

Federal DOT Drug and Alcohol Testing Policy Section 1.4

PURPOSE

The U.S. Department of Transportation (DOT) issues regulations implementing the Omnibus Transportation Employee Testing Act of 1991 (Act). This Act is designed to improve the overall safety of the transportation industry by requiring employers to test safety-sensitive employees for the use of controlled substances and alcohol. The City is legally required to enforce federal DOT regulations and implement controlled substance and alcohol testing for employees who require a commercial driver's license.

The federal DOT legal requirement reinforces the City's commitment to promote a drug-free workplace and to ensure that employees involved in safety sensitive transportation activities avoid problems created by the use of controlled substances and alcohol.

The purpose of the following policy is to outline details of the federal DOT program, including testing requirements and consequences to employees who have been found to use controlled substances and alcohol as outlined in this policy. In addition, this policy is intended to comply with all applicable regulations of the federal DOT. Employees covered by this policy are also covered by the City's *Substance Abuse Program and Policy*.

POLICY

Mandatory Training:

The federal DOT regulation mandates that all City employees covered by these regulations and the supervisors/managers of these employees must attend at least one (1) hour of training on alcohol misuse and at least one (1) hour of training on controlled substance, use, which may be through the use of a videotape or other media. The training for supervisors and managers must cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and controlled substance use.

Employee Notification:

Employees initially covered by the federal DOT's controlled substance and alcohol testing regulations have been notified of the testing regulations by the City. Any employees newly covered by these regulations and employee affected by any change in the federal regulations will be notified by their Department Head or designee.

The HR/RM Department will provide affected Department Heads or designees with a copy of this *Federal DOT Drug and Alcohol Testing Policy* whenever revisions are made.

Prohibited Conduct Related to Controlled Substances:

No driver shall report for duty or remain on duty while performing a safety-sensitive function when the driver uses a controlled substance in concentrations greater than those described below, except when the substance is prescribed by a physician, and the physician informs the driver that the substance does not adversely affect the driver's ability to perform the safety-sensitive function. The City reserves the rights to have the City's designated medical treatment facility or health care provider make the final determination as to whether the driver can drive a City vehicle when the employee is using a prescription medication.

No driver shall perform a safety sensitive function after testing positive for a controlled substance, until such time that he/she is authorized to return to full duty by the health care provider and has a verified negative controlled substances test.

Prohibited Conduct Related to Alcohol:

No driver shall report to duty or remain on duty requiring the performance of a safety sensitive function with a breath alcohol concentration level of 0.04 or greater.

No driver shall use alcohol while performing a safety sensitive function. No driver shall possess alcohol while on duty or operating a motor vehicle.

No driver shall perform a safety sensitive function within four (4) hours after using alcohol. No driver shall use alcohol within eight (8) hours after an accident, or until an alcohol test has been completed, whichever comes first.

No driver shall perform a safety sensitive function after testing positive for a controlled substance, until such time that he/she is authorized to return to full duty by the health care provider and has a breath alcohol test value less than 0.02.

Refusal to Submit to an Alcohol or Controlled Substance Test:

No driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post-accident, random, reasonable suspicion, or follow-up tests. In addition to the direct refusal to give a urine sample, refusal also includes an inability to give a urine specimen or failure to provide a sufficient amount of urine without a reasonable medical explanation, not reporting to the collection site during the time allotted by the department, refusing to sign the necessary forms, failing to remain at the testing site until the testing process is complete, failing to permit the observation or monitoring of controlled substance test, if applicable, and the failure to cooperate with any part of the testing process. Any of the above occurrences will constitute a refusal to take a controlled substance test.

Any form of refusal to take a controlled substance test will be considered a positive test and the employee will be disqualified from driving until a verified negative test result is obtained. In addition, disciplinary action may be taken for refusing to submit to any controlled substance or alcohol testing required by this policy, up to and including termination.

Types of Testing:

Pre-employment Testing:

The regulations require urine controlled substance testing of candidates for positions that require Class A or B driver's licenses. Candidates who transfer, demote, or promote into a position that requires a Class A or B driver's license will be subject to urine testing prior to starting the new assignment.

Reasonable Suspicion Testing:

Drivers may be tested based on reasonable suspicion, provided that the conduct underlying the decision to test is witnessed by a supervisor or above. If the incident causing reasonable suspicion occurs during or shortly before normal business hours, contact the approved medical treatment facility to conduct the testing.

All test results will be treated as confidential and returned to the HR/RM Department.

Random Testing:

The City is required to annually test at least fifty percent (50%) of the total number of covered drivers on a random basis each year for controlled substances and ten percent (10%) for alcohol. The test must be unannounced, with all drivers selected from a random pool. Individuals in the pool may be randomly selected for drug testing only or may be randomly selected for both drug and alcohol testing. When an individual is randomly selected for both drug and alcohol testing, these tests will be administered during a single visit to the collection facility to minimize the number of work disruptions.

Post Accident Testing:

The driver is responsible for providing a urine and breath sample for testing as soon as possible after a reportable accident. Drivers who are subject to post-accident testing are required to remain readily available for testing for the next eight (8) hours for an alcohol test and for the next thirty-two (32) hours for a drug test, unless tested or excused from testing. Except in medical emergencies, failure of the driver to remain readily available for drug and/or alcohol testing will be considered a refusal to submit to controlled substance testing. If the accident occurred during or shortly before, normal business hours, contact the approved medical treatment facility to conduct the testing.

A “reportable accident” is one that (1) involves a fatality, or (2) results in the driver receiving a citation under state or local law for a moving traffic violation.

Return to Duty and Follow-up Testing:

A return to duty must be conducted before an individual who has violated the prohibited drug or alcohol conduct standards returns to performing safety-sensitive functions. The driver needs to have a verified negative controlled substances test or if applicable, a breath alcohol test value less than 0.02. Follow-up testing is conducted periodically after the individual has returned to work, based on a plan established by the HR/RM Department and communicated to departments.

Prohibited Substances:

A urinalysis will be performed to detect the presence of the illegal substance shown below or its defined metabolite equivalent. A positive test is one in which the concentration meets or exceeds the following DOT levels. Measurements are in nano grams per milliliter.

Type of Drug or Metabolite	Initial Test*	Confirmation Test**
(1) Marijuana metabolites	50	
(i) Delta – 9 tetrahydrocannabinol-9-carboxylic acid (THC)		15
(2) Cocaine metabolites (Benzoylcegonine)	150	100
(3) Phencyclidine (PCP)	25	25
(4) Amphetamines	500	
(i) Amphetamine		250
(ii) Methamphetamine		250 (Specimen must also contain amphetamine at a concentration of greater than or equal to 100)

		ng/mL)
(iii) Methylenedioxyamphetamine (MDMA)	500	250
Methylenedioxyamphetamine (MDA)		250
Methylenedioxyethylamphetamine (MDEA)		250
(5) Opiate Metabolites		
(i) Codeine/Morphine	2000	
(ii) Codeine		2000
(iii) Morphine		2000
(iv) 6-Acetylmorphine	10	10

* Immunoassay

** Gas Chromatography/Mass Spectrometry

On an initial drug test, a result below the cutoff concentration is reported as negative. If the result is at or above the cutoff concentration, a confirmation test will be conducted automatically by the testing laboratory. On a confirmation for the specific assay method is reported as negative and a result at or above the cutoff concentration for the specific assay method is a confirmed positive.

The use of legally prescribed medications that may contain a controlled substance in concentrations greater than those specified above is prohibited when operating a commercial motor vehicle.

The use of beverages or food containing alcohol or any other substances including medications that produce an alcohol level of 0.04 or greater is prohibited. A safety sensitive driver cannot drink four (4) hours prior to work regardless of alcohol level.

Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine. If a verified adulterated or substituted controlled substance test results is received, this will be handled in the same manner as a confirmed positive for a drug or drug metabolite and the employee must be immediately removed from performing safety sensitive functions.

If a controlled substance test result is received indicating that the employee's specimen is negative dilute and the creatinine concentration is greater than or equal to 2 mg/dL but less than 5 mg/dL, the medical review officer will request an immediate recollection under direct observation.

Consequences of a Positive Alcohol or Drug Test:

Following receipt of the initial report of the verified positive controlled substance or alcohol test result, a driver who engages in prohibited conduct (Sections 1 and/or 2 of this policy) shall be removed immediately from performing any and all safety-sensitive functions, including those defined by DOT and such other functions as:

- Any work with vehicles, machinery or tools;
- Any work in the street or a potentially hazardous location;
- Any other work where drug or alcohol-induced impairment may constitute a danger to the employee or others.

If a non-safety sensitive function is not available, the employee may be required to take available paid leave or unpaid leave until he or she is approved to return to full duty.

A positive alcohol breath test between .02 and .04 will result in the removal of the driver from the safety-sensitive function for twenty-four (24) hours.

A driver will not be hired or promoted if he/she refuses to submit to a pre-employment drug or alcohol test, or if he/she tests positive for a controlled substance or alcohol test. In addition, disciplinary action may be taken for refusing to submit to any controlled substance or alcohol testing required by this policy.

Referral, Evaluation and Treatment:

When an employee has violated federal DOT drug and alcohol regulations, he/she cannot again perform any DOT safety-sensitive duties for the City until and unless that employee completes the medical evaluation, referral, and the education/treatment process set forth in this subpart and in applicable DOT agency regulations and has a verified negative test for controlled substances. The first step in this process is a medical evaluation.

Any one (1) of the following constitutes cause for a medical referral:

- A verified positive DOT controlled substance test result.
- A DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater.
- A refusal to test (including adulterating or substituting a urine specimen).
- Any other violation of the prohibition on the use of alcohol or controlled substances under a DOT agency regulation.

Drivers who have engaged in conduct prohibited by this policy will be:

- Provided resources for evaluation and resolving problems associated with alcohol misuse and controlled substance use.
- Evaluated by an EAP approved health care provider who will recommend the appropriate level of assistance for the employee to resolve problems associated with alcohol misuse and controlled substance use.
- Investigated for possible disciplinary action.

First Offense:

In an effort to encourage the employee to take responsibility for his/her problem, the first violation of this policy will result in a mandatory referral to the EAP using the established procedures in the City's *Substance and Abuse Program and Policy*. A written record of this referral will be maintained in a restricted confidential employee medical file. Positive controlled substance or alcohol test results and related information will be used only for medical or disciplinary purposes. This does not prohibit the City from taking disciplinary action against any employee for a first offense.

A health care provider will assess the employee's need for treatment. If treatment is recommended by the health care provider, the employee must complete the treatment before he/she can return to the safety sensitive duties. An employee declining to be evaluated by the health care provider may be subject to disciplinary action independent of any other misconduct.

Successful completion of the treatment will be considered a condition for continued employment. At the department's discretion and subject to the availability of a suitable position, the employee may be permitted to work in a non-safety sensitive function while undergoing the prescribed treatment.

Second Offense:

During an employee's career, a second opportunity for treatment may be offered in the event of a relapse. Discipline, which could result in termination, will be imposed for the second positive test itself subject to due process.

Referral to Substance Abuse Program:

Any rehabilitation program must be approved for the employee by the health care provider prior to enrollment in the program.

The employee who enters into an EAP approved program shall pay thirty percent (30%) of the treatment costs, and the City will pay the remainder of the cost not covered by the employee's health insurance (for the first offense only).

The employee may use accrued, authorized paid leave (i.e., sick leave, vacation) during his/her absence for treatment.

Further details of the program may be obtained by consulting the *Substance Abuse Program and Policy* or by contacting the HR/RM Department.

Substance Abuse Program Procedures:

- All drug tests are reviewed by the health care provider. The health care provider will sign the chain of custody form.
- The health care provider calls the employee to inform him/her of a positive result of a test for controlled substance or alcohol and follows health care provider protocol for verification. The health care provider then informs the HR/RM Department.
- The employee's manager or supervisor removes the employee from performing safety sensitive duties, the designated department representative contacts the EAP.
- The health care provider is fully briefed on the case by the EAP representative. The health care provider then conducts an assessment of the employee and determines the employee's treatment plan.
- An EAP representative notifies the health care provider or the City representative of the employee's treatment plan recommendations.
- The employee is then referred into treatment.
- The EAP representative confirms the treatment with the health care provider and the employer.
- At the conclusion of the treatment, the health care provider conducts a post-treatment assessment. The assessment includes a review of the treatment plan, discharge plan, and suggested aftercare.
- A *Completion of Treatment* letter is generated based upon the recommendations of the treatment program and the health care provider. The EAP representative also directly contacts the referring

party to expedite communication of the discharge/aftercare plan. An HR/RM representative will then inform the appropriate department representative that the treatment has been completed.

Return to Duty:

Before a driver returns to work requiring performance of a safety sensitive function, following a positive test result, he/she must:

- Follow the rehabilitation program prescribed by the health care provider, and
- Obtain a verified negative return-to-duty controlled substance and/or obtain a breath alcohol test level less than 0.02, and
- Submit to unannounced follow-up alcohol and/or controlled substances tests. The number and frequency of such follow-up testing shall consist of at least six (6) tests in the first twelve (12) months.

Drug Testing Procedures:

Selection Process for Random Drug Testing:

A random number generating software program will provide a list of the employees covered by this policy and select the sample for each testing period.

All drivers will have an equal chance of being selected on each testing day. Medical Services (via the HR/RM Department) will notify departments of randomly selected employees. Drivers notified of selection for testing must proceed immediately to the designated testing site. A reasonable amount of transportation time will be allowed. The time allowed between notification and testing is no more than the requisite travel time to the testing site. In the event the employee is on vacation or an extended medical absence, another employee may be selected for testing through the software program randomization process.

Collection of Urine:

The employee will submit for urine drug testing at the medical facility.

Split Specimen:

The urine specimen is divided into two (2) containers, each of which is selected, labeled, and maintained separately. At the request of the employee the split specimen can be used for confirmation.

Documentation and Chain of Custody Procedures:

The medical facility completes the *Federal Chain of Custody* form certifying that the specimen is properly collected, identified and labeled.

Laboratory Procedures:

The testing laboratory must be certified by the Department of Health and Human Services. The split specimen bottle remains sealed and is stored at the laboratory.

Urine specimens are first tested by a screening procedure. Tests that screen positive must have the substance confirmed by gas chromatography/mass spectrometry (GC/MS), which both identifies the

substance correctly and measures its concentration in the urine. Blind samples will be sent to the laboratory at a rate of one percent (1%) of all specimens, up to a maximum of fifty (50) blind samples per quarter.

Reporting of Results:

All controlled substance tests are reviewed and interpreted by the medical officer before they are reported to the employee. The employee will be notified of a positive controlled substance or alcohol test result by the medical officer. After the employee is notified, the HR/RM Department will inform the employee's Department Head or authorized designee of the verified test results.

Alcohol Testing Procedures:

Random Alcohol Testing Procedures:

Random alcohol testing must be conducted just before or after an employee's performance of safety sensitive duties. The number of random tests must equal ten percent (10%) of all employees covered by this program per year. A random generation software program will randomize drivers and select the ten percent (10%) sample. Drivers notified of selection for testing must proceed immediately to the designated testing site. A reasonable amount of transportation time will be allowed. The time allowed between notification and testing is no more than the requisite travel time to the testing site.

Method:

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration approved evidential breath testing device operated by a certified Breath Alcohol Tester.

Criteria for Positive Test Results:

An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the initial test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her safety sensitive position for a minimum of 24 hours.

Reporting Results:

The Department Head or designee will be notified by the Medical Officer or HR/RM Department immediately if the alcohol tests result is positive.

Dilute or Adulterated Specimens:

If a verified adulterated or substitute drug test is received, this will be handled in the same manner as a confirmed positive test for a controlled substance and the employee will immediately be removed from performing safety sensitive function. This action will be taken upon receiving the initial report of the verified adulterated or substituted test result. If a controlled substance test result is receiving indicating that the employee's specimen was negative dilute with a creatinine level greater than or equal to 2 mg/dL and less than 5mg/dL, a second collection must take place immediately under direct observation.

Record Retention:

Drug testing records will be maintained by the HR/RM Department. Negative test results will be held for one (1) year and the positive test results will be held for five (5) years. Documentation of employees who refuse to take the controlled substance test will also be included in the records. All records pertaining to controlled substance and alcohol testing will be confidential on a need-to-know basis. Positive controlled substance or alcohol tests results and related information will be used only for medical or disciplinary purposes.