

City of Greenfield

DRUG AND ALCOHOL POLICY and PROCEDURES

for

Employees Regulated by Federal DOT Regulations

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DRUG AND ALCOHOL POLICY AND PROCEDURES
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I. PURPOSE AND SCOPE

The purpose of this policy is to outline the responsibilities of employees, prospective employees, supervisors and managers with regard to drug and alcohol use in the workplace and the testing of employees in safety sensitive positions requiring a commercial drivers' license in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991, and in accordance with the Drug-free Workplace Act of 1988.

It is the policy of the City of Greenfield to comply fully with the regulations mandating pre-employment, random, reasonable suspicion and post-accident drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation. This policy contains the requirements of the regulations, except where indicated in **bold** that a particular provision is based on the authority of the City.

Additionally, this policy has been developed based on the requirements articulated by DOT in Title 49, Part 40 and Part 382 of the Code of Federal Regulations (CFR).

The City reserves the right to amend any of the provisions of this Policy and Procedures for any reason upon advance notice to the Union and employees.

All other city employees are subject to the provisions of the City's Substance Abuse Procedures, if applicable.

II. APPLICABILITY

This policy applies to all safety-sensitive employees and prospective employees at the Department of Public Works.

Given the varied nature of the department of Public Works needs, employees who are employed to operate CMVs and/or their position requires them to have a CDL, have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working, while on standby, and during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.).

Participation in the City's controlled substances and alcohol testing program is a requirement of each safety-sensitive employee, and therefore, is a condition of employment or use. Requirements of the FMCSA-mandated controlled substances use and alcohol misuse program are not subject to bargaining.

All safety-sensitive employees throughout the policy are referred to as employee, covered employee or driver.

III. DEFINITIONS

Safety Sensitive – For the purposes of this policy, safety-sensitive shall refer to all employees required by the City to obtain and retain a Commercial Drivers License.

Safety-sensitive functions, CMV and other terms are defined in Appendix A: Definitions.

IV. REQUIRED HOURS OF COMPLIANCE

A driver must not consume alcohol while on duty (§382.205), four (4) hours prior to on duty time (§382.207), and up to eight (8) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first (§382.209).

A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the ability to safely operate a CMV (§382.213).

V. RESPONSIBILITY FOR EMPLOYEE INFORMATION

The DPW supervisor for each division, (Assistant Field Superintendent and/or the Field Superintendent) is the designated employer representative (DER) who can provide employees with answers to questions regarding this Drug & Alcohol Policy, has employee monitoring and assignment responsibilities for determining reasonable suspicion, coordinates random testing visits, etc.

The Human Resource Generalist is the designated employer representative (DER) that provides new hires with the Drug & Alcohol Policy, provides additional copies upon request from current employees and answers related questions, receives notification from the Third-Party vendor pursuant to testing in this policy.

Contact information is provided in Appendix B of this policy.

Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix C of this policy.

VI. PROHIBITED CONDUCT

Conduct listed in this section is prohibited and may lead to discipline up to and including termination from employment.

- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties with a breath/blood alcohol content of **0.02% or greater** regardless of when the alcohol was consumed.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions like driving.
- Performance of safety-sensitive functions by employees in the possession of any medication or food containing alcohol unless the package seal is unbroken. **In addition to the preceding requirements of Federal law, pursuant to its authority, the City prohibits the performance of any safety-sensitive function by an employee with an alcohol concentration of 0.02 percent or greater.**
- Consuming alcohol while performing safety-sensitive job functions or while on standby to perform safety-sensitive job functions. A standby employee who has consumed alcohol must acknowledge the use of alcohol at the time that they are called to report for duty.
- Use of illicit drugs by safety-sensitive drivers.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform their supervisor or designee of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to their supervisor or designee prior to operation of said CMV while using the prescribed substance(s).
- Consuming alcohol within eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section IX.
- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.

VII. PROCEDURES

A. Circumstances for Testing §382(c)

Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable. To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. All testing and specimen collection prescribed under this policy will be done in accordance with federal

requirements.

1. **Pre-employment (Pre-use)** All applicants for employment in positions requiring Commercial Drivers License (pre-employment), or candidates for transfer or promotion to such a position (pre-use) are subject to pre-employment urine drug screening for improper use of controlled substances. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. A pre-employment alcohol test is not required. Pre-employment testing must be completed prior to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If a pre-employment drug test produces a result of negative dilute the city may require the applicant to submit to an additional retest. The result of the second test will be the test of record.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the City must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the contact information for a substance abuse professional (SAP). This serves to provide the individual with information about substance abuse treatment opportunities.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to the consequences as defined in this policy or disciplinary action if they are from a different department other than DPW, if applicable; and will also be eliminated from consideration for the position which triggered the need for the pre-employment test. Contact information for a substance abuse professional (SAP) will be provided to them.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test. Employment is contingent on a negative drug test result.

2. **Random** – Conducted on a random, unannounced basis just before, during or after performance of safety sensitive functions for alcohol or at any time for the applicable drugs pursuant to DOT regulation and requirements and as administered by the City's third party testing vendor. Each year, the number of random alcohol tests conducted by the City must equal at least 10% of all the safety-sensitive drivers or as amended. Random drug tests conducted by the City must equal at least 50% of all safety-sensitive drivers or as amended.

The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method. Each driver selected for random alcohol and controlled substances testing under the selection process used shall have an equal chance of being tested each time selections are made. Each driver selected for testing shall be tested during the selection period.

Employees receive no advanced notice of selection. Sufficient time will be allowed for supervisors to schedule for the administration of the test and to ensure that collection sites are available for testing. Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. When an employee is notified, they must proceed immediately to the collection site. Immediately means that after notification, all the employee's actions must lead to an immediate specimen collection for the integrity of the testing process.

Testing process is as outlined in Section VIII. Conducting Tests.

3. **Reasonable Suspicion** – All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

If a driver's behavior or appearance suggests alcohol or drug misuse, a reasonable suspicion test must be conducted.

Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties or is attempting to perform safety-sensitive functions. If an alcohol test is not administered within two (2) hours following the determination to test, the supervisor or designee employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the determination to test, the city shall cease attempts to administer an alcohol test, and the supervisor shall state in the record the reasons for not administering the test. If the alcohol test is not conducted within eight (8) hours, the driver shall be placed out of service for 24 hours.

Notwithstanding the absence of a reasonable suspicion alcohol test, no covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall an employer permit the employee to perform or continue to perform safety-sensitive functions, until:

1. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
2. Twenty four (24) hours have elapsed following the determination that there is reasonable suspicion to believe that the driver has violated the prohibitions in this part concerning the use of alcohol.

Except as provided in the above paragraph, no action will be taken against an employee based solely on the employee's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. Any result less than 0.02 alcohol concentration is considered a "negative" test.

Reasonable suspicion testing may only be conducted after consultation with the Director of Public Works or designee.

A reasonable suspicion drug test can be performed based on observations at any time the covered employee is on duty. The covered employee must report for collection as soon as possible following the observations triggering the request to test.

Unless the testing site is on-site, **the supervisor or designee shall be responsible for transporting the employee to the testing site. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.**

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish their shift. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section XI: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation, within 24 hours of the observed behavior. This record shall be prepared prior to the release of the test results. This written record shall be submitted to Human Resource Generalist and retained in both the personnel folder and the driver qualification file.

4. **Post-Accident** – Conducted on drivers in City vehicles after accidents where the driver's performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a

moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle is required to be towed from the scene.

Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests should be conducted within two (2) but not later than thirty-two (32) hours after the accident.

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the 49 CFR Part 382.303(a) and (b) Qualifying Post-Accident Testing Criteria;

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YES NO	YES YES
ii. Bodily injury with immediate medical treatment away from the scene	YES NO	YES NO
iii. Disabling damage to any motor vehicle requiring tow away	YES NO	YES NO

If an alcohol test is not administered within 2 hours following the accident, the employer shall prepare and maintain a record stating the reasons the test was not promptly administered.

If an alcohol test is not administered within 8 hours or a controlled substances test is not administered within 32 hours following the accident, the employer shall cease attempts to administer the test and shall prepare and maintain the same record.

A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

5. **Return to Duty** –Return-to-duty testing is conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety sensitive duties. When an employee tests positive or refuses a test or violates other provisions of the DOT Agency testing regulations, that employee cannot work again in DOT safety-sensitive positions until successfully completing the SAP return-to-duty requirements in Part 40(0) as outlined in section XII. Treatment.
6. **Follow Up** (if applicable) - The requirements for follow-up testing are performed in accordance with 49 CFR part 40, subpart O. The SAP will provide the employer reports about the initial evaluation and the follow-up evaluation. The follow-up evaluation report

will contain the SAP's plan for a follow-up testing plan, a confidential report to the employer outlining the number and frequency of follow-up testing that will take place for the employee as outlined in section XII. Treatment.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

VIII. CONDUCTING TESTS

1. Alcohol Testing Process

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result.

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02% alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02% or greater, a second, confirmation test must be conducted.

Any covered employee who has an alcohol concentration of 0.02% or greater but less than 0.04% who tested just before, during or just after performing safety sensitive functions, shall be removed from safety-sensitive functions until twenty-four (24) hours following the administration of the test. No other action can be taken under FMCSA or DOT authority against the driver based solely on test results showing an alcohol concentration of less than 0.04%. However this does not prohibit the City from taking any action, including disciplinary action, against the employee, otherwise consistent with the law and this Policy and based on the circumstances.

Subsequent to the required 24-hour removal, the employee will:

- **Meet with City representative(s)[e.g.DPW director, Deputy director, Field Superintendent, HR, etc.] to review the need to avoid alcohol use from any source during or proceeding work hours in an attempt to educate the employee and provide a conduit for substance abuse assistance.**
- **On the day that the test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay.**
- **A formal EAP referral will be made by Human Resources for the employee. The employee will be provided with contact and related information for the EAP program and will be required to access this service.**
- **If the employee has an alcohol test result of 0.02% or greater but less than 0.04% two or more times within a six month period, the employee will again meet with a City representative for the list above and will be subject to discipline up to and including termination.**

An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in Section XI: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

The City affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

The City will strictly adhere to all standards of confidentiality and assure all drivers that testing records and results will be released only to those authorized by the FMCSA rules to receive such information (§382.405).

2. Drug Testing

- a. Drug testing is conducted by analyzing a driver's urine specimen, and must be at a collection site that meets the DOT guidelines established in "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR part 40) and performed by a qualified person (40 CFR subpart C). Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised. All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended.
- b. DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO.
- c. All urine specimens are analyzed for the following drugs or their metabolites:
 - Marijuana (THC)
 - Cocaine
 - Amphetamines (including methamphetamines)
 - Opiates
 - Phencyclidine (PCP)
- d. Testing is conducted using a two-stage process. First, a screening test is performed. If

the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug.

- e. At the time an employee provides the medical officer or laboratory technician a urine sample, the employee shall also provide said officer or technician a confidential written statement as to whether such employee is using any prescription drugs.
- f. All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result.

The MRO will:

- Attempt to contact the employee and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen.
- For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the City of Greenfield Designated Employer Representative (DER) as a negative result.
- If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the City DER.
- When an employee tests positive, or has some other violation of DOT Agency regulations, the employee will be immediately removed from safety-sensitive functions and the DER will provide the employee the name and phone number of the SAP network that will offer qualified SAPs to the employee.
- If the MRO reports the employee's test result as positive or as a refusal to test because it was adulterated or substituted, the MRO will offer the employee an opportunity to have - the Split specimen – tested at another laboratory. The split test is an independent way to determine if the primary test results were accurate.
- Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Upon getting the request, the MRO must immediately have the primary laboratory send the split to another HHS-certified laboratory for testing. Requests after 72 hours will only be accepted at

the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee. **Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the City for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).**

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and the employer must direct an immediate collection under direct observation with no advance notice to the employee. The retest must occur as quickly after notification as possible.

IX. REFUSAL TO PARTICIPATE

Under federal law, a test refusal is considered as a positive test and has the same consequences. Employees who refuse to submit to an alcohol or drug test are not allowed to perform safety-sensitive functions and has the same consequences as outlined in XI. Consequences of a Positive Test.

An employee or prospective employee is considered to have refused a test when they do any of the following:

- Fails to immediately report for any test at the collection site, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection

process);

- Engages in conduct that clearly obstructs the testing process;
- If the MRO reports that there is verified adulterated or substituted test result.
- Refusal to take the test (§382.211);
- Interfering with the collection procedure;
- Tampering with or attempting to adulterate the specimen;
- Leaving the scene of an accident without a valid reason before the tests have been conducted.

X. OBSERVED COLLECTIONS

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the City that there was not an adequate medical explanation for the result;
- The MRO reports to the City that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range and you undergo a second collection; or
- The original specimen appeared to have been tampered with;
- **The City may direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test;**

XI. CONSEQUENCES OF A POSITIVE TEST

- Covered employees who have any alcohol concentration (defined as 0.02 or greater) who tested positive just before, during or just after performing safety sensitive functions must be removed from performing such duties for 24 hours. Depending on the circumstances, disciplinary action, up to and including termination will be imposed on an employee whose alcohol test reveals any alcohol concentration (above 0.02);
- Covered employees who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) must be immediately removed from safety sensitive functions. Probationary employees may be terminated immediately. Non-Probationary employees will not be permitted to return to safety-sensitive functions and cannot work again in safety-sensitive positions until successfully completing the SAP evaluation including return-to-duty requirements outlined USDOT regulations and Section XII ("Treatment") of this Policy. On the day that positive test results are received, the

employee will be suspended from all duties with pay followed by suspension without pay at the discretion of the City.

- Drivers who wish to continue employment with the City of Greenfield must be evaluated by a SAP referred by the DER and comply with any treatment recommendations to assist them with an alcohol or drug problem. See Section XII (Treatment). Employees who refuse to be evaluated by a SAP and complete the treatment will be terminated immediately.

XII. TREATMENT:

The DER will refer the employee to a substance abuse professional (SAP). **The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees will be placed on FMLA (if eligible) leave during the treatment period.**

The SAP makes a face-to-face clinical assessment and evaluation to determine what assistance the employee needs to resolve problems with drug use and/or alcohol misuse.

The SAP refers the employee to an appropriate program for education or treatment, or both. As a condition of employment, the employee must comply with prescribed follow-up care.

Once the SAP has determined that the employee has successfully complied with prescribed education and/or treatment, the SAP will conduct another face-to-face evaluation, the follow-up evaluation, to re-evaluate the employee and determine if the employee actively participated and completed the recommended treatment and/or education program.

The SAP will provide written documentation that the treatment has been completed and will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

Drivers who have taken a return to duty test with a result of less than 0.02 for alcohol and/or negative drug test for drugs, are then subject to unannounced follow-up tests **at the employees' expense** and may return to work **upon approval of the Director of Public Works or designee**. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing **MUST** be performed under direct observation.

The requirements for follow-up testing are performed in accordance with 49 CFR part 40, subpart O. The SAP will provide the employer reports about the initial evaluation and the follow-up evaluation. The follow-up evaluation report will contain the SAP's plan for a follow-up testing plan, a confidential report to the employer outlining the number and frequency of follow-up testing that will take place for the employee.

The SAP must direct at least 6 follow-up tests (unannounced) to be conducted in the first 12 months after the person returns to safety-sensitive duties. These tests can be for drugs or alcohol or both and MUST be under direct observation. Other tests (such as random testing cannot be substituted for follow-up testing). Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP.

The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation.

Follow-up alcohol testing will be conducted only when the driver is performing, just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing. **The City will not pay for the follow-up testing of a former employee or for any new employee due to a violation as defined by the Department of Transportation while that individual was employed by another employer.**

Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy up to the next five years will be terminated immediately and provided SAP contact information.

XIII. INFORMATION/TRAINING:

1. All current employees and candidates offered employment will receive a copy of this policy and must sign and return the Confirmation of Receipt (Attachment 1). Employers are not required to provide educational materials and policies and procedures to drivers after the initial distribution of required educational materials. §382.601
2. All supervisory and management personnel in the Department of Public Works must receive training on determining reasonable suspicion for testing, subject to the regulations in accordance with §382.603.
3. This policy will be posted on employee bulletin boards in the Department of Public Works.
4. Educational information is provided in Appendix C on the effects of alcohol misuse and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; available methods of intervening when an alcohol and/or controlled substance problem is suspected; and links to additional educational materials.

5. All recruitment advertising will include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.

XIV. RECORD KEEPING:

1. The City is required to keep detailed records of its alcohol and drug misuse prevention program.
2. Driver alcohol and drug testing records are confidential. Test results and other Confidential information may only be released to the employer, the substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent, or in response to a court order.

XV. PRE-EMPLOYMENT REFERENCES:

1. The City must obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two years:
Information about a test in which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
2. The prospective employee must provide the former employer with a written release allowing the release of this information or they will not be hired.
3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be hired unless they have already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.
4. The City of Greenfield must provide the same information to subsequent employers of current City employees when provided with a written release.

XVI. FMCSA CLEARINGHOUSE:

Effective January 6, 2020 in accordance with 49 CFR, all drivers shall be subjected to a query of the FMCSA Clearinghouse prior to employment as well as yearly throughout the driver's employment with this company. This is an employer responsibility.

Drivers should also note that the following information will be reported to the Clearinghouse by both the Medical Review Officer, the Consortium/TPA and/or the employer. Drivers who fail to provide the necessary authorization to complete the initial or annual query will be subject to

termination.

The City is required to collect, maintain, and report certain information listed below, to the Federal Motor Carrier Safety Administration (FMCSA) Commercial Driver's License Drug and Alcohol Clearinghouse as required by 49 CFR Part 382, Subpart C, §391.23:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to any test required;
4. An employer's report of actual knowledge, as defined at §382.107;
5. On duty alcohol use pursuant to §382.205;
6. Pre-duty alcohol use pursuant to §382.207;
7. Alcohol use following an accident pursuant to §382.209; and
8. Controlled substance use pursuant to §382.213;
9. A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
10. A negative return-to-duty test; and
11. An employer's report of completion of follow-up testing.

XVII. QUESTIONS:

Questions about this policy should be referred to the employee's Division Supervisor, the Director of Public Works, and/or the Director of Human Resources.

Attachment A: Employee Confirmation of Receipt

Attachment B: DISA Clearinghouse Consent form to Conduct Limited Query

Attachment C: Flow Charts on Testing and Return to Duty Process

Appendix A: Definitions

Appendix B: Contact information

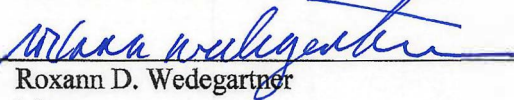
Appendix C: Educational information

Approved:



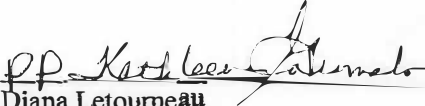
Marlo Warner

Department of Public Works Director



Roxann D. Wedegartner

Mayor



Diana Letourneau

Human Resources Director

Dated: 4/28/21

Revision History: 4/21

ATTACHMENT A
City of Greenfield
ACKNOWLEDGMENT OF RECEIPT OF POLICY

I acknowledge receipt of the Drug & Alcohol Policy and Procedures from the City of Greenfield and I have read and understand its contents.

I understand that each driver is required to sign a statement certifying that they have received a copy of these materials §382.601(d).

I have been granted the opportunity to ask my supervisor questions about this policy.

I understand that I must abide by its terms as a condition of employment.

I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

I acknowledge the city is not required to provide educational materials and policies and procedures to drivers after the initial distribution of required educational materials. §382.601

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

Employee/Applicant CDL ID #

Date: _____

Witness Signature: _____

Date: _____

Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here ☐ to confirm copy given to employee/applicant.

APPENDIX A: Definitions

Complete definitions of terms used in parts 40 and 382 may be found in §40.3 and §382.107.

Accident An accident is defined as an occurrence involving a CMV operating on a public road which results in, (1) a fatality; or (2) a bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. Unless an occurrence involving a CMV meets this definition of an accident, the accident is not considered to be an accident for purposes of Federal post-accident alcohol and controlled substances testing by employers of CMV drivers.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Use The drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Alcohol Concentration The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test. In law enforcement, this is referred to as blood alcohol concentration (BAC).

Commercial Driver's License (CDL) A license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, authorizing an individual to operate a class of commercial motor vehicle (CMV). The individuals required to have a CDL under 49 CFR part 383 are subject to controlled substances and alcohol testing. Individuals who are required to possess CDLs by virtue of State or local law or by employer policy, but not by Federal regulation, are not subject to the provisions of 49 CFR parts 382 and 383.

Commercial motor vehicle (CMV) means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating (GVWR) of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit, with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds); or
- Has a GVWR of 11,794 kilograms or more (26,001 pounds or more); or
- Is designed to transport 16 or more passengers, including the driver; or
- 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 is required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus) are not CMVs.

Controlled Substances For the purposes of these guidelines, the terms “drugs” and “controlled substances” are interchangeable and have the same meaning. The DOT is testing only for the following five controlled substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamines).

Controlled Substance confirmation test A second analytical procedure to identify the presence of a specific controlled substance or metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Designated Employer Representative (DER) An individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

Driver Any person (volunteer or paid) who operates a CMV and is required to have a CDL. This includes, but is not limited to, *f* Full-time, regularly employed drivers *f* Leased drivers *f* Independent owner-operator contractors (employed directly or leased) *f* Casual, intermittent, or occasional drivers.

FMCSA Federal Motor Carrier Safety Administration.

Follow-up Unannounced alcohol and/or controlled substances testing given to drivers who previously tested positive for a controlled substances or alcohol and are returning to duty.

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

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

Observed Collection means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that he/she does not have a prosthetic device. After the

observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

Pre-employment test A test given to an applicant or driver who is being considered for a safety-sensitive position.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Random test A test administered to a predetermined percentage of drivers who perform safety-sensitive functions and who are selected on a scientifically defensible random and unannounced basis.

Random suspicion test A test given to a driver who performs a safety-sensitive function and who is reasonably suspected by a trained supervisor of using a controlled substance or misusing alcohol.

Return to duty test A controlled substances and/or alcohol test prior to return to duty.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Standby- Reference the UPSEU CBA provisions Article 9.K., Article 10, Article 28, of the City of Greenfield Department of Public Works and the United Public Service Employees Union Contract Bargaining Agreement for provisions that apply to DPW personnel. The periods listed in these articles constitute periods when covered DPW personnel are considered to be performing safety-sensitive functions.

Substance Abuse Professional (SAP) A licensed physician (Doctor of Medicine or Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional, or a drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC); or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board of Certified Counselors Inc. and Affiliates/Masters Addictions Counselor (NBBC).

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

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 the urine was diluted, or if the specimen was substituted.

APPENDIX B: Contacts & Information

Designated Employer Representatives:

HR Generalist 772-1577 Provides policy explanation and receives test results from the third party administrator (TPA) and Medical Review Officer (MRO)

Your immediate Supervisor: Provides policy explanation, determines reasonable suspicion, coordinates random testing visits, etc.

DISA Global Solutions – 1-800-608-8890 Rebecca Tripp, Testing Coordinator

EAP (Employee Assistance Program)- EAP through MIIA is a confidential counseling and referral service who offers the first three (3) counseling sessions for free. They are not SAP credentialed for employee evaluations.

SAP (Substance Abuse Professionals) – ASAP (American Substance Abuse Professionals)

SAP Evaluations (Employee/Candidate) email: GetBackToWork@go2asap.com

Phone [1.888.792.2727](tel:1.888.792.2727) x177

APPENDIX C: Educational Information

Employees are encouraged to seek additional information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

<http://www.samhsa.gov/>;

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.dot.gov/odapc/employee-handbook-english>

<https://www.transportation.gov/sites/dot.gov/files/docs/resources/partners/drug-and-alcohol-testing/2568/employeehandbookeng2019a.pdf>

Fact sheets below explain the effects of alcohol and controlled substances on health, safety, and the work environment.

Alcohol Fact Sheet

Amphetamine Fact Sheet

Cocaine Fact Sheet

Cannabinoids (marijuana) Fact Sheet

Opiates (narcotics) Fact Sheet

Phencyclidine (PCP) Fact Sheet