

B. Drug:

- 1) The Medical Review Officer (MRO) will notify the employee of test results that are pending. A pending test is when preliminary test results have been identified and require additional information from the employee.
 - a. If the MRO cannot contact the employee, they will inform the Alcohol and Drug Testing Coordinator, who will notify the SPOC of a pending test. The SPOC will instruct the employee to call the MRO.
 - b. The Alcohol and Drug Program Coordinator shall immediately notify the MRO that the driver has been notified to contact the MRO within 24 hours. If the employee does not contact the MRO within five (5) days, the test will be confirmed positive.
 - c. The MRO will determine test results after obtaining information requested from the employee.
- 2) The MRO will notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen, if the test is verified as positive. The employee will be responsible for the cost of the test.
 - a. If the employee cannot pay for the split specimen test, the City will pay for the test, if requested, and require re-imbusement from the employee.
- 3) The MRO will notify the Alcohol and Drug Program Testing Coordinator of verified test results in writing.
- 4) The Alcohol and Drug Program Coordinator will notify appropriate personnel of the drug test results. All notified personnel have the responsibility of maintaining the confidentiality of all drug tests results.
- 5) In accordance with the City of Austin's personnel policies, if there is a positive drug test the commercial driver (or non-commercial driver City employee applicant) will be removed from duty, and shall be required to leave the work site.
- 6) All drug test results and medical information furnished during the testing process will be treated as confidential medical information and will be released only as required by federal regulations. Records of all tests conducted under this Policy will be maintained and used in accordance with federal regulations. Any tested employee has the right to request a copy of his or her testing records.
 - a. Employees requesting test lab results must submit their request in writing to the MRO, who then has 10 days to respond to the employee's request.
 - b. Employees requesting copies of SAP reports must request those reports in writing from the SAP, who will respond to the employee's request.
 1. Follow-up testing schedules cannot be released to the employee, and will be redacted from any materials the SAP provides to the employee.
 - c. Employees may request a copy of any information released by the City to other employers inquiring about the positive and refusal history provided.
 - d. Any information released without the employee's express consent, as allowed by DOT regulations, shall also be forwarded to the employee upon their request
 - e. The employee's testing history, including "positive" and "negative" results, will be provided to the employee by the City upon written request.

Other Relevant City Documents:

City of Austin Driver Safety Program
City of Austin Administrative Bulletin: Discipline for Violations of Alcohol and Drug Policy for
Commercial Motor Vehicle Drivers