

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-05-47 LGL 05- 17
TITLE: DRUG AND ALCOHOL TESTING OF COMMERCIAL DRIVERS EFFECTIVE DATE: January 1, 1995 REVISION DATE: 02.18.05	

1.0 GENERAL

- 1.1 It has been estimated that 23 million adults use illegal drugs and 18 million adults are alcoholics. Their drug addiction and alcohol abuse cost their employers billions of dollars per year. Those costs show up in higher accident rates, higher workers' compensation costs, greater absenteeism, and increased costs for health insurance. In an effort to stem that rising tide, the Drug Free Workplace Act of 1988 was implemented; and on February 15, 1994, the Federal Highway Administration (an arm of the U.S. Department of Transportation) issued new regulations on drug and alcohol testing for commercial drivers.

1.2 TABLE OF CONTENTS

SECTION 1 GENERAL
SECTION 2 DEPARTMENTS/DIVISIONS AFFECTED
SECTION 3 REFERENCES
SECTION 4 DEFINITIONS
SECTION 5 POLICY
SECTION 6 PROCEDURE
SECTION 7 RESPONSIBILITIES
SECTION 8 APPENDICES

2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City non-uniformed employees who possess and are required to use a commercial drivers' license.

3.0 REFERENCES

41 U.S.C. 701 - Drug Free Workplace Act of 1988
49 C.F.R. part 40 - U.S. Department of Transportation Procedures for Transportation Workplace Drug Testing Programs
49 C.F.R. part 382 - Federal Motor Carrier Safety Administration
RCW 46.25 - Uniform Commercial Driver's License Act

4.0 DEFINITIONS

- 4.1 Commercial Driver – This term includes all employees whose position requires the possession of a commercial driver's license (CDL), excluding those employees who have been exempted from the CDL requirements. This term includes all those in the random testing pool.
- 4.2 Drugs – The five controlled substances are: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.
- 4.3 Substance Abuse Professional (SAP) – A substance abuse professional shall mean a licensed physician, 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).
- 4.4 Medical Review Officer – A Medical Review Officer (MRO) receives laboratory drug test results and determines whether the results are negative or positive before notifying the employer.
- 4.5 Safety Sensitive – All time spent at the driving controls of a commercial motor vehicle in operation; or, all time loading or unloading a vehicle; or, all time repairing or maintaining in attendance upon a disabled vehicle.

5.0 POLICY

- 5.1 The City has a significant interest in the health and safety of its employees and the citizens of the City of Spokane. In furtherance of that interest, it is the policy of the City to take those steps necessary to ensure that its employees are free of the influence of alcohol and drugs while in the performance of their duties. Job applicants for a CDL position who have been given a conditional offer of regular employment with the City shall pass a pre-employment physical examination which shall include a drug test. There shall be an employee assistance program for all employees for confidential counseling on problems associated with alcohol and drug abuse; and there shall be mandatory drug and alcohol testing for employees under circumstances enumerated below. All collections must be split specimen collections. (49 C.F.R. part 40)

5.2 Training

5.2.1 Persons designated to determine whether reasonable suspicion exists to require a commercial driver to undergo alcohol or drug testing will receive at least sixty (60) minutes of training on alcohol and at least sixty (60) additional minutes on substance abuse. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

5.3 Testing of Prospective Employees

5.3.1 All prospective employees who have been given a conditional offer of employment with the City for a position which requires the possession of a CDL shall be informed that a condition of employment includes passing a drug test as part of the pre-employment physical examination. The drug test will test for marijuana, cocaine, opiates, phencyclidine, and amphetamines. Prospective employees who refuse to take the drug test or who test positive for one of the five controlled substances shall be considered ineligible for City employment for one (1) year.

5.4 Securing Information From Previous Employers

5.4.1 If a person is to be hired into a position which requires the possession of a commercial driver's license and that person during the previous two (2) years has worked as a commercial driver, the supervisor doing the reference check shall request from all employers of the driver within the past two (2) years the following:

- Positive alcohol or drug tests
- Refusals to test
- Information related to any chemical dependency evaluations and completion of treatment.

This information must be obtained before the person is employed by the City. However, if the information has not arrived by the anticipated start date, and if the person has passed the City's pre-employment physical examination and drug test, the person may be hired and the requested information must be obtained from previous employer(s) within fourteen (14) calendar days of the date of hire with the City. Should the information not arrive within the fourteen (14) calendar days, the person shall not be permitted to drive

commercial vehicles for the City until the information arrives. (A copy of the authorization form is attached.) This information will be maintained only in the Human Resources Department.

5.4.2 The requested information from previous employers must be submitted to the Human Resources Department and filed in a place other than the person's official personnel folder.

5.4.3 If no such information was generated on the applicant or if the past employer(s) cannot be located or refuse(s) to cooperate, the supervisor shall so document and send a report to the Human Resources Department. Normal hiring may proceed when the report has been sent.

5.5 Alcohol Prohibition

5.5.1 No employee shall use alcohol, or be under the influence of alcohol, within four (4) hours before going on duty.

5.5.2 No employee shall use alcohol, be under the influence of alcohol, or have any measurable alcohol concentration or detected presence of alcohol while on duty.

5.5.3 No employee shall possess any alcoholic beverage while on duty. (This does not apply to the transport of alcohol which is part of a load.)

5.6 Random Testing

5.6.1 The minimum annual percentage rate for alcohol testing shall be ten percent (10%) of the average number of commercial driver positions. All alcohol tests shall be conducted by a breath alcohol technician (BAT) using breath-testing devices (more commonly called breath alcohol machines).

5.6.2 The minimum annual percentage rate for random drug testing shall be fifty percent (50%) of the average number of commercial driver positions. All drug tests shall be through urine samples processed by a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratory.

5.6.3 The selection of commercial drivers for random alcohol and drug testing shall be made by a scientifically valid method, such as a random number table of a computer based random number generator that is matched with drivers' social security

numbers or other comparable identifying numbers. Under the selection process used, each commercial driver shall have an equal chance of being tested each time selections are made. Random alcohol and drug tests shall be unannounced and the dates for administering random alcohol and drug tests shall be spread reasonably throughout the calendar year.

5.6.4 Employees selected for a random drug test will be directed by the administering facility to empty the contents of their pockets and display the items in them to ensure that no items are present which could be used to adulterate the specimen. If it is determined that any of the material found in an employees pockets could be used to tamper with the specimen, a directly observed collection using direct observation procedures will be conducted. (49 C.F.R. part 40.43)

5.6.5 Blood-alcohol tests may be used instead of a breath alcohol test where an employee is unable to provide a sufficient amount of breath, permitted only if a valid medical condition exists. (49 C.F.R. part 40.265)

5.6.6 Supervisors whose employees have been selected for an alcohol test shall obtain the reading from the BAT. If there is any reading above .00, the supervisor shall take the appropriate action as specified in Section 5.9.1. The employee must report immediately to the testing facility upon notification of random selection. (49 C.F.R. part 382)

5.7 Post Accident Testing

5.7.1 As soon as practicable following an accident involving a commercial motor vehicle, the City shall test for alcohol and drugs each surviving commercial driver (a) who was performing driving functions with respect to the vehicle if the accident involved the loss of human life regardless of fault, or injury to a private citizen requiring immediate medical attention offsite, or (b) who receives a citation at the site under State or local law for a moving traffic violation arising from the accident, or (c) if one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. If a breath alcohol test is not administered within eight (8) hours following the accident, the supervisor of the driver shall cease attempts to arrange for the test and shall prepare and submit to the Human Resources Department a report stating the reasons why the test could not be done within the

allotted eight (8) hours. If the drug test is not administered within thirty-two (32) hours following the accident, the supervisor shall cease attempts to arrange for the test and shall prepare and submit to the Human Resources Department a report stating why the test could not be done within thirty-two (32) hours. (49 C.F.R. part 382)

5.7.2 The results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by federal, state or local officials having independent authority for the tests shall be considered to meet the requirements of this section, provided such tests conform to applicable federal, state or local requirements, and that the results of the tests are obtained by the City.

5.7.3 Blood alcohol tests may be used instead of a breath alcohol test when an employee is unable to provide a sufficient amount of breath due to a valid medical reason or a BAT is not readily available. (49 C.F.R. part 40.265)

5.8 Reasonable Suspicion Testing

5.8.1 When a supervisor has reasonable suspicion that an employee is under the influence of alcohol or drugs while on duty, that supervisor shall have a representative of the Human Resources Department and a union representative confirm that suspicion. That reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. If the reasonable suspicion is confirmed by all parties, that employee shall be required to submit to a breath alcohol test and/or drug test. Only supervisors, Human Resources representatives, and union representatives who have had the required one hundred twenty (120) minutes of training (see Section 5.2) may confirm a reasonable suspicion.

5.8.2 Blood alcohol tests may be used instead of a breath alcohol test when an employee is unable to provide a sufficient amount of breath due to a valid medical condition or a BAT is not readily available. (49 C.F.R. part 40.243)

5.8.3 Employees will be removed from a CDL required function or Safety-Sensitive Position (SSP) until results are reported. A waiver is required to be completed by the employer prior to removal from a SSP. (49 C.F.R. part 40.21) Until results are reported, the employee will remain in active status.

5.9 Results of a Positive Test

5.9.1 An employee who tests .02 or greater on a breath alcohol test or who tested positive for one (1) of the five (5) controlled substances shall not be permitted to return to work until the following conditions have been met:

- 1) has been evaluated by a qualified substance abuse professional from a list of names provided by the Human Resources Department or the City's medical review officer
- 2) complied with the recommended rehabilitation
- 3) has a negative result on a return to duty alcohol and/or drug test (depending upon which was failed)
- 4) signs a return to work contract with the City for a period of time not less than two years nor more than five years. At a minimum the employee must be directed by the SAP to undergo six (6) unannounced follow-up tests in the first twelve (12) months of safety sensitive duty following the employee's return to a safety sensitive position.

If there should be a further violation during the contract period, the initial violation that gave rise to the contract will be coupled with the second violation, and the employee shall be subject to disciplinary action for the two (2) violations. (49 C.F.R. part 40.307(d))

5.9.2 If an employee tests less than .02 for alcohol, the supervisor shall immediately contact a representative of the Human Resources Department and a union representative to determine the appropriate duty status of the employee during the upcoming hours (in accordance with Policy 0620-05-10). The employee shall not be placed in a safety-sensitive function while alcohol is present in his/her system.

5.9.3 Between the time an employee tests .02 or greater on a breath alcohol test and the time the employee is eligible to return to regular work, or between the time the City is notified that an employee has tested positive for one of the five controlled substances and the time the employee is eligible to return to regular work, the employee may not work for the City in any capacity but may use any leave available to him/her including sick leave but not including administrative leave. An employee

may be eligible to apply for leave sharing only if in an inpatient treatment facility.

5.9.4 An employee or applicant who wishes to challenge a positive drug test must do so within seventy-two (72) hours of notification of the positive result. The employee or applicant must notify the City's medical review officer that he/she wishes to challenge the test and must pay for the retest. The retest must be processed at a SAMHSA-certified laboratory. If the retest is in favor of the employee or applicant, the City shall reimburse him/her the cost of the retest and shall make him/her whole. If the employee or applicant challenges a positive drug test, the employer is responsible for payment of that test so as not to delay the confirmation testing. If the retest confirms a positive drug test, the employee or applicant will reimburse the City the cost of the retest. (49 C.F.R. part 40.173)

5.9.5 Regulations under RCW 46.25. The State Department of Licensing in 2002 adopted new regulations which require that medical review officers report a confirmed positive drug or alcohol test within three (3) business days to the Department of Licensing. Employees will be disqualified under this regulation from driving a commercial motor vehicle until the employee undergoes a drug and alcohol assessment by an agency certified by DSHS and presents evidence of satisfactory participation in or successful completion of a drug and alcohol program that has been certified by DSHS. Employees must also have met the Department of Licensing requirements for the disqualification period and payment of the requalification fee to the Department of Licensing. If an employee's CDL has been disqualified due to a confirmed positive drug or alcohol test more than twice in a five (5) year period, the individual is DISQUALIFIED FOR LIFE from driving a commercial vehicle.

5.10 Refusal To Take An Alcohol Or Drug Test

5.10.1 No employee shall refuse to take a random drug or alcohol test, a directed drug or alcohol test or to provide urine under the provision of Section 5.7.2. If the employee should refuse to take a random or directed alcohol test, there will be a presumption that the employee has a positive reading of .02 or greater alcohol concentration. If the employee should refuse to take a random or directed drug test or to provide urine, there shall be a presumption that the employee tests positive

for one (1) of the five (5) controlled substances. There shall be a predisciplinary hearing convened to determine the appropriate course of action. In any event, the employee shall be barred from driving commercial vehicles for one (1) year from the date of refusal.

5.10.2 At the time an employee refuses to take a random or directed drug or alcohol test, the supervisor - with a shop steward, if available, or other manager present - shall explain the consequences of a refusal.

5.11 Retention Of Records (49 C.F.R. part 40.333)

5.11.1 The Human Resources Department shall maintain drug and alcohol records in a secure location with controlled access. Records pertaining to commercial drivers shall be kept only in the Human Resources Department and separate from records pertaining to all other employees.

5.11.2 The following records shall be maintained for a minimum of five (5) years:

- A) Records of alcohol test results with results indicating an alcohol concentration of .02 or greater.
- B) Records of verified positive drug test results.
- C) Documentation of refusal to take required alcohol and/or drug tests.
- D) Evaluations and referrals.
- E) All follow-up tests and schedules for follow-up tests.

5.11.3 The following records shall be maintained for a minimum of three (3) years:

- A) Information obtained from previous employers concerning drug and alcohol test results of employees.

5.11.4 The following records shall be maintained for minimum of two (2) years:

- A) Calibration documentation.

- B) Records related to alcohol and drug collection process and training.

5.11.5 The following records shall be maintained for a minimum of one (1) year:

- A) Records of negative and canceled drug test results and alcohol test results with a concentration of less than .02.

5.11.6 The City shall provide copies of these records to other employers when former City employees have applied for employment with those employers and have signed the Authorization to Release Information Form. (See attached form)

5.12 REPORTING OF RESULTS

5.12.1 The Human Resources Department in cooperation with its' Medical Review Officer (MRO) shall, by March 15 of each year, report the results of its alcohol and drug tests on its commercial drivers to the Federal Highway Administration.

5.12.2 Pursuant to RCW 46.25, the City's MRO is required to report the finding of a commercial driver's confirmed positive drug or alcohol test to the Washington State Department of Licensing within three (3) business days.

5.13 Dilute Urine Samples

5.13.1 The laboratory technician shall check the urine for specific gravity. If the specific gravity is too low, indicating a dilute sample, the technician shall perform the authorized test. The outcome of the drug analysis, negative or positive, is valid even if the urine is dilute. In regulated testing, the City is not authorized to retest the employee because his/her urine was dilute. Should there be evidence that the urine sample was diluted in an effort to obstruct the collection process, the employee shall be subject to disciplinary action. (49 C.F.R. part 40.197(b))

5.14 Adulterated Urine Samples

5.14.1 Once the City has been informed that a urine sample has been adulterated, the employee shall immediately be escorted to the collection facility for an observed collection. Until such

time as the City receives word that the drug test is negative, the employee may not work for the City in any capacity but may use any leave available to him/her including sick leave but not including administrative leave. Whether the retest is negative or positive, the employee shall be required to pay the costs of collecting and testing of the adulterated sample and shall be subject to disciplinary action for adulterating the sample. If the retest is positive and the disciplinary action is less than discharge, the employee may return to work when the disciplinary action and the four (4) conditions of Subsection 5.9.1 have been completed.

6.0 PROCEDURE

Not Applicable

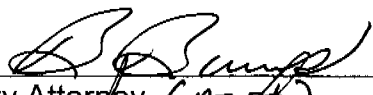
7.0 RESPONSIBILITIES

- 7.1 The Human Resources Department shall be responsible for administering this policy.

8.0 APPENDICES

Authorization to Release Information - Drug and Alcohol Testing
Commercial Drivers

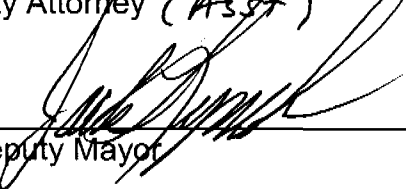
APPROVED BY:



City Attorney (Asst)



Director



Deputy Mayor

2-3-05

Date

**CITY OF SPOKANE
AUTHORIZATION TO RELEASE INFORMATION**

I have applied for a position with the City of Spokane which requires the possession of a commercial driver's license. I hereby authorize:

(name of company)

to release the following information that was generated on me during the past 24-months:

- Positive alcohol or drug tests
- Refusals to test for alcohol or drugs
- Information related to any chemical dependency evaluations on me or completion of treatment

I request that the above information be sent within fourteen (14) days to:

Printed Name of Applicant

Signature of Applicant

Date

Distribution:

Original to Past Employer
Copy to Human Resources
Copy to Department