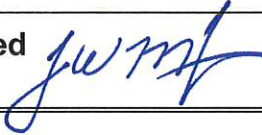




POLICY AND PROCEDURE

Subject: Department of Transportation Drug and Alcohol Testing	Index: Human Resources
Effective Date: 1/4/2019	Number: 601-8-16
Supersedes: 9/2/2014	Prepared By: Finance & Administrative Services
	Approved By: 

1.0 PURPOSE:

The purpose of this Policy is to establish that the City of San Clemente intends to comply with regulations established by the Omnibus Transportation Employee Testing Act of 1991, the Federal Motor Carrier Safety Administration (FMCSA) and the Department of Transportation (DOT) regarding alcohol and controlled substances testing and recordkeeping.

2.0 ORGANIZATIONS AFFECTED:

Public Works Department: Maintenance Services Division and Utilities Department: Sewer Division and, Water Division.

3.0 REFERENCES:

City of San Clemente Personnel Rules: Alcohol and Drug Use
Omnibus Transportation Employee Testing Act of 1991
49 CFR Parts 40 and 382.

4.0 POLICY:

Background: Effective January 1, 1996, the Department of Transportation (DOT) drug and alcohol testing rules require that all "safety-sensitive positions" of every employer, regardless of size, be tested if they satisfy any combination of the following:

- A. Drive vehicles of 26,001 gross vehicle weight rating (GVWR) or over.
- B. Drive DOT placarded vehicles under hazardous material regulations.
- C. Drive vehicles designed to transport 16 or more passengers including the driver.
- D. Drive vehicles with a gross combination weight of at least 26,001 lbs.

Under the FMCSA, a covered employee is defined as any driver required to obtain a commercial driver's license pursuant to 49 CFR Part 383. Such an employee engages in a safety sensitive function when he/she operates a vehicle as described above.

A driver means any person who operates a commercial motor vehicle. This includes, but is not limited to; full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent owner-operator contractors and volunteers who are either directly employed by or under lease to the City of San Clemente or who operate a commercial motor vehicle at the direction of or with the consent of the City of San Clemente. A driver also includes all persons applying to drive a commercial motor vehicle.

4.1 Only those employees who perform safety sensitive functions and fit the DOT definition of driver (see definitions) shall be subject to the alcohol/drug testing portion of this policy (as it relates to 4.0 in this policy), and are generally employed in Public Works , Utilities, or at a Public Works facility.

4.2 Under the federal regulations, any employee who performs safety sensitive functions will be subject to the following alcohol and drug testing:

- A. Pre-employment (excludes alcohol testing)
- B. Random
- C. Reasonable Suspicion
- D. Post-Accident
- E. Return to Duty / Follow-Up

4.3 The classifications of employees that are covered may include, but are not limited to:

- Chief Operator
- Collections Systems Operator I/II
- Distribution Operator I/II
- Lead Operator
- Maintenance Lead Worker
- Maintenance Worker I/II
- Utilities Mechanic I/II

5.0 **DEFINITIONS:**

Accident: For the purpose of this policy, an accident is defined as an incident involving a vehicle as described in section 4.0 of this policy in which one or more of the following occurs: Loss of human life, or issuance of a moving traffic citation to the City employee arising from the accident, and either there is an injury treated away from the scene, or a vehicle incurs disabling damage and is required to be towed from the scene.

Actual knowledge: means actual knowledge that a driver has used alcohol or controlled substances based on direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in Sec. 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Sec. 382.307.

Alcohol: means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

Alcohol Use: the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication), containing alcohol.

Adulterated Specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Breath Alcohol Technician (BAT): a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device (EBT).

Cancelled Test. A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Chain of Custody: the procedures used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF). The CCF also ensures the integrity of each urine specimen by tracking its handling and storage from the point of specimen collection to its final disposition.

Collection Site: a place where individuals present themselves for the purpose of providing breath or body fluid to be analyzed for specific controlled substances. The site possesses all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and transportation or shipment of the specimens to a laboratory.

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

- a) Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b) Has a gross vehicle weight rating of 26,001 or more pounds;
or
- c) Is designed to transport 16 or more passengers, including the driver; or
- d) Is of any size and is used in the transportation of hazardous materials requiring placards.

Confirmation Test: In the case of alcohol a subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration. In the case of controlled substances a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

Controlled Substance: in accordance with FMCSA regulations, urinalysis will be conducted to detect the presence of the following substances:

Amphetamines/Methamphetamine
Marijuana
Cocaine
Opiates
Phencyclidine (PCP)

Designated Employer Representative (DER): is an individual identified by the employer as able to receive communications and test results from service agents, 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 DER's.

Dilute Specimen: a specimen with creatinine and specific gravity values that are lower than expected for human urine.

Direct Observation: is a collection where an observer of the same gender (does not have to be the collector) MUST have the donor raise ALL of his/her clothing that lifts up, just above the navel; lower ALL clothing that lowers including underwear, to mid-thigh; then turn around to show the same gender observer they do not possess or wear a prosthetic device or other device that could be used to interfere with the collection process. If no device is detected, the employee is permitted to return clothing to its proper observed-collection position. Then the observed collection will take place, where the observer actually must watch the urine leave the donor's body.

Disabling Damage: means damage which precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs.

1. Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
2. Exclusions.
 - (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - (ii) Tire disablement without other damage even if no spare tire is available.
 - (iii) Headlight or taillight damage.
 - (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

Driver/Employee: a driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers, casual, intermittent or occasional drivers; leased drivers and independent, owner-operated contractors. For the purpose of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.

Drugs: The drugs for which tests are required under this part and DOT agency regulations to be tested for. This definition includes prescription and over the counter medications, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to operate a vehicle.

Evidential Breath Testing Device (EBT): a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measuring Devices" (CPL).

Invalid Drug Test: the result reported by an HHS certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Medical Review Officer (MRO): a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Monitored Collection: is a collection performed in a multi-stall restroom, where the stalls have at least a partial-length door and all other applicable requirements a collection site must follow. Using a multi-stall restroom is the only circumstance in which a monitored collection can be performed.

Negative Result: the result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-Negative Specimen: a urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

On Duty Time: all time from the time a driver begins to work or is required to be available. "On Duty Time" shall include:

1. All time at a Carrier of 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 employer.
2. All time spent inspecting, servicing, or conditioning any commercial motor vehicle or any equipment at any time.
3. All driving time.
4. All time spent, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time spent 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.
6. All time spent performing the driver requirements relating to accidents.
7. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Performing (a safety-sensitive function): any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.

Reconfirmed: the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected For Testing: the result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

Refusal to Submit (to an alcohol or controlled substances test): means that a driver refuses to submit to, appear, remain/arrive at the testing site or to take any test required by DOT regulations, the MRO or their employer (DER).

Any employee who has been determined to have "refused to test" will face the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions until all return-to-duty requirements are met.

Safety-Sensitive Function: means all time from the time a driver begins to work or is required to be in readiness to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time spent 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.
2. All time spent inspecting equipment as required by the FMCSA's subchapters 392.7 and 392.8, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle (except the time spent in a sleeper berth).
5. 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.
6. All time spent in repairs, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening Test (a.k.a. initial test): in alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing it means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Service Agent: any person or entity, other than an employee of the employer, who provides services specified to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, Substance Abuse Professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications, if applicable. Service agents are not employers for purposes of this part.

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.

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

Substituted Specimen: a specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with human urine.

6.0 TYPES OF TESTING

Types of Tests Required

49 CFR Part 382 requires the following types of testing for prohibited substances for safety-sensitive employees: pre-employment (pre-promotion/transfer), reasonable suspicion, post-accident, random, return-to-duty, and follow-up testing.

1. Pre-Employment Testing

A pre-employment drug test shall be conducted before the first time a safety-sensitive employee performs any safety-sensitive function for the City of San Clemente. This includes new employees and current employees transferring into driving positions that include the performance of safety-sensitive duties.

A negative drug test shall be required prior to the performance of safety-sensitive duties.

In the event an applicant tests positive, the City of San Clemente will not hire or rehire the applicant at that point in time. This does not preclude the City of San Clemente from hiring the applicant at a later date, provided that the applicant can show proof that he/she has satisfactorily completed (at his/her expense) a rehabilitation program approved by the City of San Clemente's guidelines or an established program approved by an MRO or SAP. In this case, prior to being hired, the applicant will submit to another controlled substance test.

2. Reasonable Suspicion Testing

All safety-sensitive employees shall be subject to reasonable suspicion testing, to include appropriate urine and/or breath alcohol testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance or the safety-sensitive employee has violated the City's alcohol or drug prohibitions. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances

which are consistent with short-term effects of substance abuse. Reasonable suspicion tests for the presence of alcohol shall only be made just prior, during or just after performance of a safety-sensitive function.

For example, if a driver is having work performance problems or displaying behavior that may be drug or alcohol related, or is otherwise demonstrating conduct that may be in violation of this policy where immediate management action is necessary, a trained supervisor (section 7.8) will require the individual to submit to a breath and/or urinalysis test. A written record shall be made of the observations leading to a controlled substance or alcohol test within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earliest. The City of San Clemente will document accordingly all reasonable suspicion testing. The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning appearance, behavior, speech, or body odor for the safety-sensitive employee.

Notwithstanding the absence of a reasonable suspicion alcohol test under this section the employee shall not be allowed to perform covered functions unless the results of the alcohol screening and, if indicated, confirmation test (taken 15 minutes after a screening test) indicates an alcohol concentration less than 0.02, or 24 hours has elapsed following the determination of reasonable suspicion.

3. Post Accident Testing for FMCSA

A post-accident test will be required under the following circumstances per Federal Motor Carrier Safety Regulations 49 CFR Part 382-303:

1. As soon as practicable following an accident involving a commercial motor vehicle, a test for alcohol and controlled substances will be administered on each surviving safety-sensitive employee:
 - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
 - b. Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i. Bodily injury to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or
 - ii. One or more motor vehicles incurring 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.

2. A safety-sensitive employee must be tested for controlled substance use within 32 hours after the accident and for alcohol use within 8 hours after the accident has occurred.
3. A safety-sensitive employee who leaves the scene of an accident before being tested or is not available for testing is considered to have refused to take a test; but the safety-sensitive employee may leave the scene to get help or emergency medical care. In the event of an accident, the safety-sensitive employee must contact the City as soon as possible to find out where to go to be tested.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours, the City shall prepare and maintain records explaining why the test was not conducted. Tests may not be given if not administered within 8 hours after an accident for alcohol or within 32 hours for drugs.

If a law enforcement officer does not issue a citation within the specified time frame (8 hours for alcohol testing and 32 hours for controlled substance testing) the City of San Clemente will cease all attempts to conduct post-accident testing under the FMCSA requirements. The City of San Clemente will document accordingly all accidents involving safety-sensitive employees.

Alcohol tests conducted by authorized Federal, State, or local officials will fulfill post accident testing requirements provided they conform to applicable legal requirements and are obtained by the City. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations (49 CFR 382.303).

4. **Random Testing**

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during, or just after the performance of safety-sensitive duties. The number of random alcohol tests annually must equal a minimum of 10% of the average number of safety-sensitive employee positions. The number of random drug tests annually must equal a minimum of 50% of the average number of safety-sensitive employee positions. These testing percentages may be changed by DOT or the Federal Motor Carrier Safety Administration in the future. Safety-sensitive employees shall be selected by a scientifically valid random process, matched with social security numbers or other unique identification number, and each safety-sensitive employee shall have an equal chance of being tested each time selections are made. (49 CFR 382.305).

The selected employee shall be notified and must proceed immediately to the testing site. If the selected safety-sensitive employee is off-duty, on

vacation or out on a medical absence, the random selection can be maintained in confidence until the employee's return.

5. Return-to-Duty & Follow-Up Testing

Any safety-sensitive employee who fails a drug test or tested at a 0.04 BAC or above on an alcohol test must pass the return-to-duty test(s) using the direct observation procedures outlined in the definitions section. He/she must also have successfully completed an approved rehabilitation program by that a qualified Substance Abuse Professional (SAP) had recommended. Once the employee completes the recommended treatment, he/she will receive a final evaluation from the SAP.

In order to be allowed to return to work in his/her safety-sensitive position, the safety-sensitive employee must test negative on the return-to-duty drug test and/or less than 0.02 BAC on the alcohol test. The safety-sensitive employee will then be subject to unannounced drug and/or alcohol follow-up tests for up to 60 months after returning to work as determined by the SAP, with a minimum of at least 6 tests during the first 12 months.

All expenses related to the cost of treatment or rehabilitation is the responsibility of the safety-sensitive employee, unless the employee has insurance that will cover the prescribed rehabilitation.

7.0 TESTING PROCEDURES AND TRAINING:

7.1 Testing for Prohibited Drugs

Drug tests will be analyzed from urine specimens. Each urine sample will be collected into primary and split sample. The urine samples will be sent under seal, with the required custody and control form, to a laboratory approved by SAMHSA. At the laboratory, specimens are placed in secure storage. An initial drug screen will be conducted on each primary specimen. For those specimens that are not negative, a confirmatory Gas Chromatography /Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40. Under these testing rules, the laboratory must conduct validity tests on each specimen it receives. This allows the lab to evaluate the specimen to determine if it is consistent with normal human urine. The laboratory is then able to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. If the result of the primary specimen is positive, the split sample as well as the primary sample will be retained in frozen storage for at least one (1) year from the date the laboratory receives it, or longer if the City provides a written request to the lab.

7.2 Procedures for Testing

Testing shall be conducted in a manner to ensure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved, by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Department of Health and Human Services (DHS). Testing for prohibited drugs and alcohol on safety-sensitive employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40. Federal urine and breath alcohol testing forms will be used.

7.3 Reasonable Suspicion

When reasonable suspicion exists that an employee is under the influence of drugs or alcohol, to an extent which impairs the employee's ability to safely and effectively perform his or her job function, the supervisor should approach the employee. The supervisor will allow an opportunity for the employee to explain the behavior before further action is taken. The employee shall be given an opportunity to explain any behavior that would eliminate the reasonable suspicion determination. The supervisor who requests an employee to submit to an alcohol and/or drug analysis must document in writing on a Reasonable Suspicion Report (see Appendix D) detailing any reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. If a manager is available at the time of observation the manager will sign as a witness. If a manager is not available when the supervisor is observing the employee for reasonable suspicion the supervisor will note under the witness signature that a manager was not available. The employee shall be provided with a copy of the Reasonable Suspicion Report. The employee shall be advised that refusal to submit to alcohol/drug testing upon reasonable suspicion constitutes grounds for disciplinary action.

If testing is required for reasonable suspicion, the supervisor shall immediately arrange for an alcohol and drug screening through the DER in the Human Resources Department within 2 hours of the observation. If a screening is required after normal business hours, the supervisor will make direct contact with the collection site, which has been designated to perform the screening for the City. Alcohol testing will be conducted by using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration. A screening test must be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test must be conducted. With all positive drug tests, the Medical Review Officer (MRO) must contact the employee to determine if there is a medical explanation for the positive test results. If documentation is provided and the MRO determines that there was legitimate medical use for the prohibited drug, the test result may be reported to the employer as "negative."

7.4 Split Specimen Testing

Any safety-sensitive employee who questions the results of his/her required drug test under this section of this policy may, within 72 hours of having been notified of a verified positive test by the MRO, request that an additional test be conducted on the split sample (bottle B) of the original specimen that was voided. This test must be conducted at a different HHS certified laboratory. Each urine sample is to be a minimum of 45ml. The sample is to be split at the time of collection into 30 ml. for primary test (bottle A) and 15ml. for the split (bottle B). The requested test must be conducted on the split sample that was provided at the same time as the original sample (bottle B). Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. If the second portion of the sample also tests positive, then the driver is subject to the sanctions contain in the regulations and this policy. If the second portion produces a negative result, or for any reason the second portion is not available, the test is considered cancelled and no sanctions are imposed. However, a re-collection under direct observation may be ordered by the MRO.

7.5 Directly Observed Testing

Directly Observed collections are authorized when:

1. The employee attempts to tamper with his or her specimen at the collection site.
 - a. The specimen temperature is outside the acceptable range;
 - b. The specimen shows signs of tampering – unusual color/odor/characteristic; or
 - c. The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen; or the collector notes conduct suggesting tampering.

2. The Medical Review Officer (MRO) orders the direct observation because:
 - a. The employee has no legitimate medical reason for certain atypical laboratory results; or
 - b. The employee's positive or refusal (adulterated/substituted test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).

3. The test is a Follow-Up or a Return-to-Duty test.

Failure of the employee to permit any part of the direct observation procedure is a refusal to test.

7.6 Alcohol Testing

Alcohol tests will be performed by a certified breath alcohol technician (BAT) in accordance with the procedures established by the DOT's Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs. The BAT will use an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) in the administration of the breath alcohol test. In order to maintain quality assurance, EBTs must be externally calibrated in accordance with plans developed by the manufacturer of the device. If the initial test on an employee indicates an alcohol concentration of 0.02 or greater, a second test will be performed no sooner than 15 minutes but not later than 30 minutes from the first attempt to confirm the results of the initial test. If the confirmation test is performed after 30 minutes this will not cancel the test, but will be documented by the collector why it was not done within 30 minutes.

7.7 Medical Review Officer

All drug test results shall be interpreted and evaluated by an MRO, who shall be a licensed physician. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO does not review alcohol test results. When a urine specimen is confirmed positive and reported from the testing laboratory to the MRO, it is the MRO's responsibility to: (a) review the individual's medical history, including any medical records and biomedical information provided; (b) contact the employee and afford the employee an opportunity to discuss the test results with him/her; (c) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication.

The MRO shall not convey test results until the MRO has made a definite decision that the test result was positive or negative. The MRO may request the laboratory to analyze the original sample again in order to verify the accuracy of the test result. When the MRO reports the result of the verified positive test, the MRO may disclose the drug(s) for which there was a positive test. The MRO may only reveal the levels of a positive drug test result to the employer, the employee, or the decision maker in lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive result.

If the MRO declares a drug test to be invalid for any reason, the test is considered canceled, and neither positive nor negative. However, a re-collection under direct observation may be ordered by the MRO.

7.8 Supervisor Training

To ensure that supervisors are trained to make a reasonable suspicion determination, supervisors will attend at least one hour of training on alcohol

misuse and at least one hour of training on controlled substance use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Before a supervisor is authorized to administer a Performance Impairment Report, he/she must complete the appropriate training.

Supervisors are required to administer all aspects of this policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination or discharge.

8.0 PROHIBITIONS

The manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited. A "controlled substance" is any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11-1300.15. Any employee in violation of this act will be subject to disciplinary action up to or including termination or discharge. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

8.1 Prohibited Drugs

FMCSA regulations specifically prohibit the use of the following illegal substances and require testing for their presence under certain circumstances as noted in this policy: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Safety-sensitive employees may be tested at any time while on duty or on the City of San Clemente's property.

8.2 Controlled Substances Use

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

The City of San Clemente may require a driver to inform the employer of any therapeutic drug use.

8.3 Controlled Substances Testing

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

8.4 Alcohol Concentration

The consumption of beverages containing alcohol or substances including any medication such that alcohol is present in the body while performing safety-sensitive duties is prohibited. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

8.5 Other Alcohol-Related Conduct

Any employee tested under this policy who is found to have a breath alcohol concentration (BAC) of 0.02 BAC or greater but less than 0.04 BAC shall not perform or continue to perform safety-sensitive functions for the City of San Clemente, including driving a commercial motor vehicle, nor shall the City of San Clemente permit the employee to perform or continue to perform safety-sensitive functions, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Except as provided in the above section, the City of San Clemente shall not take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04.

8.6 Alcohol Concentration/Hours of Compliance

No safety-sensitive employee should report for duty or remain on duty when his or her ability to drive is adversely affected by alcohol or when his or her blood alcohol concentration is 0.02 or greater. No safety-sensitive employee shall use alcohol while on duty or while performing safety-sensitive functions. No employee shall have used alcohol within four (4) hours of reporting for duty.

After an accident, safety-sensitive employees shall refrain from alcohol use for eight (8) hours or until an alcohol test has been administered.

8.7 Compliance with Testing Requirements

Any safety-sensitive employee who refuses to comply with a request for testing administered in accordance with FMCSA regulations or this policy, who fails to remain readily available for post-accident testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately. Refusal can include an inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

8.8 Refusal to Submit to an Alcohol or Controlled Substance Test

A refusal to test means that a safety-sensitive employee:

1. Engages in any conduct that clearly obstructs or does not allow for the successful completion of the testing process, including refusal to sign the custody and control form (CCF) or breath alcohol form, not being readily available following an accident, using alcohol within eight hours of an accident, or adulterating or substituting a sample.
2. Fails to provide adequate breath for alcohol testing as required by the DOT regulations without a valid medical explanation (as determined by a medical evaluation).
3. Fails to provide an adequate urine sample for controlled substances testing as required by the DOT regulations without a genuine inability to provide a specimen as determined by a medical evaluation. (An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test unless a contingent offer of employment was entered into).
4. Fails to appear for any test (except a pre-employment test) within a reasonable time after being directed to do so, or to remain at the testing site until the collection process is complete (an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test).
5. Fails to permit the observation or monitoring of the provision of a specimen, in cases of a directly observed or monitored collection in a drug test, or fails to follow the observer's instructions to raise his/her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he/she has any prosthetic or other device that could be used to interfere with the collection process.

6. In cases of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen.
7. Fails or declines to take a second test the employer has directed following a negative dilute result.
8. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER concerning the evaluation as part of the "shy bladder" / "shy lung" procedures. (In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis **only** if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test.)
9. Fails to cooperate (refuses to empty pockets, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to remove and leave outer clothing, purse, briefcase, or other personal belongings with collector).
10. Possesses or wears a prosthetic device or other device that could be used to interfere with the collection process.
11. Admits to the collector or MRO that he/she adulterated or substituted the specimen, or if the MRO reports that he/she has a verified adulterated or substituted test result.
12. Any employee who has been determined to have "refused to test" will face the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions until all return-to-duty requirements are met.

9.0 CONSEQUENCES

9.1 Consequences of Positive Test Results

If an employee fails a controlled substance test by a positive test result, refuses to test, or adulterates/substitutes a test, the employee will be immediately relieved of his/her safety-sensitive duties, and the City of San Clemente will proceed with disciplinary actions that may include termination or refuse to hire such individual. The employee will be suspended from duty until such time as a successful completion of an approved rehabilitation program and a negative return-to-duty test(s) result is received (at employee's expense). Detection levels leading to the determination of a positive result shall be in accordance with the current guidelines specified in 49 CFR Part 40.

A safety-sensitive employee, who violates the city of San Clemente's prohibitions related to drugs and alcohol, shall receive from the City of San Clemente, the name(s), addresses(s), and telephone number(s) of Substance Abuse Professional(s) and counseling and treatment programs available to evaluate and resolve drug and/or alcohol-related problems.

If drug or alcohol test results are positive, the City will take the following actions:

1. Immediately remove any employee who has engaged in prohibited drug or alcohol use from his or her safety-sensitive functions.
2. An employee whose alcohol test indicates an alcohol concentration level in the range of 0.02 to 0.039 will be removed from his or her safety-sensitive duties and assigned other duties for at least twenty-four (24) hours. And may be subject to appropriate discipline up to and including termination or discharge. The employee will be retested before returning to safety-sensitive duties under the City's own authority.
3. If an employee tests positive for drugs or if the alcohol concentration level is 0.04 or greater, the employee will be removed from his/her safety-sensitive position until an evaluation has been done by a qualified Substance Abuse Professional, recommended treatment completed as determined by the Substance Abuse Professional, and a satisfactory return-to-duty test(s) has been achieved.
4. Implement the appropriate discipline, up to and including termination or discharge.
5. Implement the appropriate follow-up actions and activities to ensure that the City has appropriately reduced the risk to the public and to its employees.

9.2 Removal from Safety-Sensitive Function

No driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by the FMCSA rules and this policy.

The City of San Clemente shall not permit any employee to perform safety-sensitive functions, including driving a commercial motor vehicle, if the City of San Clemente has determined that the employee has violated any of the prohibitions stated in this policy.

9.3 Required Evaluation and Testing

Any employee who has engaged in conduct prohibited by the FMCSA and this policy will not perform safety-sensitive functions, including driving a commercial motor vehicle, unless the employee has met all the return-to-work requirements of section 9.1 of this policy.

The City of San Clemente shall not permit an employee who has engaged in conduct prohibited by this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the employee has met all the requirements of section 9.1 of this policy.

Employees who must undergo substance screening will remain at the worksite until the mobile unit arrives or will be transported immediately to the certified collection site by the supervisor or designee. All collections shall occur according to the policies and procedures of the collection site following DOT regulations.

After the testing is completed, the supervisor will see that the employee is safely transported home. The employee will not return to work until an evaluation has been done by a Substance Abuse Professional, recommended treatment completed as determined by the Substance Abuse Professional, and a satisfactory return-to-duty test has been achieved.

If the testing is positive, the employee may be subjected to disciplinary action up to and including termination or discharge as set forth in the City of San Clemente Personnel Rules: Alcohol and Drug Use.

While an employee is waiting the outcome of a drug and alcohol test, the employee shall be placed on administrative leave until a determination has been completed by the Substance Abuse Professional.

9.4 Employee Assistance Program

The City is not required to provide treatment or rehabilitation. The City has, however, retained the services of an Employee Assistance Program (EAP) for drug and alcohol counseling. The City's medical plan also provides outpatient consultation (therapy, counseling, and/or psychological testing) in an outpatient substance abuse rehabilitation facility. Also provided is residential care in a hospital or residential substance abuse care facility.

9.5 Self Identification Policy

In order to self-identify, the following conditions must be met and adhered to:

The employee cannot self-identify in order to avoid testing under the requirements of federal DOT testing,

The employee must make the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and

The employee cannot perform any safety sensitive function until The City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

If these conditions are followed and adhered to:

The City will not take adverse action against the employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;

The City will allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;

The City will permit the employee to return to safety sensitive duties *only* upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;

The City will ensure that:

Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or

Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and

The City may incorporate employee monitoring.

After a DOT verified negative return-to-duty controlled substance test result and/or DOT alcohol return to duty test result under 0.02 is received the employee can return to safety sensitive functions.

The employee will be subject to non-DOT follow-up testing as prescribed by the SAP under The City's own independent authority.

The employee will be responsible for all payments associated with the referral and treatment of any drug and/or alcohol problem as admitted to under this section of the policy.

10.0 RECORD KEEPING

10.1 Location of Records

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the employer's principal place of business within two business days after a request has been made by an authorized representative of DOT, FMCSA and/or a CHP official.

The City shall maintain records of the drug and alcohol misuse prevention programs, report the results in a management information system, and control access to the recorded information.

The City shall maintain the following records for a period of five years:

1. The result of an employee's alcohol test which indicates an alcohol concentration level of 0.02 or higher.
2. The results of an employee's controlled substances test which are positive.
3. Documentation of any employee who refused to submit to a required alcohol/drug test.
4. Calibration documentation.
5. Employee evaluations and referrals by Substance Abuse Professionals.
6. Records related to the administration of the alcohol and controlled substances testing programs,
7. A copy of each annual calendar year summary required by 382.403

The City shall retain records documenting the collection process for the alcohol and controlled substances tests and the training of supervisors for two years.

The City shall retain the records of any negative or canceled drug test or any alcohol test result which is less than 0.02 for one year.

By March 15th of each year, all covered employers shall present a report summarizing the results of its alcohol misuse and controlled substances prevention program to the Federal Motor Carrier Safety Administration when requested in writing.

The City may not release information concerning covered employees to third parties unless specifically authorized by statute or contract.

Employees, however, may request in writing to receive copies of any records pertaining to the employee's use of drugs or alcohol contained in

the employee's file if presented within the required time-frames as established by DOT.

10.2 Inquiries for Alcohol and Controlled Substances Information from Previous Employers

The City of San Clemente may obtain from any previous employer within the past three years of an employee's hire or transfer date, provided the employee has given his/her written consent, any information concerning the driver's participation in a controlled substance and alcohol testing program.

An employer must obtain and review the information listed below from any employer the employee performed safety-sensitive functions for in the previous three years. The information must be obtained and reviewed prior to the first time the employee performs safety-sensitive functions. If not feasible, the information should be obtained no later than thirty (30) days after the first time the employee performs safety-sensitive functions. The information obtained must include:

1. Information of the employee's alcohol test in which a breath alcohol concentration of 0.04 or greater was indicated.
2. Information of the employee's controlled substance test in which a positive result was indicated.
3. Any refusal to submit to a required alcohol or controlled substance test.
4. Other violations of DOT agency drug and alcohol regulations.
5. If the employee has violated and of the DOT drug and alcohol regulations, the employer must also obtain documentation of the employee's successful completion of the DOT return-to-work requirements (including follow-up tests).
6. This can include Record of any drug or alcohol test information they obtained from previous employers.

If the employee stops performing safety-sensitive functions for the employer before expiration of the 30-day period or before the employer has obtained the information listed above, the employer must still obtain the information. For example, if an employee quits after one week of employment and the information has not been obtained, the employer must still obtain the information.

The prospective employer must provide to each of the employee's previous employers of the past three years a written authorization from the employee for release of the required information. The release of this information may take the form of personal interviews, telephone interviews, letters, or any other method that ensures confidentiality. Each employer must maintain a written, confidential record with respect to each past employer contacted to include the response(s) received or documentation that no response was received.

The employer may not use an employee to perform safety-sensitive functions if the employer obtains information indicating the employee has tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test unless the employer has evidence the employee has been evaluated by a Substance Abuse Professional, completed any required counseling, passed a return-to-duty test, and is or has been subject to follow-up testing.

The City will also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he/she had a positive test or a refusal to test, the City will not use the employee to perform safety-sensitive functions, until and unless the employee provides documentation showing successful completion of the return-to-duty process including all follow-up tests prescribed by the SAP.

10.3 Designated Employer Representative

Any questions regarding this policy or any other aspect of the City of San Clemente's Drug and Alcohol Testing Program should be directed to the office of the following program manager (DER).

Name: Heather Lowe **Title:** Human Resources Manager
Address: 910 Calle Negocio, San Clemente, CA 92673
Telephone: (949) 361-8313

10.4 Revisions to the Policy and Program

This policy and program is subject to revision.

APPENDIX A - TESTING PROCEDURES

GENERAL URINE SPECIMEN COLLECTION PROCEDURES

A collector is a trained person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the urine specimen provided by those employees, and who initiates and completes the Federal Drug Testing Custody and Control Form (CCF). The collector ensures the integrity of the specimen and collection process, and will be sensitive to the employee's privacy. The following are the basic steps and guidelines used in a DOT urine drug screen collection:

1. A restroom or stall with a toilet is provided for the employee to have privacy while providing the urine specimen. A source of water for washing hands, or moist towelettes will be provided.
2. Unauthorized persons are not allowed in the testing site during the collection.
3. The collector will prepare the site, taping off water supplies, removing soap and cleaning agents, and will blue the toilet water.
4. The employee must provide appropriate identification (photo ID, or ID by a company representative) to the collector. The employee can request identification of the collector (must include only the collector's name and the employer's name). The collector fills in the Custody and Control Form.
5. The employee will remove any outer garments, leave handbags, etc. with the collector and empty all of their pockets. The employee will be instructed to wash his/her hands prior to urination. (Failure to comply with these directions constitutes a refusal to test.)
6. The collector or the employee will select the collection kit. The collector unwraps or breaks the seal on the container in the presence of the employee.
7. The collector will instruct the employee to provide a specimen of at least 45 ml, not to flush the toilet, and to bring the specimen out to the collector.
8. The collector will pay close attention to the employee during the entire process to note any conduct that clearly indicates an attempt to substitute or adulterate a specimen. The collector will ensure the temperature of the specimen falls within the prescribed range, check the volume, and inspect the specimen for any unusual objects, color or smell.
9. After the employee hands the collection container to the collector, the collector will open the specimen bottles. The collector will pour at least 30 ml of urine from the collection container into one specimen bottle (A), and 15 ml into the

other specimen bottle (B). The bottles are closed and the correct seals are placed over each cover. The collector writes the date on each seal and the employee initials under each date.

10. With the bottles now sealed with tamper-evident tape, the specimen does not have to be under the employee's direct observation and the employee is allowed to wash their hands again if they desire.
11. The employee completes the certification statement in step 5 of copy 2 of the CCF and then the collector completes the collector's portion of the Custody and Control Form.
12. The collector places the specimen bottles and copy 1 of the CCF inside the plastic pouch and seals both pouches. The employee is given copy 5.
13. The excess urine is discarded and the specimen pouch is put in a shipping container. The employee is now allowed to leave the collection site.
14. The collector is responsible for ensuring the security and the integrity of the specimen until the courier picks up the specimen for transport to the SAMHSA laboratory.

SHY BLADDER PROCEDURES

The term "shy bladder" refers to a situation when the employee does not provide a sufficient amount of urine (45 ml) for a DOT required drug test. If an employee tells the collector, upon arrival at the collection site, that he or she cannot provide a specimen, the collector will still begin the collection procedure regardless of the reason given. The collector will tell the employee that most individuals can provide 45 ml of urine, even when they think they cannot urinate, and direct the employee to make the attempt to provide the specimen as per DOT regulations.

If the employee provides an insufficient amount of specimen, the collector will discard the insufficient specimen, and make a note on the CCF stating the timeline of the "shy bladder" procedure. The collector will explain to the employee the process for a shy bladder collection and urge the employee to drink up to 40 ounces of fluids, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. The employee will be monitored during this time, and the collector will specifically tell the employee that they are not to leave the collection site. If the employee leaves the collection site or refuses to make the attempt to provide a sufficient urine specimen, this is considered a refusal to submit to a test. A refusal to test will carry the same consequences as a positive test result.

If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide a specimen, the collector will discontinue the collection, note the fact on the CCF, and immediately notify the DER that the employee's inability to provide a specimen requires a medical evaluation within 5 business days.

Failure to produce a sample of urine will result in an immediate referral for an evaluation from a licensed physician who will make a determination and provide a written statement of their recommendations and the basis for them to the MRO. If no medical reason is found substantiating an inadequate sample, the incident will be treated as a "refusal to test" and will carry the same consequences as a positive test result.

GENERAL BREATH ALCOHOL TESTING PROCEDURES

A breath alcohol technician (BAT) is a person who has completed all necessary training and is qualified to perform a DOT breath alcohol test. The BAT will instruct and assist the employee in providing a breath alcohol sample, and will complete the Federal DOT Breath Alcohol Testing Form (ATF). The BAT ensures the integrity of the test and testing process and will be sensitive to the employee's privacy. The following are the basic steps and guidelines used in a DOT breath alcohol test:

1. The collection site will afford visual and aural privacy to the employee, sufficient to prevent unauthorized persons from seeing or hearing test results.
2. The employee must provide appropriate identification (photo ID, or ID by a company representative) to the BAT. The employee can request the ID of the BAT. The BAT explains the testing process and completes step 1 of the ATF.
3. The BAT then directs the employee to complete step 2 of the ATF and sign the certification. If the employee refuses to sign this certification, the BAT will note this on the ATF, and immediately notify the DER. This is a refusal to submit.
4. The BAT will prepare the evidentiary breath-testing device (EBT), conduct an air blank test and obtain a new test number. The employee will be shown the air blank test is 0.00 and will confirm the test number for his/her test.
5. The BAT will select and open a sealed mouthpiece and insert it into the EBT. The employee is now instructed to blow forcefully into the mouthpiece until a sufficient amount of breath has been obtained.
6. If after two attempts an insufficient amount of breath is provided, the test is canceled, the result noted on the ATF, and the DER notified. «Company_Name» will direct the employee to obtain, within five days, an evaluation from a licensed physician who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. If the employee refuses to make any requested attempt to test, the technician will discontinue the test, note the fact on the "Remarks" line of the ATF, and immediately notify the DER. This is a refusal to test.

7. The BAT will show the employee the test result and complete step 3 of the ATF. The printed result will be initialed by the employee and affixed to the ATF with tamper evident tape. The result will also be entered into the logbook.
8. If the test result is less than 0.02 the test is complete. The employee is given copy 2 of the ATF and is allowed to leave the test site.
9. If the initial screening test is greater than 0.02 breath alcohol content, the employee must submit to a confirmation test.
10. The employee will be observed for 15 minutes at which time they are not allowed to eat, drink, or put any substance in their mouth and to the best extent possible, not belch. This waiting period is required to prevent any accumulation of mouth alcohol leading to an artificially high reading.
11. After 15 minutes but before 30 minutes the employee will submit to a confirmation test conducted the same as the screening test (with an EBT).
12. The confirmation test results shall be deemed to be the final result upon which any action under operating administration rules shall be based.

"SHY LUNG" PROCEDURES

If an employee does not provide a sufficient amount of breath to permit a valid breath test, the collector will take the steps listed below

1. The BAT (Breath Alcohol Technician) will instruct the employee to attempt again to provide a sufficient amount of breath and about the proper way to do so.
2. If the employee refuses to make the attempt, the BAT will discontinue the test, note the fact on the "Remarks" line of the ATF, and immediately notify the DER. This is a refusal to test.
3. If the employee again attempts and fails to provide a sufficient amount of breath, the collector may provide another opportunity to the employee to do so if he/she believe that there is a strong likelihood that it could result in providing a sufficient amount of breath.
4. When the employee's attempts have failed to produce a sufficient amount of breath, the collector will note the fact on the "Remarks" line of the ATF and immediately notify the DER.
5. If the collector is using an EBT that has the capability of operating manually, he/she may attempt to conduct the test in manual mode.
6. If the collector is qualified to use a saliva ASD and the testing is in the screening test stage, the collector may change to a saliva ASD only to complete the screening test.

7. When the DER is notified by the collector that the employee has not provided a sufficient amount of breath, he/she will direct the employee to obtain, within five business days, an evaluation from a licensed physician who is acceptable to the DER and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.
8. The DER will provide the physician who will conduct the evaluation with information and instructions.
9. Upon receipt of the report from the examining physician, the DER must immediately inform the employee and take appropriate action based upon FMCSA regulations.

If no medical reason is found substantiating an inadequate sample, the incident will be treated as a "refusal to test" and will carry the same consequences as a positive test result.

APPENDIX B - SIGNS AND SYMPTOMS OF PROHIBITED DRUGS

1. **AMPHETAMINES (Including Ecstasy)** are central nervous system stimulants that tend to make people "hyper or jumpy". They are often used by drivers to stay awake and to counteract the effects of drowsiness, and are especially dangerous to take while driving. They are taken either orally or injected.

Signs and Symptoms: hypersensitivity, exhaustion, dilated pupils, grinding teeth, sweating, loss of appetite, dry mouth, excessive talking.

Effects on Driving: impaired judgment, more likely to take risks, delayed reaction time, tendency to over-steer or over-brake, impaired coordination.

2. **COCAINE** is a stimulant to the central nervous system and gives the user an intense feeling of well-being or euphoria. A more potent form of cocaine is "crack cocaine" which is especially dangerous, addicting, and can cause death the first time it is used. Cocaine is used by inhaling, injecting or snorting.

Signs and Symptoms: mood swings, weight loss, depression, nosebleeds, bad breath, restlessness, irritability, euphoria, uncontrollable sniffing.

Effects on Driving: slowed reaction time, distorted vision and depth perception, unable to measure time and distance accurately.

3. **MARIJUANA** is a depressant and mind altering drug that causes hallucinations in the brain. Impairment of reflexes and thought processes can last more than 24 hours after use. When taken with alcohol, the effects of both are magnified greatly. Marijuana is either smoked or eaten.

Signs and Symptoms: dilated pupils, giddiness, mood swings, slowed reflexes, slowed thinking, short-term memory loss, and reduced concentration.

Effects on Driving: slowed reaction time, driving slower than speed limit, slows driver's reflexes, poor concentration, impaired visual tracking and depth perception.

4. **OPIATES** are classified as a narcotic analgesic that tends to have a sedating, calming effect, and act as a depressant to the central nervous system. Opiates are prescribed for pain relief by doctors; however the abuser will use the drug to relax and escape. Some opiates have serious side effects such as nervousness, nausea and restlessness. Opiates are taken either orally, injected, or smoked.

Signs and Symptoms: mental confusion, memory loss, slurred speech, hostility, drowsiness, depression, euphoria, and reduced feeling of pain.

Effects on Driving: lack of concentration, distorted vision and distorted sense of time and distance.

5. **PHENCYCLIDINE (PCP)** is commonly called "Angel Dust" and is a disassociative anesthetic. Users of PCP may experience hallucinations, confusion, and lack of coordination with long-term effects of psychotic behavior with violent acts. PCP may be smoked, snorted, or injected.

Signs and Symptoms: delusions, confusion, panic, anxiety and increased blood pressure.

Effects on Driving: impaired coordination, more likely to take risks, and aggressive actions with vehicle.

6. **ALCOHOL** is a socially accepted drug, however as a depressant it slows down physical responses and progressively impairs mental functions. When it is consumed for its physical and mood altering effects, it is a substance of abuse. Long term abuse causes fatal organ diseases, cancer, decreased sexual functioning and birth defects. Impairment is related to many factors including: gender, body size and weight, being healthy, rested vs. tired and even location (altitude).

Signs and Symptoms: slowed reaction rate, slurred speech, odor of alcohol on breath, lack of coordination, dulled mental processes.

Effects on Driving: blurred vision, slowed reaction times, impaired judgment, aggressiveness, and drowsiness.

When a manager, supervisor, or coworker suspects that an employee may have a problem with controlled substances or abuse of alcohol, the City has several available methods of intervention:

- Referral to employee assistance program
- Voluntary Self-Identification (If Policy allows)
- Referral to management for disciplinary action
- Direct confrontation of employee
- Sources of Help listed below

How do you recognize when a co-worker or you yourself might have a problem with alcohol or drugs?

Although no one wants to believe that a co-worker or themselves has a problem with alcohol or drugs, there needs to be a willingness to acknowledge any evidence of a problem. A substance abuse problem occurs when there is a physical or emotional need for a drug or alcohol. Over 100,000 deaths in the United States and Canada each year can be linked to alcohol abuse. According to the National Center for Statistics and Analysis, in 2004, approximately 40% of the total fatalities in motor vehicle traffic crashes were alcohol related. More than 65% of those fatal accidents were due to a driver with a blood alcohol content of less than the legal limit (0.08%).

Alcohol or drug use poses a major safety hazard in the commercial transportation industry. Almost 46% of all accidents involving large trucks can be attributed to either drugs or alcohol. Most significantly, the use or misuse of prescription drugs is the number one causation factor when the driver, as opposed to vehicle or environmental factors, was responsible for the accident. The first ever Large Truck Crash Causation Study conducted by the Federal Motor Carrier Association and the National Highway Traffic Safety Administration released results recently. The study showed that for truck crashes where the driver was responsible for the accident:

- 26.3% were related to prescription drug usage
- 17.3% were related to over the counter drug use
- 2.3% were related to illegal drug use and
- 0.8% were related to alcohol use.

Education is important to increase your awareness about the harmful outcomes of addictive substances in the work place. Appendix A lists the applicable substances, their short-term effects, potential consequences and effects on driving. Please become familiar with its contents. Understanding the warning signs is the key to increasing your personal safety.

Chances are everyone knows or has encountered someone who either currently or in the past has had a problem with alcohol or drugs. Though some of the signs may vary by drug of choice, what is observed and experienced in interacting with such individuals is often very similar. Think of someone you've known and/or worked with who you suspect may have a substance problem or actually turned out to have a problem. What is it like for you to try and work with that person? How does it affect your ability to do your work or get the job done? What does it make you think or feel?

When you report to work, you have an obligation to be fit for duty and not under the influence of any substance which makes you incapable of safely operating a motor vehicle. If you feel that you are unfit for duty, you must immediately report this to your supervisor. This would apply to something as simple as feeling the effects of an over the counter cold medicine to a more serious substance abuse problem. Remember to review the section on self disclosure and follow the steps outlined if you are sharing your problem. Sometimes a coworker may appear to be under the influence of drugs or alcohol and you may be unsure about how to handle it. It is not recommended that you confront someone while he or she is under the influence because he or she may be unwilling or unable to listen to you. If you suspect that a coworker is unfit for duty, you have an obligation to report it to your supervisor. This may be uncomfortable for you but you must

ask yourself this question: Does your coworker function in a capacity where he or she can pose a threat to his or her safety or the safety of others? If the answer is yes, then you must take action. Your actions could save your coworker's or another's life, including your own.

What are some signs both on and off the job that someone may have a substance abuse problem?

Examples include:

1. Physical

Chills
Smell of Alcohol
Sweating
Weight Loss
Physical deterioration

3. Behavioral

Excessive talking
Impaired Coordination
Irritability
Lack of energy
Limited attention span
Poor motivation

2. Emotional

Increased aggression
Anxiety
Burnout
Denial
Depression
Paranoia

4. Other

Continual missed appointments
Excessive and unexplained absences or days off
Borrowing money

Specific signs of when substance use is becoming a safety hazard include but are not limited to:

- Damaging equipment or property.
- Being involved in numerous accidents, regardless of whether that individual is the one who is injured.
- Creating mishaps (*such as...*), being careless and repeatedly making mistakes.
- Displaying careless actions in the operation and maintenance of potentially hazardous materials or dangerous equipment.
- Being unreliable such as not being where he or she should be when others must count on him or her.
- Showing a lack of detail on performing routine job duties.
- Being unwilling to follow directions and being argumentative.
- Giving elaborate, increasingly unbelievable excuses for not doing the job or being where one is supposed to be.
- Being a slacker; not carrying one's load.
- Being unresponsive to usual cajoling. (*sometimes a coworker just needs a little "peer pressure" to come around, but won't respond to this if he/she is under the influence of a substance*)

- Taking unnecessary risks.
- Disregarding safety for self and others.

Remember that some of these signs are indicators of other situations and/or problems such as sleep deprivation or depression and may also be exhibited by someone who may be living with a person who has a problem with substances and, unwittingly, encouraging or enabling substance abuse.

What role do you play by accepting behavior that is influenced by substances?

It is important that co-workers, as well as supervisors and employers, not tolerate unacceptable behavior by a worker who is misusing drugs and/or alcohol. Sometimes, though, this is a very difficult thing to do. Often, it seems *easier* to try to ignore behavior than to do something about it.

What are some of the ways an employee unwittingly excuses such behavior and prevents or delays a person with a problem from getting the help he or she needs?

Examples include:

- **Covering up** for a person's behavior by providing alibis, making excuses or doing an impaired co-worker's job rather than letting it be known that he/she is not doing his/her job.
- **Developing** reasons why the person's continued use is understandable or acceptable.
- **Avoiding** contact with the person with the problem.
- **Blaming** oneself for the person's continued use or getting angry at the individual for not trying hard enough to control his/her use or to get help.
- **Trying to take responsibility** for the person's use by throwing out his/her drugs or cutting off the supply.
- **Making idle threats** to take action (for example, turning the person in), but **not following through** when the person continues to use the drug.

What happens when someone makes excuses for unacceptable behavior? How does it affect that person?

Often, he/she ends up feeling:

Resentful...for having to take up the slack

Angry...for having safety compromised and well-being not respected

Frustrated...because nothing is being done to change the situation

Taken advantage of...by the person misusing alcohol or drugs or by not being provided with a safe work environment

Indifference...about the job

That his/her **right to a safe workplace has been taken away**

Neither the actions of tolerating unacceptable behavior nor the feelings which are a result of tolerating such behavior make the workplace safer. In fact, these actions and feelings may do the opposite by enabling the dangerous behavior to continue.

Remember, it is the responsibility of every employee, supervisor, and employer to be aware of their surroundings and to do what they can to make the work environment safe for everyone.

APPENDIX C - Sources of help

There are several sources of help for co-workers, or any employee who may have a substance abuse problem.

Some of helpful resources include but are not limited to:

Substance Abuse Treatment Locator

Phone: (800) 662-HELP

www.findtreatment.samhsa.gov

This Substance Abuse and Mental Health Services Administration (SAMHSA) Web site and toll-free phone line help individuals locate drug and alcohol abuse treatment programs in their communities.

AlcoholScreening.org

www.alcoholscreening.org

This free, confidential Web site lets individuals privately assess their own drinking habits and receive personalized feedback to help them determine if they need help to change those habits. Individuals can also find out about facilities in their communities that offer drug and alcohol abuse treatment and consultations with qualified health professionals regarding alcohol problems.

Al-Anon

Phone: (888) 4AL-ANON

www.al-anon.alateen.org

Al-Anon provides information on the effects of alcohol abuse and refers friends and families of alcohol abusers to nearby support groups. Al-Anon's purpose is to help families and friends of alcoholics recover from the effects of living with the problem drinking of a relative or friend. Alateen is the organization's program for young people whose lives have been affected by someone else's drinking.

Alcoholics Anonymous (AA)

www.aa.org

AA offers a way to stop drinking to individuals who feel they have a problem with alcohol. AA groups are located in most cities and rural communities throughout the country. Look up "Alcoholics Anonymous" in a local telephone directory for a contact in your area.

American Council on Alcoholism

Phone: (800) 527-5344

www.aca-usa.org

American Council on Alcoholism provides referrals to alcoholism treatment programs nationwide and distributes written materials on alcohol abuse problems.

Cocaine Anonymous

Phone: (800) 347-8998

www.ca.org

Cocaine Anonymous provides support for people dependent on cocaine and other mind-altering substances. Callers are referred to local helplines.

Nar-Anon

Phone: (800) 477-6291

www.nar-anon.org

Nar-Anon is a worldwide program which provides support for friends and families of individuals with addiction or drug problems.

Focus on Recovery Helpline

Phone: (800) 234-0420

www.focushealthcare.com

Focus on Recovery is a helpline which provides support and information for recovering drug addicts through referral to local helplines staffed by other recovering addicts.

National Council on Alcoholism and Drug Dependence Hopeline

Phone: (800) NCA-CALL

www.ncadd.org

This organization, a planning and oversight agency for public substance abuse treatment programs, provides written information on alcohol and drug abuse and referrals to treatment and counseling services nationwide.

APPENDIX D REASONABLE SUSPICION REPORT

Employee:	Name: _____	Job Title: _____
	Department: _____	Supervisor's Name: _____
Observation:	Date: _____	Time: (from _____ am/pm: to _____ am/pm)
Location/Building: _____		

CAUSE FOR SUSPICION (Answer all that apply)

1. Presence of Drugs, Alcohol, and/or Paraphernalia (specify): _____

2. Appearance:

<input type="checkbox"/> Normal	<input type="checkbox"/> Flushed	<input type="checkbox"/> Puncture Marks
<input type="checkbox"/> Disheveled	<input type="checkbox"/> Bloodshot Eyes	<input type="checkbox"/> Inappropriate wearing of sunglasses
<input type="checkbox"/> Dilated/Constricted Pupils	<input type="checkbox"/> Profuse Sweating	<input type="checkbox"/> Tremors
<input type="checkbox"/> Dry-mouth Symptoms	<input type="checkbox"/> Runny Nose/Sores	<input type="checkbox"/> Body Odor
<input type="checkbox"/> Other		

3. Behavior

Speech:	<input type="checkbox"/> Normal	<input type="checkbox"/> Incoherent	<input type="checkbox"/> Slurred	<input type="checkbox"/> Silent
	<input type="checkbox"/> Confused	<input type="checkbox"/> Slowed	<input type="checkbox"/> Whispering	
	<input type="checkbox"/> Other			
Awareness:	<input type="checkbox"/> Normal	<input type="checkbox"/> Confused	<input type="checkbox"/> Mood Swings	<input type="checkbox"/> Euphoria
	<input type="checkbox"/> Lethargic	<input type="checkbox"/> Lack of Coordination	<input type="checkbox"/> Paranoid	<input type="checkbox"/> Disoriented
	<input type="checkbox"/> Other			

4. Motor Skills

Balance:	<input type="checkbox"/> Normal	<input type="checkbox"/> Swaying	<input type="checkbox"/> Falling	<input type="checkbox"/> Staggering
	<input type="checkbox"/> Other			
Walking & Turning	<input type="checkbox"/> Normal	<input type="checkbox"/> Swaying	<input type="checkbox"/> Arms Raised for Balance	
	<input type="checkbox"/> Stumbling	<input type="checkbox"/> Falling	<input type="checkbox"/> Reaching for Support	
	<input type="checkbox"/> Other			

5. Other Observed Action or Behavior (specify, add other sheets as needed)

Witnessed by: (must be a supervisor or manager trained in physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances)

(Signature)	(Title)	(Date)	_____am/pm (Time)
(Optional 2nd Signature)	(Title)	(Date)	_____am/pm (Time)

APPENDIX E

City of San Clemente Drug/Alcohol Testing Vendors

Third Party Administrator

National Safety Compliance, Inc.
P.O. Box 3160
Laguna Hills, CA 92654-3160
Phone (949) 472-0645
Fax (949) 472-9439

Medical Review Officer

Terri Hellings
University Services
2800Black Lk Pl Ste A
Philadelphia, PA
19154
Phone (800) 624-3784
Fax (215) 637-7944

SAMHSA-Certified Laboratory

Quest Diagnostics Laboratory
7600 Tyrone Avenue
Van Nuys, CA 91405
(800) 877-2520

Employee Assistance Program

The Standard
1 (888) 293-6948
workhealthlife.com/Standard3

On-Site Collector

National Safety Compliance, Inc.
On-Site Mobile Unit
P.O. Box 3160
Laguna Hills, CA 92654-3160
(949) 472-0645

Off-Site Collector

National Safety Compliance
27 Journey, Suite 200
Aliso Viejo, CA 92656
949-472-0645

Current Substance Abuse Professional

SAP Referrals Services
8441 Belair Road, Suite 204
Nottingham, MD 21236
1-410-668-8110

Designated Employer Representative

City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
Heather Lowe
(949) 361-8313

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING

I hereby acknowledge receipt of the City of San Clemente's *Department of Transportation Drug and Alcohol Testing Regulations* Policy. I understand that it is my responsibility to familiarize myself with the policy and its requirements and seek appropriate guidance or explanation if needed. I also understand that the provisions of this policy are part of the terms and conditions of my employment, and that I agree to abide by them.

THE UNDERSIGNED STATES THAT HE/SHE HAS READ THE FOREGOING ACKNOWLEDGEMENT AND UNDERSTANDS THE CONTENTS THEREOF.

Employee's Signature

Date

Print Employee Name

REVISION Date: January 7, 2019

Please complete and return this form immediately to your Designated Employer Representative.