



SAN BRUNO ADMINISTRATIVE POLICY MANUAL

ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY AND ADMINISTRATIVE PROCEDURES FOR COVERED EMPLOYEES

INDEX AS: Alcohol Testing
Controlled Substance Testing
Drug Testing

POLICY

It is the policy of this City to deter potential alcohol abuse or illegal drug use, whether on duty or off duty, by implementing mandatory testing procedures for employees performing safety-sensitive duties that require the exercise of a commercial drivers license.

Adequate safeguards shall be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects the employee's right of privacy, from other employees, and ensures that no employee is harassed by being treated differently from other employees, and ensures that no employee's reputation or career development is unduly threatened or harmed. All testing will be handled in compliance with US Department of Transportation (DOT) regulations and any changes to the regulations will be incorporated into this policy.

Rehabilitation is recognized as a critical component of the testing program and will be made available to individuals, as appropriate.

The City encourages employees, prior to testing, to voluntarily disclose and seek assistance for on the job use or any substance abuse problem through the employee's department head or the City's employee/employer relations office, or the Employee Assistance Program (EAP), health plan or other outside agency.

The City also encourages employees to disclose prescribed medications and their effects to avoid consequences connected with positive test results due to this reason.

Refusal to be tested under this policy will result in termination of employment.

Each employee to whom this policy is applicable shall be provided a copy and shall complete and sign an **Employee Acknowledgment Regarding Alcohol And Controlled Substances Testing Requirement As A Condition Of Employment (Attachment A)**.

EFFECTIVE DATE: 1 JAN. 1996	REVISION:	APPROVED BY: <i>[Signature]</i>
SUPERSEDES:		NUMBER: 96-14

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The Acknowledgment shall become a part of the employee's City personnel file. A copy of the Acknowledgment shall be provided to the employee and the appropriate department head.

PURPOSE

The purpose of this directive is to implement policy and procedures to comply with the United States Congress, Omnibus Transportation Act of 1991 and the regulations promulgated by the Federal Highway Administration (FHWA), 49 Code of Federal Regulations (CRF), Parts 40 and 382 etal applicable to which require compliance by employers, with less than 50 safety-sensitive drivers, beginning January 1, 1996.

The directive, while designed to implement procedures, is also intended to familiarize covered employees with basic information concerning how testing will be accomplished in each of the several categories of testing, how test results will be communicated and held confidential, and how employees may obtain retests.

Questions about this policy may be directed to the employee's department head or the City's employee/employer relations officer.

PROCEDURES

A. Definitions

1. Alcohol - A volatile, inflammable, colorless liquid of a penetrating odor and burning taste, C_2H_5OH , one of the products of the distillation of fermented grains, fruit juices, and starches; an intoxicant, the two principal forms are ethyl alcohol (ETHANOL) and methyl alcohol (METHANOL).
2. Controlled Substance - An illegal substance that when taken can cause numerous symptoms that affect reaction time, impair judgement and motor skills.
3. Employee/Employer Relations Officer - City Manager
4. On-Duty Time - For safety sensitive functions commences at the time a driver begins to work or is required to be in readiness to work or is required to be in readiness to work in any assignment, until the time he/she is relieved from work and all the responsibility for performing work, including actually performing, being ready to perform and/or being immediately available to perform.

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B. Who Is Covered?

1. With exception of Police and Fire, a 'covered employee' is one who holds a commercial drivers license and performs 'safety-sensitive functions' defined as operation of vehicles: (a) in excess of 26,001 or more pounds; Gross Vehicle Weight Rating (GVWR) (b) carrying 15 or more passengers, or (c) transporting hazardous materials.
2. A 'covered employee' is subject to all of the provisions of this policy. Compliance with the administrative procedures of this policy is a condition of employment
3. A 'covered employee' may be subject to disciplinary action, up to and including termination of employment if he or she tests positive for alcohol or controlled substances specified in this policy.

C. What Is Prohibited?

1. Covered employees are prohibited from using alcohol within four (4) hours prior to performance of safety-sensitive duties including standby coverage and while on the job.
2. Possession of alcohol on the job and use of alcohol after an accident during the time preceding a post accident test are also prohibited.
3. A Breath Alcohol Concentration (BAC) of .02 or higher is prohibited.
4. Covered employees are prohibited from the use, possession, manufacture, transfer and/or distribution of controlled substances (illegal drugs) including marijuana (THC), cocaine, opiates, phencyclidine (PCP) and methamphetamine while on duty.
 - a. A positive test for controlled substances (illegal drugs) will be presumption of prohibited use.

D. Types of Testing

FHWA rules requiring alcohol and controlled substance testing contain extensive provisions governing the testing process to insure accuracy, reliability and confidentiality of testing results. All laboratories selected by the City will be certified by the US Department of Health and Human Services (DHHS). The City may contract with a private provider for this service.

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Mandatory Alcohol Testing

The rules require breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration. A screening test is to be conducted first, with any result of less than 0.02 considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. Testing devices and procedures are subject to change pursuant to changes or amendments to the regulations.

1. Pre-Employment Testing

- a. Outside applicants for, or current employees seeking to transfer (this includes both promotion and demotion) into a covered position will be required to submit to testing before or after an offer to hire, but before actually performing safety-sensitive duties for the first time. Transfer candidates shall be tested upon obtaining a Class B driver's license. If a transfer candidate is currently performing a safety sensitive function at the time of his or her application requesting a transfer, such employee will not be required to submit to testing as part of the selection process.
- b. Should an outside applicant or reinstated employee refuse a test or test positive they will not be hired and are not entitled to a retest. Transfer candidates who decline to be tested will not be considered further. A transfer candidate who tests positive may, upon request, have his or her sample retested. If no request is received or should there be a second positive test result, the employee will remain in his or her current non-safety-sensitive position but may be subject to disciplinary action, based on Personnel Rules or other policies.

2. Random Testing

- a. Employees in covered positions are subject to unannounced testing on City time based on random, computer generated selection just before, during or just after the performance or reasonable expectation of being assigned to safety-sensitive functions. The number of random tests conducted during the first year of the program must equal at least 25% of all employees in covered positions, and the percentage of employees after the first year may be adjusted based on the number of positive test results during the preceding year.
- b. The employee's employee number will be used in lieu of name for random selection. Employee identification numbers of all individuals in covered classifications will be placed in a random testing pool, from which a random selection will be made. All full-time, part-time, seasonal, contract and volunteer employee in covered classifications will be included.

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- c. Employees selected for random testing will be advised in person or by direct phone contact and directed to the collection site.
- d. Following a selection for random testing, the employee's identification number will be immediately returned to the pool for future selection. As such, some employees may be randomly selected more frequently than others, and some not at all.

3. Reasonable Suspicion Testing

- a. When there is reasonable suspicion based on direct observation and description by a supervisor, trained in substance abuse recognition, with concurrence by another supervisory employee or official City designee of specific appearance, behavior, speech and/or body odors characteristic of being under the influence of alcohol or alcohol misuse, the employee will be escorted to a testing facility off-site. The employee will be provided with transportation from the site to home after the testing is completed if the test is positive.
- b. Although an employee may be tested immediately, the observing supervisor will document a description of the indicators leading to the reasonable suspicion testing. Documentation of the employee's conduct shall be prepared and signed by the witness within twenty-four hours of the observed behavior, or before the test results are released, whichever is earlier. A copy will be sent to the Union in a timely manner provided the employee signs a release.
- c. An employee who is tested for reasonable suspicion and tests positive will be removed from safety-sensitive duties and temporarily reassigned to duties which are not safety sensitive.

4. Post-Accident Testing

- a. Post-accident testing must be conducted as soon as possible (within 2 hours but no later than 8 hours) after an accident defined as an occurrence involving a City vehicle on a public road or private property which results in:
 - 1. A fatality, or
 - 2. Injury to a person requiring immediate treatment away from the scene of the accident, or
 - 3. Damage to a vehicle requiring it to be towed from the scene.

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- b. An employee may leave the scene to obtain emergency medical assistance if he or she remains readily available for testing. An employee who leaves the scene of an accident before testing, or fails to remain readily available for testing will be deemed to have refused to submit and will be terminated.
 - c. All reasonable steps will be taken to obtain a urine sample and/or breath or blood test from an employee after an accident. In the 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 testing requirements. If an employee is unconscious or otherwise unable to consent to the procedure, the treating physician will determine when the employee is able to understand a request to provide a sample. In the case of a conscious but hospitalized employee, the hospital or medical facility will be requested to ask the employee to obtain a sample.
 - d. If reasonable suspicion is also a factor in a post-accident situation, the hospitalized employee, the hospital or medical facility will be requested to obtain a sample, and if, necessary, reference will be made to the DOT testing requirements. If an employee is unconscious or otherwise unable to consent to the procedure, the treating physician will determine when the employee is able to understand a request to provide a sample. In the case of a conscious but hospitalized employee, the hospital or medical facility will be requested to ask the employee to obtain a sample.
 - e. If reasonable suspicion is also a factor in a post-accident situation, the employee will be released from safety-sensitive duty following testing and if the test is positive, removed from safety-sensitive duties or placed on leave with pay status pending further action.
 - f. Employees who are involved in a fatal or injury accident and are found to be positive for alcohol or controlled substances will be terminated. Employees who are involved in an accident requiring a vehicle to be towed and are found to be positive for alcohol or controlled substances will be subject to disciplinary action.
5. Return to Duty and Follow Up Testing

Any employee who does not pass a required test, and is not discharged, may not perform a safety-sensitive function until he or she passes an alcohol or drug test (whichever applies) and the City designated Substance Abuse Professional (SAP) has determined that the employee may return to duty.

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- a. An employee who at the recommendation of the SAP returns to work after rehabilitation will be given unannounced tests, as scheduled by the SAP. These tests are in addition to the other types of tests outlined in this policy.
- b. Following an employee's return to work as outlined above, he/she will be required to undergo a minimum of six (6) follow-up tests within the first twelve (12) months of return. Follow-up testing may be extended for up to sixty (60) months. This period will be determined by the SAP based on the individual circumstances of the case.
- c. The frequency of testing will be determined by the SAP and may be required on a daily, weekly, or monthly basis.

Mandatory Controlled Substances Testing

Controlled substances (illegal drugs) include marijuana, cocaine, opiates, phencyclidine (PCP), and methamphetamine are prohibited. Testing for controlled substances will be conducted by using urine specimens. The legitimate use of controlled substances prescribed by a licensed physician is not prohibited. Any employee who occupies a covered classification who has been placed on prescription drug(s) that may affect job performance is encouraged to present a statement from his or her physician describing the effect(s) of such drug(s) on the employee's performance. FHWA rules contain detailed provisions with respect to urine specimen collection procedures, chain of custody and privacy. Testing procedures are subject to change pursuant to changes or amendments to the regulations.

1. Pre-Employment Testing

- a. Outside applicants for, or current employees seeking to transfer (this includes both promotion and demotion) into a covered position will be required to submit to testing before or after an offer to hire, but before actually performing safety-sensitive duties for the first time. Transfer candidates shall be tested upon obtaining a Class B driver's license. If a transfer candidate is currently performing a safety-sensitive function at the time of his or her application requesting a transfer, such employee will not be required to submit to testing as part of the selection process.
- b. Should an outside applicant or transfer employee subject to the request refuse a test or test positive he or she will not be hired and will not be entitled to a retest. Transfer candidates who decline to be tested will not be considered further. A transfer candidate who tests positive may, upon request, have his or her sample retested. If no request is received or should there be a second positive test result, the employee will remain in his or her current non-safety-

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sensitive position but will be subject to disciplinary action, up to and including discharge based on Personnel Rules, applicable Memorandum of Understanding (M.O.U.) or other policies.

2. Random Testing

- a. Employees in covered positions are subject to unannounced testing based on random, computer generated selection. The number of random tests conducted during the first year of the program must equal at least 50% of all employees in covered positions.
- b. The employee's employee number will be used in lieu of name for random selection. Employee identification numbers of all individuals in covered classifications will be subject to random selection. All full-time, part-time and seasonal employees are included.
- c. Employees selected for random testing will be advised in person or by direct phone contact and given direction to report to the collection site (if off-site).
- d. Following a selection for random testing, the employee will be immediately returned to the pool for future selection. As such, some employees may be randomly selected more frequently than others, and some not at all.

3. Reasonable Suspicion Testing

- a. When there is reasonable suspicion based on direct observation and description by a trained supervisor with concurrence by another management employee or official City designee of specific appearance, behavior, speech and/or body odors characteristic of being under the influence of controlled substances, the employee will be directed or may be escorted to the testing site.
- b. Although an employee may be tested immediately, the observing supervisor will document a description of the indicators leading to the reasonable suspicion testing. Documentation of the employee's conduct shall be prepared and signed by the witness within twenty-four hours of the observed behavior, or before the test results are released, whichever is earlier. A copy will be sent to the Union in a timely manner provided the employee signs a release.
- c. An employee who is tested for reasonable suspicion will be removed from safety-sensitive duties and temporarily reassigned to duties which are not

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safety-sensitive, pending test results. If the test is positive, the City may also place an employee on a paid leave status pending evaluation, rehabilitation or disciplinary action.

4. Post-Accident Testing

- a. Post-Accident testing must be conducted as soon as possible (specimens collected within 2 hours but no later than 32 hours) after an accident defined as an occurrence involving a City vehicle on a public road or Private Property which results in:
 1. A fatality, or
 2. Injury to a person requiring immediate treatment away from the scene of the accident, or
 3. Damage to a vehicle requiring it to be towed from the scene.
- b. An employee may leave the scene to obtain emergency medical assistance if he or she remains readily available for testing. An employee who leaves the scene of an accident before testing, or fails to remain readily available for testing will be deemed to have refused to submit and will be terminated.
- c. All reasonable steps will be taken to obtain a urine sample from an employee after an accident. In the 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 testing requirements. If an employee is unconscious or otherwise unable to consent to the procedure, the treating physician will determine when the employee is able to understand a request to provide a sample.
- d. If reasonable suspicion is also a factor in a post-accident situation, the employee will be removed from safety-sensitive duties and the City will make a reasonable effort to see that the employee is transported to a secure non-work environment pending test results. If the test is positive, the employee will be placed on a paid leave status pending further action.

5. Return to Duty and Follow Up Testing

- a. Any employee who does not pass a required test and is not discharged, may not perform a safety-sensitive function until he or she passes an alcohol or drug test (whichever applies) and the SAP has determined that the employee may

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return to duty. During the period when the employee is not capable of performing his or her safety-sensitive duties he or she will be subject to a 5% reduction in pay per the applicable M.O.U.

1. An employee who at the recommendation of the SAP returns to work after rehabilitation will be given unannounced tests, as scheduled by the SAP. These tests are in addition to the other types of tests outlined in this policy.
2. Following an employee's return to work as outlined above, he or she will be required to undergo a minimum of six (6) follow-up tests within the first twelve (12) months of their return. Follow-up testing may be extended for up to sixty (60) months. This period will be determined by the SAP based on the individual circumstances of the case.
3. Frequency of testing will be determined by the SAP and may be required on a daily, weekly, or monthly basis.

B. Test Procedures

The term employee shall include applicants for purposes of this section.

The City shall adhere to DOT regulations when administering contractual services for breath alcohol testing and urine specimen collection under this policy. The following procedures are common to Reasonable Cause, Post Accident and Random Testing. Upon arrival at the collection site, an employee must provide the collection agent with photo identification and an unsigned authorization form for urinalysis drug screening.

1. When directed to supply a breath alcohol or urine specimen, the employee will be required to follow the instructions of testing site personnel.
 - a. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result of less than 0.02 alcohol concentration is to be considered a negative test.
 - b. If the alcohol concentration is 0.02 or greater, a second or a confirmation test must be conducted. The employee and the breath alcohol technician complete the alcohol testing form to ensure the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test result determines any actions taken.

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2. In the case of controlled substances testing, the employee will be required to complete a urine custody and control form, the purpose of which is to ensure proper identification, handling, and confidentiality of the specimen. The individual shall be told not to provide any information about prescriptions or over-the-counter medications on the chain-of-custody form. The laboratory will perform screening of the specimens using a technique known as immunoassay. All positive results will be confirmed using a second technique known as gas chromatography/mass spectrometry.
 - a. The employee will provide a urine specimen in a private enclosure according to instructions of collection site personnel.
 - b. Employees must remain at the collection site until he or she can and do fully comply with collection site instructions. If the employee is unable to provide at least 45 ml of urine, he/she will be instructed to drink not more than 24 ounces of fluids during a period of up to two hours. The employee will then be directed to provide another specimen, and if he/she fails to provide 45 ml of urine, the first specimen shall be discarded. If the employee fails to provide 45 ml of urine, the specimen shall be discarded and the employee referred to the MRO, who shall refer the employee for medical evaluation to determine whether the individual's inability to provide an adequate specimen is genuine or constitutes a refusal to submit to a drug test.
 - c. The specimen will be sealed and labeled by collection site personnel. The employee will observe and verify the sealing and labeling. The specimen will be transported to the laboratory for actual testing.
 - d. Whenever possible and safe, employees should report back to their work sites. All time consumed by testing procedures will be paid time. Depending on the employee's condition, the employee may arrange for transportation to the employee's residence.
3. If an employee adulterates a specimen for drug or alcohol testing or otherwise falsifies or attempts to falsify the testing process or results, such employee will be subject to disciplinary action, up to and including discharge.
4. In certain circumstances the specimen collection may be monitored. If there is a reason to believe that an individual has adulterated the specimen or otherwise compromised the collection process, that individual will be asked to provide a specimen under the direct observation of a same-gender collection site person. Any decision by a collection site person to obtain a specimen

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under direct observation must be reviewed and confirmed in advance by a higher level collection site supervisor. The following circumstances may result in a request that an individual provide a specimen under direct observation.

- a. The employee has presented a urine specimen that falls outside the normal temperature range (90.5 - 99.8F) and declines to provide a measurement of oral body temperature by sterile thermometer or shows an oral temperature that does not equal or exceed that of the specimen.
- b. The last urine specimen provided by the employee (the most recent test) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2 g/L.
- c. The collection site person observes conduct clearly and unequivocally indicating an attempt to adulterate the specimen (for example, substituting urine in plain view or presenting a specimen containing blue dye).
- d. The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as part of a rehabilitation program, return to duty following rehabilitation, or follow-up testing after return to duty.
- e. If the employee refuses to cooperate with the collection process, the collection site person will inform the employer representative and shall fully document the non-cooperation on the urine custody and control form.

Failure to cooperate may result in disciplinary action, up to and including discharge.

5. All test results will be reported by the laboratory to the Medical Review Officer (MRO), who is a licensed physician with knowledge of substance abuse disorders, in a manner designed to ensure confidentiality of the information. Urine specimens confirmed positive by gas chromatography/mass spectrometry will be reported as positive by the laboratory to the MRO.

The MRO will contact the individual to ask about prescriptions and over the counter medications that the individual may have taken, giving the individual an opportunity to discuss the test result with him/her before reporting the test as positive to the City of San Bruno. The employee shall be given twenty-four (24) hours to respond to the MRO's attempt to contact him/her. In the event the employee is on vacation or other leave, the employee has five calendar days to meet with the MRO to review the test results.

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Failure to respond within that time limit will cause the MRO to request that the City of San Bruno contact the employee and direct him/her to contact the MRO immediately. If the review time is not met, the MRO will report to the City of San Bruno that the employee is not medically qualified to drive.

After appropriate review, the MRO will report test results to the employees department head or the City's employee/employer relations officer.

6. An employee (or applicant) who does not pass a drug test administered under this Policy may request that the original split-sample urine specimen be retested by submitting a written request to the MRO within 72 hours of the employee's or applicant's notice of the original test result. The MRO is the only person authorized to order a reanalysis of the original sample. The employee may specify that the retest be performed by either the original laboratory or by a second DHHS-laboratory, but will reimburse the City for expenses associated with second DHHS-laboratory that does not currently contract with the City. The original laboratory will follow proper chain-of-custody procedures in transferring the sample to the second laboratory. The retest results shall be communicated to the MRO.

Medical Review Officer and Substance Abuse Professional

- I. The City will contract with a qualified MRO, for services and responsibilities including, but not limited to:
 - a. Review the results of all alcohol and drug tests.
 - b. Review and interpret positive test results.
 - c. Request, if needed, a quantitative description of test results.
 - d. Receive a certified copy of the original chain of custody.
 - e. Inform the tested individual and provide test results.
 - f. Conduct a medical review with the tested individual.
 - g. Review the individual's medical history, or any other relevant biomedical factors.
 - h. Give the individual an opportunity to discuss test results.

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- i. Order a re-analysis of the original sample in a certified laboratory within 72 hours after receiving a written request from an employee (applicable to active employees only).
 - j. Not receive urinalysis results that do not comply with *Mandatory Guidelines*.
 - k. Not declare a test result as positive for opiates without "clinical evidence."
 - l. Determine whether a result is scientifically insufficient.
 - m. Forward results of verified positive tests to the employee's department head or the City's employee/employer relations officer.
 - n. Maintain the required records to administer this program.
2. The MRO, after appropriate review, will report test results to the City.
 - a. In the event of a positive test result, the MRO shall give the individual an opportunity to discuss the test result with him or her before reporting the result as positive to the City. The MRO shall inform the employee before beginning the verification interview that the MRO could transmit to appropriate parties information concerning medications being used by the employee or the employee's medical condition only if, in the MRO's medical judgment, the information indicated that the employee may be medically unqualified under applicable DOT rules.
 - b. If the MRO determines that there is a legitimate explanation for a positive test result, the MRO shall report that result to the City as negative.
3. The City will contract for a SAP who will provide referrals to, monitoring of, and verification of successful treatment, rehabilitation and coordination of return to duty testing where applicable. The employee has five calendar days after a positive test result has been reported to the City to evaluate his/her situation with the SAP.

C. Results

All test results will remain strictly confidential, whether maintained by the laboratory, the MRO, or the City.

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1. Individual test results may be released to a third party only if the tested individual signs a specific written authorization to release the results to an identified person.
2. The MRO will provide to the individual his or her test results upon request by the individual.
3. The City may not release test results to anyone without the written authorization of the tested employee, except where ordered to do so by proper legal authority. The City, or its contractor, will provide summary data of drug and alcohol testing results to the DOT Administrator or designee, as required by the DOT regulations.

D. Mandatory Sanctions Based on Positive Test Results

1. Employee must be removed from safety-sensitive duty. He or she will be temporarily reassigned to non-safety-sensitive duties or placed on paid leave pending disciplinary action.
2. The employee cannot be returned to safety-sensitive duties until he/she has been evaluated by a SAP or MRO, has complied with recommended rehabilitation, and has a negative result on a return to duty controlled substances or alcohol test. While unable to perform safety sensitive functions the employee shall be subject to a 5% reduction in pay per the applicable M.O.U.
3. Per Department of Motor Vehicles (DMV) regulations, failure to submit to post-fatality testing results in a loss of drivers license for one year and a valid drivers license is required for covered classifications.
4. Employees who recognize they have a substance abuse problem and voluntarily enter a rehabilitation program will not have their compensation reduced by 5%. All other terms of these policies and procedures apply.

E. Consequences

An employee may be subject to disciplinary action, up to and including termination of employment as provided below if he or she tests positive for alcohol or controlled substances specified in this policy.

1. Any employee covered by this policy who refuses to be tested will be terminated from employment.

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2. A positive test result as a first offense in random testing will result in a written warning, a 5% pay reduction, and letter of agreement outlining the expectations of the one-time rehabilitation opportunity. A second offense in random testing will result in termination of employment.
3. A positive test result in a pre-employment examination will result in disqualification from appointment.
4. Any covered employee who fails a drug/alcohol test will immediately be removed from safety-sensitive duties, and on a one-time referral basis will be offered rehabilitation or treatment either under existing employee assistance programs or medical plans or other available community resources, only as recommended by the SAP. If an inpatient treatment is recommended, the employee has up to fifteen (15) days to enter the rehabilitation treatment center after approval of a leave of absence. Rehabilitation shall not be used to mitigate "for cause" disciplinary action.
5. The City will follow the final recommendations of the SAP, in consultation with the rehabilitation treatment professional as to the appropriate after-case protocol and post-rehabilitation, return to duty testing.
6. Failure to participate and complete the recommended treatment or a positive test result following treatment in the return to duty testing phase will result in discharge.
7. Employees who are recommended for a rehabilitation program or other treatment alternative may use various leave accruals at the employee's request, if available and necessary to cover time off. They may also request an unpaid leave of absence. However, such time off may not be used to mitigate "for cause" disciplinary action.
8. All return to work approvals must be issued by the SAP, whose evaluation, recommendations for treatment and release will be considered final.
9. For Breath Alcohol Concentrations (BAC) between .02 and .039, the employee will be removed from safety-sensitive functions for at least 24 hours. For BAC results of .04 or higher, return to duty testing is applicable.

F. Record Retention

The MRO is the sole custodian of the individual test results. The MRO shall retain reports of individual positive test results for a minimum of five (5) years. Individual

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negative test results will be maintained for at least twelve (12) months. The City shall maintain in an employee's personnel file only such information required by the DOT to document compliance with the testing requirements.

City must keep detailed records of their alcohol and drug testing programs which are subject to inspection and/or audit by the Federal Highway Administration.

1. City must retain records documenting the collection process for the alcohol and controlled substance tests and the training of supervisors for a minimum of two (2) years.
2. City must retain the following: records of the number of positive test results, alcohol tests which indicate a concentration level over 0.02 or higher, any employee refusal to submit to tests, calibration documentation and employee evaluations and referrals to substance abuse professionals. These records must be maintained for a period of five (5) years.
3. Records will be held in a confidential medical file, separate from the employee's personnel file.

G. Employee Assistance Program

City will provide all covered employees under this program with information on drug and alcohol use and treatment resources.

1. Information regarding alcohol and substance abuse will be distributed and displayed in work areas and employee information centers.
2. Copies of this Policy and Administrative Procedure will be distributed to all employees in covered classifications.
3. Information regarding the Employee Assistance Program will be given to all employees with the above noted handout. A contact number for EAP will be posted in all work areas and employee information centers.
4. If an employee voluntarily refers him or herself to the employee assistance program before being required to undergo testing and provides a letter from the EAP professional certifying same, consideration will be given to this in the subsequent disciplinary action. However, voluntary self-referral to the employee assistance program after notification of a required test will not eliminate the requirement to take such test, nor will it preclude disciplinary action against the employee who fails or refuses a required test.

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H. Training

A minimum of one hour of training for every employee will be provided initially and annually, including supervisors of classifications covered by this policy. Information on this policy, and substance abuse in general will be covered. For supervisors, additional training on the specific, contemporaneous physical, behavioral and performance indicators of probable substance use and abuse and appropriate documentation of reasonable suspicion and post-accident referrals to testing will be provided.

I. Appeal Process

If an employee believes the policy and procedures contained herein have been violated, misapplied or misinterpreted, he/she may communicate those concerns in writing to the City Manager within seven (7) calendar days of the testing date. The City Manager will respond in writing within fifteen (15) calendar days.

If an employee wishes to appeal the action of the City Manager taken on the basis of positive test results or refusal to be tested, the hearing and appeal process outlined in the applicable M.O.U. shall apply. In this event, all records relating to the test shall be provided to the employees representative, provided the employee executes a consent/release form.

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[SAMPLE]

**EMPLOYEE ACKNOWLEDGMENT REGARDING ALCOHOL
AND CONTROLLED SUBSTANCES TESTING REQUIREMENT
AS A CONDITION OF EMPLOYMENT
(APM 96-14)**

POLICY STATEMENT

It is the City of San Bruno's policy to ensure compliance with the United States Congress, Omnibus Transportation Act of 1991 and the implementing regulations promulgated by the Federal Highway Administration (FHWA), 49 Code of Federal Regulations (CFR), Parts 40 and 382, et al. The Department of Transportation (DOT) regulations address the screening of controlled substances and alcohol for employees who perform safety-sensitive duties, and for whom Class A, B and Commercial C endorsed driver licenses are required by way of job classifications.

In 1986, the Commercial Motor Vehicle Safety Act required that operators of any vehicle with a Gross Vehicle Weight Rating (GVWR) of 26,001 or more pounds, or a vehicle that is designed to transport 16 or more persons must have a commercial driver's license (Class B). The DOT and FHWA final regulations require all employers with 50 or more covered employees who must possess a commercial driver's license to establish an alcohol and drug testing program beginning January 1, 1995. The City shall adhere to all regulations in the Federal Register dated June 9, 1994, Part V, Department of Health and Human Services (DHHS) and subsequent modifications which contain Mandatory Guidelines for Federal Workplace Drug Testing Programs. Compliance with this policy is a condition of your employment.

A. Classifications Covered

1. Department of Transportation regulations apply to holders of a commercial drivers license (CDL) who operate vehicles:
 - a. In excess of 26,001 or more pounds.
 - b. Carrying 15 or more passengers.
 - c. Transporting hazardous materials.

B. Covered Employees

1. With the exception of Police and Fire a "covered" employee is one whose assignment requires the performance of "safety-sensitive functions" as

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described in (a), (b), and (c) above. A "covered employee" is subject to all of the provisions of this policy:

C. Prohibited Substances

1. **Alcohol** - Covered employees are prohibited from using alcohol in the following circumstances: within four (4) hours prior to performance of safety-sensitive duties including standby coverage and while on the job. Possession of alcohol on the job and use of alcohol after an accident during the time preceding a post accident test are also prohibited. Alcohol is defined to include: beverage alcohol, ethyl and other low molecular weight alcohols including methyl and isopropyl alcohols. A Breath Alcohol Concentration (BAC) of .02 or higher is prohibited. Refusal to be tested under this policy will result in termination of employment.
2. **Controlled Substances (Illegal drugs)** - Covered employees are prohibited from the use of controlled substances including marijuana (THC), cocaine, opiates, phencyclidine (PCP) and meth/amphetamines. Use, manufacture, possession, transfer and distribution of illegal substances is prohibited on duty. Refusal to be tested under this policy will result in termination of employment.

On-duty time for safety-sensitive functions commences at the time a driver begins to work or is required to be in readiness to work in any assignment, until the time he/she is relieved from work and all the responsibility for performing work, including actually performing, being read to perform and/or being immediately available to perform. Safety-sensitive functions are defined in Title 49 CFR Part 395.2, On-Duty Time, and include driving the vehicle, performing maintenance on the vehicle, inspecting the vehicle, loading/unloading the vehicle and supervising or assisting the loading/unloading of a vehicle.

Questions about this policy may be directed to the employee's department head or the City's employee/employer relations officer. The City reserves the right to modify or amend the policy in the future.

I have received a copy, read and understand the City of San Bruno Alcohol and Controlled Substances Testing Policy and Administrative Procedures (APM 96-14).

Employee Name (print)

Signature

Date

ORIGINAL: City Personnel File

Copy to: Employee
Department Head