

CITY OF WAUKESHA

HUMAN RESOURCES POLICY/PROCEDURE

POLICY E-10 – Federal Highway Administration Drug and Alcohol Testing Regulations Policy

I. Policy Statement

The Omnibus Transportation Employee Testing Act of 1991 **and as thereafter amended** mandates alcohol and drug testing of City of Waukesha employees who operate commercial motor vehicles beginning January 1995. The objective of the mandate and the City is to provide a safe drug and alcohol free working environment for all employees and to provide services to the citizens of Waukesha in the safest manner possible. This objective will be met by deterrence, detection, and intervention of drug and alcohol related issues. The objective of this policy is to outline employee and management responsibilities and to underscore the City's commitment to these issues.

II. Safety-Sensitive Positions Subject to Drug and Alcohol Regulations

A safety sensitive function is defined for the purposes of the City of Waukesha as including duties of: Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; This includes:

- * All time spent at the driving controls of a commercial motor vehicle
- * All time, other than driving time, spent on or in a commercial motor vehicle
- * All time loading or unloading a commercial motor 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.
- * All time spent performing the driver requirements associated with an accident
- * All time spent repairing, obtaining assistance or remaining in attendance upon a disabled vehicle

The following is a list of all safety sensitive positions required to maintain a commercial driver's license at the City of Waukesha.

STREETS DEPARTMENT

Superintendent
Supervisor
Crew Leader
Heavy Equipment Operator
Equipment Operator
Traffic Signal Maintenance
Mechanic/Welder
Mechanic's Helper
Stockroom Attendant

PARKS AND RECREATION

Grounds Supervisor
Assistant Supervisor
Grounds Maintenance
Building Supervisor
Building Maintenance
Maintenance Specialist
Mechanic/Stockroom Attendant
Forestry Supervisor
Arborist

WASTEWATER TREATMENT

Operator

III. Participation as a Condition of Employment

All employees, post offer candidates for employment, and employee candidates for transfer into a position required to perform safety sensitive functions must participate in the drug and alcohol testing program at the City of Waukesha. It is required under federal law and is therefore, a condition of employment.

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

IV. Required Hours of Compliance

Alcohol - 4 hours prior to performing a safety-sensitive function
On Call
8 hours following an accident

Drugs - Prohibited at all times

V. Prohibited Behavior

The following alcohol and controlled substance-related activities are prohibited by the Federal Highway Administration's drug use and alcohol misuse rules for drivers of commercial motor vehicles (CMV's):

- * Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater.
- * Being on duty or operating a CMV while the driver possesses alcohol. This includes the possession of medicines containing alcohol (prescription or over the counter), unless the packaging seal is unbroken.
- * Using alcohol while performing safety-sensitive functions.
- * When required to take a post-accident alcohol test, using alcohol within eight (8) hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
- * Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion or follow up testing requirements. (See VII.)
- * Reporting for duty or remaining on duty, requiring the performance of safety sensitive functions, when the driver uses any controlled substance, except when instructed by a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV.
- * Reporting for duty, remaining on duty or performing a safety sensitive function, if the driver tests positive for controlled substances.

The City reiterates to employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in the workplace is strictly prohibited and will result in strong disciplinary action up to and including termination. (Drug Free Work Place Act of 1988 and Policy G-7 Drug Free Work Place Act)

VI. Circumstances for Testing

The following are the types of testing required to be performed:

- * Pre-employment Testing - Prior to the first time an employee performs safety-sensitive functions for an employer, the driver must submit to testing for controlled substances. Any measurement of controlled substance will disqualify an applicant for employment.
- * Post-accident Testing - As soon as practicable following an accident involving a commercial motor vehicle an employer shall test within eight (8) hours for alcohol and within thirty-two (32) hours for controlled substances each surviving driver or any other employee who could have contributed to the occurrence of the accident when:
 - The accident involved a fatality
 - The driver received a citation under state or local law for a moving traffic violation arising from the accident. (Please see Glossary of Terms for definition of "accident")

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

- * Reasonable Suspicion - An employer must require a driver to submit to an alcohol or controlled substances test when the employer has reasonable suspicion to believe the driver has violated the alcohol or controlled substances prohibitions. Reasonable suspicion must be based on contemporaneous, articulable observations by a trained supervisor concerning the appearance, behavior, speech, or body odors of the employees.
- * Return to Duty - Each employer shall ensure that before a driver returns to duty requiring the performance of a safety sensitive functions, after engaging in prohibited conduct regarding alcohol or controlled substance misuse, the driver shall undergo a return to duty alcohol test indicating a breath alcohol concentration of less than 0.02 or a drug test indicating negative drug use.
- * Follow Up Testing - Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, each employer shall ensure that the driver is subject to announced follow-up alcohol and/or controlled substances testing as directed by the substance abuse professional. The driver shall be subject to a minimum of six follow-up controlled substance and/or alcohol tests in the first 12 months.
- * Alcohol Follow-Up Testing shall be performed only when the driver is performing safety-sensitive functions, or immediately prior to performing or immediately after performing safety-sensitive functions.
- * Random Testing - Employers must ensure that their programs are testing drivers at a minimum 50% rate for drugs and at a minimum rate for alcohol. The minimum rate for alcohol is 10%. The tests must be reasonably spread throughout the calendar year to ensure that drivers believe that they are always subject to testing. Generally, large employers should conduct selections four or more times each year. Employees will be randomly breath alcohol tested only when performing safety sensitive functions as defined in Section II of this policy.

VII. Random Selection Procedure

The City of Waukesha shall utilize the random number selection function with the EXCEL software program available through the City's Information Systems Department. The ~~payroll ID~~ ~~Social Security~~ number for each employee subject to testing shall be entered into the table in order of the number and names shall be matched in the next column for each number. The function shall then be utilized to pick 50% of those numbers listed. Numbers shall be selected four times per year with random dates attached.

VIII. Behavior That Constitutes a Refusal to Submit to a Test

- a) Refusal to participate by direct refusal, calling in sick, or claiming to be ill at the time of drug or alcohol testing
- b) Attempting to tamper with or adulterate a urine specimen for drug testing.
- c) Leaving the scene of an accident before being tested or not being reasonably available for a test
- d) Failure to provide adequate breath or urine for sampling purposes within a reasonable time frame without a medical explanation.
- e) Admitting alcohol misuse after a positive screen and refusing to take the confirmation test.
- f) Failure to sign the alcohol testing form.

IX. Testing procedures

Breath Alcohol Testing Procedures

Alcohol testing will be performed by the City by employees designated and trained as Breath Alcohol Technicians or by the City's medical services provider.

Tests shall be administered using an evidential breath testing device approved by the National Highway Traffic Safety Administration.

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

Identification of the Driver

The breath alcohol technician will ask the driver to provide photo identification of him/herself or shall be identified by an employer representative for positive identification of the driver.

The driver may ask that the breath alcohol technician provide identification, too.

Explanation of the Testing Procedure

The breath alcohol technician shall explain the testing procedure to the driver.

The Screening Test

The technician shall print the requested item in Step 1 of the Breath Alcohol Testing Form. The items include the driver's name (first, middle initial, and last name), Social Security Number or other employee identification number, the employer's name, employer's address, employer's telephone number, and the type of test.

The driver shall read the certification statement, sign and date the form in Step 2, if the information is true and correct. (Refusal to sign this certification shall be considered a refusal to submit to a test.)

The driver shall watch as the technician opens the seal of an individually-sealed mouthpiece and watch as the mouthpiece is attached to the breath testing device.

The technician will ask the driver to blow forcefully into the mouthpiece for at least 6 seconds or until the breath testing device indicates that a sufficient breath sample has been obtained.

The technician will show the driver the test result displayed on the testing device.

If the device does not print test results, the technician shall record the required information on the form in Step 3. The technician will then record the information in the log book and have the driver initial the log book entry.

If the device prints the result but not on the testing form, the technician shall affix the result to the form with tamper-evident tape.

Test result of less than 0.02

No further testing is necessary. The form is completed as described below.

Test result of 0.02 or greater

The technician shall instruct the driver not to eat, drink, not put any object or substance into the driver's mouth and not to belch. The driver shall wait for 15 minutes for a confirmation test. If the driver puts something in their mouth or belches before the next test, the test will be given and the technician will note the fact on the form.

Again, the driver shall watch as the technician opens the seal of an individually sealed mouthpiece and watch as the mouthpiece is attached to the breath testing device.

The technician will ensure that the device measures an air blank at 0.00. The technician will ask the driver to blow forcefully into the mouthpiece, providing an adequate breath sample.

The technician will show the driver the test result on the testing device.

The technician shall affix the printed results to each copy of the form with tamper-evident tape. (Test results may be printed directly on the form by some breath testing devices.)

[The final rule attaches consequences only to the confirmation test result.]

Policy E-10

Federal Highway Administration Drug and Alcohol Testing Regulations Policy

Completion of the testing form

The technician shall note in Step 3 any problems that arose during the testing process and shall sign and date the form.

The driver shall sign and date the form in Step 4

The driver shall receive Copy 2 (green) of the form.

Transmission of the Results

The technician shall transmit all results to the EMPLOYER in a confidential manner. Transmission may be in writing, in person, or by telephone or other electronic means. Test results of 0.02 or greater shall be transmitted immediately to the employer to ensure prompt removal of the driver from safety-sensitive duties.

Consequences

Employees with test results of between 0.02 and 0.04 will be immediately removed from safety sensitive functions for a minimum of twenty four (24) hours and placed on an unpaid suspension pending investigation and will subject themselves to discipline up to and including termination.

Employees with alcohol test results of 0.04 or greater shall be referred to the substance abuse professional and immediately terminated from employment with the City of Waukesha.

Employees who refuse (See VII.) to participate in an alcohol breath test and/or a confirmation test shall be immediately terminated from employment with the City of Waukesha.

Drug Testing Procedures

All drug testing procedures will be performed at Waukesha Memorial Hospital.

The FHWA regulations require that testing is done for the following drugs (or their metabolites):

Marijuana, Cocaine, Opiates, Phencyclidine (PCP), Amphetamines and semi-synthetic opioids (hydrocodone, hydromorphone, oxymorphone, and oxycodone).

Specimen Collection:

- * Only federal seven part urine Drug Testing Custody and Control forms shall be used.
- * The employee will be asked to identify him/herself with a photo identification
- * The collection site person will ask the employee to check his/her belongings and remove any unnecessary outer garments, including purses, briefcases, outerwear. If a collection site person notices that the employee is attempting to tamper with a specimen, the collector may request that the employee empty pockets, display the items, and explain the need for them during the collection. The employee may retain his/her wallet.
- * The employee will rinse his or her hands with water and dry them.
- * The collection bottle or cup will be unwrapped in front of the privacy enclosure and the collection site person will instruct the employee to provide at least 45 milliliters of urine. The employee will also be instructed that the temperature of the urine will be taken to ensure its integrity.

If the employee is unable to provide at least 45 milliliters of urine, the collection site technician shall instruct him/her to drink not more than 24 ounces of fluids during a period of up to two hours. The employee shall then attempt to provide another sample using a fresh collection container. If the required amount is provided, the insufficient specimen will be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer notified. The MRO shall refer the individual for a medical evaluation to determine whether the individual's inability to provide a specimen is genuine or constitutes a refusal to submit to a drug test.

Policy E-10

Federal Highway Administration Drug and Alcohol Testing Regulations Policy

- * Within four minutes, the temperature of the specimen will be recorded. The temperature must be between 90 and 100F. The collection site technician must also visually examine the specimen for any unusual color or sediment, and note the results on the custody and control form.

If the employee refuses to cooperate with the collection process, the employer will be informed and the refusal will be documented on the urine custody control form.

Observed Collections

Under the following circumstances, collection site personnel must observe the second collection immediately after the first collection:

- * The employee has presented a urine sample that falls outside the normal temperature range and the employee declines to provide a measurement of oral body temperature or oral body temperature varies by more than 1 C/1.8 from the temperature of the specimen.
- * The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample.
- * The most recent urine specimen provided by the employee was determined by the lab to have a specific gravity of less than 1.003 and a creatine concentration below 0.2g/l
- * The employee has previously been determined to have used a controlled substance without medical authorization and the test is a return to duty test or a follow up test.

Split Specimen Procedure

All drivers, who drive commercial motor vehicles (CMV's) that must obtain a commercial driver's license to operate such a CMV, must have their urine specimen collected using the split specimen collection method in 49 CFR 40.25(f)(10)(ii). The driver will urinate into a collection cup or a specimen bottle providing at least a 45 milliliters (ml) urine specimen. The collector will subdivide the urine specimen into two bottles in front of the driver. The two bottles of the driver's urine will be sealed and labeled by the collector and initialed by the driver before the collector packages the two bottles in one shipping container for shipment to the laboratory. Laboratories for split specimen testing must be currently certified by the Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA).

Laboratory Analysis

When the laboratory receives the two bottles of urine, the laboratory will log both bottles into the laboratory. The laboratory personnel will not break or remove the seal on the split specimen bottle. The laboratory will place the split specimen of urine in temporary cold storage. The primary specimen of urine will be tested for controlled substances. If the primary specimen is confirmed positive for controlled substances, the laboratory will report to the medical review officer the results of the primary specimen.

Medical Review Officer Review of Test Results

When a medical review officer notifies the driver that a test result was confirmed positive by the laboratory for one or more drugs, the driver has the right to request that the split bottle of urine be tested at a second laboratory. The second laboratory must be certified by DHHS and may be selected by the driver, the employer or the medical review officer, depending on the employer's policy. The driver will be given at least 72 hours from the time of notification that the test result was verified positive by the medical review officer to request testing of the split specimen. All requests for split specimen testing are made to the medical review officer.

The testing of the split specimen will be paid for by the employee.

The medical review officer will by written request notify the laboratory to send the split specimen to a second laboratory for reconfirmation of the drug or drugs identified in the primary specimen by the first laboratory. The medical review officer is not to delay the verification process of notification to the employer while the split specimen is being processed. The second laboratory will test the split specimen for any trace of the drug(s) that the first laboratory identified. The quantitative cut-off levels used in analysis of the primary specimen are not applied to the split specimen.

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

Split Specimen Reconfirms the Presence of the Drug

The second laboratory will report to the medical review officer that the split specimen has in it the drug identified by the first laboratory. If the medical review officer has completed the verification process and has verified the primary specimen as positive, the medical review officer is not required to do anything, however, the MRO may want to notify the employer about the split specimen test result.

Split specimen fails to reconfirm the presence of the drug.

The second laboratory will report to the medical review officer that the split specimen failed to reconfirm the presence of the drug identified by the first laboratory or that it is untestable, unavailable, or inadequate for testing. The medical review officer must cancel the test (including the primary test result) and report cancellation and the reasons for cancellation to the employer, the driver and the Department of Transportation.

Canceled Test Results

If the test was done for pre-employment or return to duty purposes, the employer must collect another specimen for testing using the split specimen collection procedures. If the test was done for reasonable suspicion of drug use and the driver continues to exhibit appearance, behavior, speech, or body odors of reasonably suspected drug use, or chronic withdrawal effects of such use, the employer must collect another urine specimen for testing. **If the test was done for random, post-accident, or follow-up testing the employer may not collect another specimen** for testing under the authority of the DOT rules. Canceled random or follow-up tests do not "count" toward the minimum number of random tests required of each employer nor toward the mandatory minimum of six (6) follow-up tests in the first 12 months after returning to duty following a positive test.

Negative but Dilute Test Results

Test results reported as negative but dilute, (<1.003 sg & <20mg/dl creatinine) are inconclusive and will require re-collection and testing immediately upon receiving initial test results. Re-collection will not be observed. The second test result will be final. If a negative but dilute result is reported for the second test and the test was required for a pre-employment exam, the offer of employment will be rescinded. If the second test result is negative but dilute for a random test, reasonable suspicion or post-accident test, the employee will be subjected to discipline up to and including termination.

Consequences

Any employee testing positive for drugs as confirmed to the City by the MRO shall be referred to a substance abuse professional and immediately terminated from employment.

Employees who refuse (See VII.) to take a drug test shall be immediately terminated from employment with the City of Waukesha.

X. Confidentiality of Testing Results

The City of Waukesha assures employees subject to the testing procedures that there will be strict adherence to the standards of confidentiality and testing records and results will be released only to those authorized by the FHWA rules to receive such information.

- a) Only as directed by specific written instruction of the employee
- b) To a decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested
- c) Upon written request, to the employee
- d) To the National Transportation Safety Board upon request
- e) To the Department of Transportation upon request

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

XI. Program Manager

The Program Manager for the City of Waukesha Alcohol and Drug Testing Program is the Human Resources **Director Manager**. The Human Resources Department is located at City Hall, 201 Delafield Street, Room 205. The phone number is 524-3745 and the hours of availability are 8 a.m. to 4:30 p.m. if you have questions regarding the program or the policy.

XII. Effects of alcohol on Employees at Home and in the Workplace

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- | | | |
|--------------------------------|------------------------------|-----------------------|
| *Dulled mental processes | *Possible constricted pupils | *Lack of coordination |
| *Sleepy or stuporous condition | *Odor of alcohol on breath | *Slowed reaction rate |
| *Slurred speech | | |

(Note: Except for odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer (12 ounces), whiskey [one (1) ounce], or wine [six (6) ounce glass] over time may result in the following health hazards:

- * Decreased sexual functioning
- * Dependency
- * Fatal liver diseases
- * Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- * Kidney disease
- * Pancreatitis
- * Spontaneous abortion and neonatal mortality
- * Ulcers
- * Birth defects

XIII. Where Help Can Be Obtained

Alcohol and other drug abuse are preventable and treatable. The City of Waukesha and the community have many resources available to help people with an alcohol or other drug abuse problem. Help can also be obtained in the community where referral services are available. The **Waukesha County Council on Alcoholism and Other Drug Abuse has a twenty-four hour help line. The number is 524-7920. For information or an appointment, you can contact them at 524-7921.** Waukesha Memorial Hospital has an in-depth program for alcohol or other drug abuse. Alcoholics Anonymous and Narcotics Anonymous have many meeting places within and around the City of Waukesha. One such meeting place is Waukesha Memorial Hospital. The Waukesha County Council on Alcoholism can refer to those resources.

The City urges you to take advantage of these resources if you have a problem with alcohol or controlled substances.

IVX. Proper Application

No employee shall violate the substance abuse policy.

Policy E-10
Federal Highway Administration Drug and Alcohol Testing Regulations Policy

Supervisor and managers are required to apply all aspects of this policy in an unbiased and impartial manner. No supervisor shall disregard the requirements of this policy nor will they deliberately misuse the policy in regard to subordinates.

Passed this _____ day of _____, 2018.

Approved this _____ day of _____, 2018.

Mayor

ATTEST:

Clerk/Treasurer