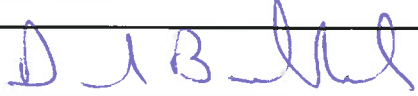


CITY OF CHICO
Administrative Procedure and Policy Manual

Subject:	Number: 13-45
IMPLEMENTATION OF FEDERAL DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING REGULATIONS	Effective Date: March 16, 2010
Department(s) Affected: All Departments	Supersedes: 13-45 Dated 8/1/02 and 07/23/03
Authority: U.S. Department of Transportation, Federal Transit Admin. regulations, <i>Prevention of Alcohol and Prohibited Drug Misuse in Transit Operations</i> 49 CFR, Parts 40, 382, CMC. 2.12.010	File Reference: LEG.F
	Approved: 

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I. PURPOSE

To establish a policy and procedure to implement the provisions of the Federal Department of Transportation Drug and Alcohol Testing Regulations (DOT Regs) for covered City employees and job applicants in a fair and impartial manner. These regulations apply to employees required to have a Commercial Driver License. Managers and supervisors shall be expected to administer the requirements of the policy and procedure consistently and equitably.

II. POLICY

This policy has been established to meet the requirements of DOT Regs and will be terminated should the Federal Requirements for such testing be terminated or abolished. Affected employee groups will be provided notice by the City of any proposed changes in this procedure and will be provided with an opportunity to comment or to request to meet and confer if the employee group feels those changes affect the wages, hours, terms, and conditions of employment of represented employees.

In compliance with the requirements of the U.S. Department of Transportation, Federal Transit Administration regulation regarding the prevention of alcohol and prohibited drug misuse in transit operations, and in recognition of the City's responsibility to maintain a safe work environment and community, it is the policy of the City of Chico that:

- A. The use of controlled substances or misuse of alcohol by covered employees is prohibited.
- B. No covered employee shall report to duty or remain on duty if he/she is using alcohol, has used alcohol within 4 (four) hours, or has an alcohol concentration of 0.04 or greater.
- C. No covered employee shall report to duty or remain on duty if he/she is using a controlled substance, except when authorized by a physician and which does not adversely affect the employee's ability to operate commercial vehicles.
- D. Covered employees and job applicants shall be subject to testing for drugs and alcohol under "Prevention of Alcohol and Prohibited Drug Misuse in Transit Operation" 49 CFR, Parts 40 and 382.
- E. Because violation of the requirements of this policy and procedure can endanger both City employees and the public, employees who violate these provisions may be subject to discipline as is provided for in the City's Personnel and Employee Representation Rules.

III. DEFINITIONS

Alcohol concentration (or content): The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Testing: Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved saliva test or evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

CFR: Code of Federal Regulations. These regulations are part of the Omnibus Transportation Employee Testing Act. CFR Parts 40 and 382 are the sections that define the procedures and administration of alcohol and drug testing.

Chain of Custody/Confidentiality: All alcohol and drug tests required to be administered to covered employees under this program shall be conducted by the City's service providers to ensure appropriate chain of custody and confidentiality of results.

Collection Agency: State licensed service provider that follows procedures for the collection of urine samples in a split-specimen process for delivery to a toxicological laboratory for testing.

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 vehicle weight rating of 26,001 or more pounds; or
- B. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 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 materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulation (49 CFR part 172, subpart F).

Controlled Substance / Illegal Drugs: Any substance (other than alcohol) that is a controlled substance as defined in 49 CFR Part 40. Drugs as deemed under this policy include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

Covered Employee: Any person whose job duties, as defined in the job description, require him/her to maintain a Commercial Driver License and operate a commercial motor vehicle. This includes, but is not limited to, full-time, regularly employed drivers, intermittent, or occasional drivers. Federal law specifically excludes Firefighters as of the date of adoption of this procedure.

Drug Testing: Drug testing shall be done based on a "split specimen" procedure of collecting and analyzing urine samples. The specimen taken will be divided into primary and secondary specimens. If the primary specimen test is positive, the employee shall be informed of his or her right to request a test of the secondary specimen by a separate laboratory or by the same laboratory if he/she chooses, at the City's expense, for random, post-accident, or reasonable suspicion testing. The payment responsibility for follow-up testing is defined in Section VI.B.2.b. The employee will be removed from the safety-sensitive function pending the outcome of the secondary sample test results. The employee has 72 hours from the point of notification of a positive test result on the first specimen within which to make the request for the secondary sample test. If the secondary test result is negative, the City shall expunge all references to the positive test from all records. If the secondary test result is positive, the employee will be subject to the procedures set forth in Section VI of this program.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each 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.

On-duty Time: All time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. "On duty time" shall include:

- A. All time at a City facility or other City property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- B. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- C. All driving time;
- D. All time, other than driving time, in or upon any commercial motor vehicle;
- E. 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;
- F. All time spent performing the driver requirements relating to accidents; and
- G. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Positive Test: A test is only positive and reported to the City when the initial screening test is positive, the confirming test is positive, and the Medical Review Officer has discussed with the employee the results of the two tests and ascertained that the tests are accurate.

Safety-sensitive Function:

- A. All time spent at the driving controls of a commercial motor vehicle in operation;

- B. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- C. 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;
- D. All time spent performing the requirements for covered employees who are involved in an accident, described in Section IV.D.1.;
- E. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;
- F. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- G. A covered employee, including those employees in temporary or out-of-class assignments, "performs a safety-sensitive function" during any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function, and will be subject to the provisions of this program.

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

Test Standards: Sample collection and testing shall be conducted in a manner to assure confidentiality, a high degree of accuracy and reliability, and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All sample collection and testing will be conducted consistently with the procedures set forth in 49 CFR Part 40.

IV. TESTING PROCEDURES

A. Pre-Employment Drug Testing

Before safety-sensitive functions are performed for the City, the employee or applicant shall undergo testing for drugs. The City shall not allow a covered employee to perform safety-sensitive functions unless the employee has been administered a drug test and has received a verified negative result. If employee refuses to test, the test is deemed to be "A failure to appear."

1. Testing Procedure

- a. All regular, probationary, temporary, hourly-exempt, and out-of-class assignments in job positions which require a Commercial Driver License and the performance of safety-sensitive functions are subject to pre-employment drug testing.
- b. All persons selected by the City and offered a job position requiring a Commercial Driver License for the performance of safety-sensitive functions are subject to pre-employment testing. This section applies equally to current employees of the City who are seeking promotion, transfer or demotion and outside applicants. The drug test samples may be collected during pre-employment medical examinations, and the samples will be tested by the City's certified collection agency.
- c. Every job announcement and internal transfer opportunity flyer for a position requiring a Commercial Driver License and the performance of safety-sensitive functions will include a written statement of the drug testing requirement as stated above.
- d. Job positions which do not meet the definition of "safety-sensitive" will not be included in the pre-employment drug testing program, nor will an unsuccessful drug test for a safety-sensitive job class impact opportunities for employment in non-covered job classes.

- e. All pre-employment drug tests will be conducted by the City's collection agency to ensure appropriate chain of custody and confidentiality of results.

2. Exceptions to Pre-Employment Testing

- a. Persons employed by the City upon the effective date of this procedure and who are in positions requiring the possession of a Commercial Driver License and performance of safety-sensitive functions will not be required to submit to pre-employment testing to continue in their jobs. Commencing on implementation of the program, all other persons who are entering into positions requiring the possession of a Commercial Driver License and the performance of safety-sensitive functions, including but not limited to new hires, rehires, transfers, and return-to-duty from any leave of absence for 30 consecutive days or more, shall be required to submit to pre-employment testing under this program.
- b. Current employees of the City who are not covered employees will not be required to submit to a drug test if the employees have participated in the City's drug testing program within 30 days preceding the new assignment AND, while participating in that program, EITHER were tested for drugs within the past six months preceding the new assignment OR participated in the City's random drug testing program for the 18 months preceding the new assignment.
- c. Current employees of the City who wish to be eligible for temporary assignments and have previously passed pre-employment alcohol and drug tests and agreed to remain within the pool of employees from which random testing is conducted will not be required to submit to pre-employment testing.

3. Procedure for Positive Test Results

All candidates for positions which require the possession of a Commercial Driver License and the performance of safety-sensitive functions must submit to pre-employment drug testing without exception. Any applicant who has a confirmed positive test for drugs, or refuses to take the test, will not be hired.

B. Reasonable Cause Alcohol and Drug Testing

The City shall require a covered employee to submit to an alcohol and/or drug test under this procedure when the City has reasonable cause to believe that the employee is under the influence of alcohol or drugs.

1. Determination

The City's decision to require a covered employee to submit to a reasonable cause alcohol and/or drug test shall be based on a supervisor's determination that reasonable cause exists that the employee is in violation of this program. The City's determination shall be based on:

- a. Specific, personal observations which can be clearly articulated concerning the appearance, behavior, speech, or performance of the employee; or
- b. Violation of a safety rule, or other unsafe work incident which, after further investigation of the employee's behavior, leads the supervisor(s) to believe that alcohol or drug use may be a contributing factor; or
- c. Other physical, circumstantial, or contemporaneous indicators of alcohol or drug use.

Suspicion based solely on third-party observation, violation of safety rule, or unsafe work incident is not reasonable cause for testing. However, such suspicion may be a basis for further investigation, or for action to protect the safety of others, such as ordering the employee to stop work. No action shall be taken against a covered employee based solely on the employee's behavior and appearance, with respect to alcohol or drug use, without a positive test. The supervisor will obtain the assistance of another supervisor, when feasible, to observe and document the above behavior or factors.

2. Permitted Times

Reasonable cause testing under DOT regulations may be done only at the following times:

- a. While the employee is performing a safety-sensitive function;
- b. Four hours before the employee is to perform safety-sensitive function; or
- c. Within four hours after the employee has ceased performing such functions.

Based on observation during these times or test during these times, if an alcohol test is not conducted within two hours of the observation, the City must prepare and maintain a record stating the reasons the alcohol test was not promptly administered. If eight hours have passed, the City will not administer the test.

3. Testing Procedure

The supervisor shall inform the employee of the facts upon which the reasonable cause is based and shall advise the employee that the supervisor wishes to question the employee about the employee's behavior or conduct on which the reasonable cause is based. The supervisor shall also notify the employee that he/she has a right to request that a representative, either a union steward or other person, be notified. No supervisor shall physically search an employee or an employee's private property (purse, briefcase, car), or a locker or other place to which the employee has a reasonable expectation of privacy, based on the supervisor's reasonable belief that the employee has violated this program.

The supervisor shall request an explanation from the employee concerning the employee's behavior or conduct on which the reasonable cause is based. If a satisfactory explanation is not provided, the employee will be tested.

The supervisor shall complete the Reasonable Suspicion Documentation (Exhibit "1") within one hour of the incident.

- a. If the employee refuses to submit to the test, the employee will be placed on authorized leave without pay and shall be offered the opportunity to be safely transported home. The employee shall remain on authorized leave without pay until the employee meets the conditions for reassignment to safety-sensitive functions in Section VI of this program or there is an intervening change in his/her status.

If an employee appears to be impaired, refuses the reasonable cause alcohol and drug test, and intends or attempts to drive home, the supervisor shall inform the employee that the City is required to notify the Police Department. An employee who has refused to submit to a reasonable cause test may be subject to discipline in accordance with the Personnel and Employee Representation Rules.

- b. If the employee submits to the reasonable cause alcohol and/or drug test, the supervisor shall assign the employee to non safety-sensitive duties until the supervisor receives the test results, unless in the supervisor's judgment, the continued presence of the employee in the workplace poses a significant safety risk to the employee or others or is disrupting the workplace. In that event, the supervisor shall place the employee on paid leave and arrange to safely transport the employee home.
 - (1) If the alcohol and/or drug test is negative, the employee will be returned to safety-sensitive functions.
 - (2) If the alcohol and/or drug test is positive, the employee will be subject to the return-to-duty/follow-up testing program and procedures as outlined in Section VI of this program.

4. Supervisor Training Requirements

The supervisor(s) or City official(s) who observe(s) the employee's behavior on which reasonable cause testing is based must have received at least 60 minutes of training on alcohol misuse and an additional 60 minutes of

training on drug use. The training must cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of drugs. The supervisor who decides that reasonable cause exists to conduct an alcohol test shall not conduct the alcohol test of the covered employee.

5. Procedure for Positive Test Results

- a. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements of this section, as set forth above, and may also be subject to discipline if they refuse to submit to a random alcohol or drug test or if they have a random alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a drug test with a verified positive test result.
- b. Any covered employee who has engaged in conduct in violation of DOT Regs concerning the use of alcohol or who has had an alcohol test with a result of 0.02 to 0.04 Breath Alcohol Content or greater shall not perform a safety-sensitive function until the employee has submitted to a return-to-duty alcohol test with a verified negative result or the beginning of their next regular work shift which is at least 24 hours following the initial positive test.
- c. Any covered employee who has engaged in a violation may return to work in a non safety-sensitive position subject to the Return to Duty/Follow-Up Testing provisions in Section VI.

C. Random Alcohol and Drug Testing

Covered employees shall be required to submit to alcohol and drug testing on a random basis. Twenty-five percent of the average number of covered employee positions shall be subject to random alcohol testing in each calendar year. Fifty percent of the average number of covered employee positions shall be subject to random drug testing in each calendar year. The City will change the minimum annual percentage testing rate in compliance with any change by the Federal Highway Administration (FHWA) Administrator to reflect the increase or decrease the annual violation rate. The FHWA annual violation rate is based on the reported violation rate for commercial drivers.

1. Testing Procedure

- a. At the beginning of each calendar year, the City will develop a random number table that has been determined to be scientifically valid. The random number table will be used to select from employee social security numbers to determine which employees will be tested.

The Human Resources & Risk Management Office will then place the names of each month of the year into a container and draw out one month from each quarter. The four months selected will be filed into a confidential reminder file and will be determined to be the months that testing will be performed. When that month arrives, a work day during the month will be randomly selected and employees' social security numbers shall be selected using the random number table and then matched to employee names. Should such a selection process fail to test the Federally required number due to unexpected absences of selected employees, an additional test date may be added to fulfill that requirement.

As an alternative to City selection of individuals for random testing in accordance with the above method, the City may contract with a company or individual who provides random selection services, to perform such random selection. The contractor will perform the random selection on a quarterly basis, selecting a sufficient number including an equal number of alternatives, to reasonably test the required percentage of employees during the course of four test dates during the year. Should such a selection process fail to test the federally required number due to unexpected absences of selected employees, an additional test date may be added to fulfill that requirement. City will notify affected employee group representatives prior to contracting for such services and will allow affected employee group representatives to comment on such selection prior to such action.

- b. Under this selection process, each covered employee shall have an equal chance of being tested each time selections are made.
- c. Each selected covered employee shall be notified by his/her supervisor that he/she has been selected for random alcohol or drug testing and shall report to the collection agency immediately by use of a City vehicle. If no City vehicle is available, the employee's supervisor should be notified and City

transportation will be provided. The employee will be on City-paid time during the testing process.

- d. A covered employee shall only be tested for alcohol at the following times:
 - (1) While the employee is performing safety-sensitive functions;
 - (2) Four hours before the employee is to perform safety-sensitive functions; or
 - (3) Four hours after the employee has ceased performing such functions.
- e. A covered employee may be tested for drugs at any time while the employee is at work for the City.
- f. The City shall not require any covered employee to submit to a random test while the employee is off work. If a covered employee is off work the City will skip the employee's name, and the next employee on the selection list will be selected and tested. The City shall document that the employee was off work and that the employee was in the random selection pool for that cycle. If the employee's absence lasts for 30 consecutive days or more, the pre-employment testing provisions of this program shall apply.
- g. After testing, an employee shall report back to the work site and resume his/her assignment, unless it is determined a misuse has occurred, in which case the provisions of Section VI will be applied.

2. Procedure for Positive Test Results

- a. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements of this section, as set forth above, and may also be subject to discipline if they refuse to submit to a random alcohol or drug test or if they have a random alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a drug test with a verified positive test result.
- b. Any covered employee who has engaged in conduct in violation of DOT Regs concerning the use of alcohol or who has had an alcohol test with a result of 0.02 to 0.04 Breath Alcohol Content or greater shall not perform a safety-sensitive function until the employee has submitted to a return-to-duty alcohol test with a verified negative result or the beginning of their next regular work shift which is at least 24 hours following the initial positive test.
- c. Any covered employee who has engaged in a violation may return to work in a non safety-sensitive position subject to the Return to Duty/Follow-up Testing provisions in Section VI.

D. Post-accident Alcohol and Drug Testing

1. Determination

As soon as practicable following an accident, the City shall test a surviving covered employee for alcohol and drugs where the accident has resulted in any one of the following conditions:

- a. Death of a human being.
- b. The covered employee received a citation, or there is a high probability that the covered employee will receive a citation, for a moving traffic violation arising from performance of a safety-sensitive function with respect to the accident. In the case where it is not immediately known if the above criteria is met, the employee will provide a sample, and the sample will not be tested until it is determined that the criteria for post-accident testing are met.

Following the accident, the covered employee will be tested as soon as possible, not to exceed eight hours for alcohol and 32 hours for drugs.

2. Testing Procedure

- a. These procedures do not supersede any other City procedures for vehicle accidents as may be contained in the Administrative Procedures and Policies and the Chico Municipal Code.

- b. The covered employee shall notify his or her supervisor as soon as possible following an accident. The covered employee shall refrain from using alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test or a supervisor determines that a post-accident alcohol test is not required as provided below. Any employee leaving the scene of the accident without appropriate authorization prior to submitting to an alcohol or drug test or being released by the supervisor will be considered to have refused to test. No employee shall be considered to have left the scene of the accident without appropriate authorization when the employee is required to leave the scene to summon aid or emergency response.
- c. The supervisor dispatched to the site of an accident shall:
 - (1) Attend to any emergency needs of employees, passengers, pedestrians, etc., by requesting medical, fire and/or police assistance, and the presence of another supervisor;
 - (2) Take the covered employee involved in the accident aside and give the employee a direct verbal order to abstain from alcohol and drugs until after he/she has been tested or until after eight hours for alcohol or thirty-two hours for drugs and to stand by at the site until the supervisor has determined if the accident is one requiring a post-accident alcohol and drug test;
 - (3) Evaluate the accident to determine whether a post-accident test is required pursuant to this policy and document with written notes the supervisor's decisions to require or to not require a post-accident alcohol and drug test.
- d. If the supervisor at the site affirms that a post-accident alcohol or drug test of the covered employee is required, the supervisor shall take the following actions:
 - (1) The supervisor shall inform the covered employee that the test is required by the Omnibus Transportation Employee Testing Act (OTETA) of 1991. The supervisor will also explain that by refusing to take the alcohol and drug tests, the employee will be subject to the mandatory referral, evaluation, and rehabilitation requirements of this program. Refusal to take the tests may subject the employee to disciplinary action in accordance with the Personnel and Employee Representation Rules.
 - (2) Any employee who refuses to submit to a post-accident test as required by federal law shall be offered the opportunity to be safely transported home and placed on leave without pay, until such time as the employee meets the conditions for reassignment to safety-sensitive duties of this program. If an employee appears to be impaired, refuses the post-accident alcohol and drug test, and intends or attempts to drive home, the City will inform the employee that it is required to notify the Police Department. Refusal to submit to a post-accident test shall be interpreted as a positive test for the purposes of this procedure. An employee who has refused to submit to the post-accident test may be disciplined in accordance with the Personnel and Employee Representation Rules.
 - (3) If the employee agrees to test, the supervisor shall transport the employee to the designated collection site to take the necessary tests. The supervisor shall inform the employee that he/she has a right to request an employee representative and the supervisor will reasonably facilitate contact between the employee and their identified representative. However, the process will proceed whether or not the representative is present. The supervisor transporting the employee will stay with the employee, verify the employee's identification at the collection site, and later return the employee to the employee's division or work unit.
 - (4) If the covered employee is injured and requires off-site treatment, the supervisor shall escort the employee to a hospital or other appropriate treatment facility. The hospital will be requested to collect the necessary specimen and provide safe-keeping until the sample is picked up by the City collection agency only if the facility does not have proper testing credentials.
 - (5) The supervisor shall ensure that the covered employee does not perform any safety-sensitive function until the employee is cleared by the post-accident test results. This includes ensuring that neither the covered employee nor any other employee involved in the accident operates the vehicle any further. If necessary, the supervisor will move the vehicle or request another employee not involved in the accident to do so.
- e. If the supervisor at the site of the accident determines the accident does not meet the criteria for a post-accident alcohol and drug test, the covered employee may continue to perform safety-sensitive functions.

- f. If the covered employee is taken into police custody at the site of an accident, and the on-site supervisor has affirmed that the accident is one requiring post-accident drug testing, the City's collection agency will be requested to test the employee for alcohol and drugs.
 - g. If a post-accident alcohol test is required and is not administered within two hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours, the City shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
 - h. If a post-accident drug test is required and is not administered within 32 hours following the accident, the City shall cease attempts to administer a drug test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
3. Procedure for Positive Test Results
- a. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements of this procedure and may also be subject to discipline if they refuse to submit to a random alcohol or drug test or if they have a random alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a drug test with a verified positive test result.
 - b. Any covered employee who has engaged in conduct in violation of Dot Regs concerning the use of alcohol or who has had an alcohol test with a result of 0.02 to 0.04 Breath Alcohol Content or greater shall not perform a safety-sensitive function until the employee has submitted to a return-to-duty alcohol test with a verified negative result or the beginning of their next regular work shift which is at least 24 hours following the initial positive test.
 - c. Any covered employee who has engaged in a violation may return to work in a non safety-sensitive position subject to the Return to Duty/Follow-up Testing provisions in Section VI.

V. SELF-IDENTIFICATION PROCEDURE

A covered employee is encouraged to advise the City if he/she is involved with the misuse of alcohol or the use of illegal drugs. This procedure is available only to covered employees who have not been notified of a random test, reasonable cause test, or a post-accident test. This procedure cannot be used by covered employees to avoid the consequences for a positive test or a refusal to test.

- A. If an employee self-identifies a problem with misuse of alcohol or drugs, the City will furnish the employee a list of Substance Abuse Professionals and remove him/her from the safety-sensitive position. Prior to returning to a safety-sensitive position, the employee will be tested. Payment for testing required by a Substance Abuse Professional will be handled pursuant to follow-up testing provisions in Section VI.B.2.b.
- B. Responsibility for payment for treatment is employee's. Health insurance may contribute a portion toward the cost of that program.
- C. If an employee self-identifies a second time, the employee will be referred to a Substance Abuse Professional. If a Substance Abuse Professional determines a rehabilitation program is necessary, the City will not contribute toward the cost of that program. The City will document the incident as if it were a first incident of a positive test through random testing.

VI. RETURN-TO-DUTY/FOLLOW-UP TESTING

A covered employees who has alcohol test results of 0.04 Breath Alcohol Content or greater, or who tests positive for drugs is subject to return-to-duty testing and is also subject to unannounced follow-up alcohol and/or drug tests following his/her return to duty.

A. Procedures

1. Return-to-duty test

- a. Any covered employee who has engaged in conduct in violation concerning the use of alcohol or who has had an alcohol test with a result of 0.04 Breath Alcohol Content or greater shall not perform a safety-sensitive function until the employee has submitted to a return-to-duty alcohol test with a verified negative result. In addition, the employee will be evaluated by a Substance Abuse Professional, who shall develop a treatment plan if necessary.

- b. Any covered employee who has engaged in conduct in violation of DOT Regs concerning the use of drugs or who has had a drug test with a positive result shall not perform a safety-sensitive function until the employee has submitted to a return-to-duty drug test with a verified negative result. In addition, the employee will be evaluated by a Substance Abuse Professional, who shall develop a treatment plan if necessary.
- c. Any covered employee who has engaged in conduct in violation may return to work in a non safety-sensitive position. The City will accommodate employees based on the operational needs of the City and availability of positions. Employees who test positive will be accommodated within their current classification, if possible, by being assigned to a non safety-sensitive position for a maximum of 30 work days. Employees whose driving duties are required and/or a regular part of their work will, if possible, be assigned to another position for up to 30 work days for the position for which they meet minimum qualifications. If the City cannot accommodate the employee in a non safety-sensitive position, the employee will be placed on authorized leave without pay, or vacation leave at the employee's request. All determinations that employees in the General Services Department cannot be accommodated will be forwarded to the General Services Director for review and will include evidence that all Field Supervisors have been queried regarding the availability of non safety-sensitive work .

2. Follow-up testing

- a. Follow-up drug and/or alcohol testing shall be conducted only when the employee is performing safety-sensitive functions, four hours before the employee is to perform safety-sensitive functions, or four hours after the employee has ceased performing safety-sensitive functions.

Unannounced follow-up drug and/or alcohol testing shall be conducted six times in the first 12 months following return to work and during the following 48 months at a frequency determined by a Substance Abuse Professional on employees who return to work following a positive drug test or an alcohol test of 0.04 or higher. Follow-up testing shall not exceed 60 months from the date of the employee's return.

- b. The City will pay for the first six tests ordered by a Substance Abuse Professional following an employee's return to work. The employee will pay for all follow-up tests in excess of the first six, including testing of the second part of split-specimen urine samples. Upon the request of the employee, the City shall reimburse the employee for 50% of the actual employee-incurred costs of testing ordered by a Substance Abuse Professional.
- c. Covered employees shall submit to testing required by this policy and the DOT Regs. Refusal by the employee to submit to testing will be treated as a positive test for purposes of this procedure.
- d. Covered employees who test positive for illegal drugs or refuse to submit to a test required under this policy shall be removed from performing a safety-sensitive function.

An employee who tests positive for illegal drugs or refuses to submit to a test required by this policy may be subject to discipline. When there is a positive result from a random test, the employee may choose to enter into a Last Chance Agreement, prepared and approved by the City Attorney Office, in lieu of other proposed disciplinary action.

- e. Covered employees who have a test result showing an alcohol concentration of over 0.04 or who refuse to submit to a test required under this policy shall be removed from performing a safety-sensitive function.

An employee with an alcohol test result showing a concentration of 0.04 or higher, or who refuses to submit to a test required by this policy, may be subject to discipline. When there is a positive result from a random test, the employee may choose to enter into a Last Chance Agreement, prepared and approved by the City Attorney Office, in lieu of other proposed disciplinary action.

- f. Covered employees who have a test result showing an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from performing a safety-sensitive function until, iff the employee is covered under the Federal Highway Administration regulations, the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

An employee who tests with an alcohol concentration of 0.02 or more, but less than 0.04, may be subject to discipline.

- g. The following actions shall constitute refusal to submit to a test:

- (1) Refusal to take a required test;

- (2) Leaving the testing site before the testing process commences;
 - (3) Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
 - (4) Tampering or attempting to adulterate the specimen or collection procedure;
 - (5) Not reporting to the collection site in the time allotted; or
 - (6) Leaving the scene of an accident without a valid reason before the tests have been conducted, unless the worker was required to leave the scene to obtain medical or emergency response.
- h. All employees covered by this policy at the time of adoption and all employees who are hired, promoted, demoted, or transferred into a covered position shall receive a copy of this policy and supporting documents and participate in a training program regarding this policy, testing procedures, and the consequences of the use of illegal drugs and the misuse of alcohol. Each employee shall, upon receipt of the policy, related documents, and training, sign a statement certifying receipt of the materials and training. This receipt will be kept in the employee's personnel file.
 - i. The City Manager shall designate one or more Drug and Alcohol Testing contact persons who will be available to answer questions of employees regarding this policy. The Drug and Alcohol Testing contact person designated by the City Manager shall be the Human Resources & Risk Management Director, City of Chico Human Resources & Risk Management Office, 411 Main Street, Chico CA 95928.
 - j. The requirements of this policy do not supersede or replace the requirements of the City's "Drug-Free Workplace" policy. Employees covered by this policy are also covered by the "Drug-Free Workplace" policy.

VII. DOCUMENT DISTRIBUTION AND TRAINING

A. City's Alcohol and Drug Testing Programs and Procedures

Every employee who is covered by the federal alcohol and drug testing regulations as explained in this program shall be provided with a copy of this Department of Transportation testing program prior to the start of alcohol and drug testing. Each employee is required to sign a statement certifying that he or she has received a copy of this program (Exhibit "2"). The City will maintain the original of the signed document in the personnel file and will provide a copy of the certificate to the employee.

B. Required Training for Covered Employees

Every covered employee will receive a 60 minute training course on the City's Alcohol and Drug Testing Programs and Procedures. Each employee will sign an attendance roster and will receive a certificate of completion of this training. A copy of the certificate of completion will be placed in the employee's personnel file. Every subsequent year, refresher training will be provided.

C. Supervisory Training

All supervisors of covered employees will receive a minimum of 60 minutes of training for alcohol and 60 minutes for drugs related to the City's Alcohol and Drug Testing Programs and Procedures. In addition, the supervisor will be trained on alcohol and drug usage and impairment with strategies for dealing with these types of issues. Each supervisor will sign an attendance roster and will receive a certificate of completion of this training. A copy of the certificate of completion will be placed in the supervisor's personnel file. Every subsequent year, refresher training will be provided.

VIII. RECORD KEEPING PROVISIONS

A. Record Retention Requirements

In compliance with the record retention requirements under the OTETA, the City shall maintain confidential records of its alcohol and drug misuse prevention program in a secure location with controlled access. In accordance with federal law, records of positive results, documentation of refusals to take tests, and driver evaluation and referrals shall be maintained for a minimum of five years. Collection and test records of employees producing negative alcohol and drug tests must be retained for a minimum of one year.

Records relating to the alcohol and drug collection process and training, including collection logbooks, documents relating to the random selection process, breath alcohol technician training, documents relating to reasonable cause tests, post-accident tests, and random tests, compliance, and evaluation shall be maintained for up to five years.

The City shall prepare, and retain for five years, an annual summary for the previous calendar year containing specific information as to the number of covered employees, the number and types of tests given, the results, the number of covered employees who refused to submit to tests, the number of supervisors receiving training, the covered employees who returned to duty after a positive test, and other similar information.

B. Access to Records

Covered employees are entitled, upon written request to the Human Resources & Risk Management Director, to obtain copies of any records pertaining to the employee's misuse of alcohol or drugs, including any records pertaining to his or her alcohol or drug tests. The City shall provide the records requested by the employee within 24 hours (one work day) following receipt of the request.

Copies of or information in these records shall not be otherwise released to any other person except as follows:

1. To the City Manager, City Attorney, and Human Resources & Risk Management Director who require access to these records to comply with the requirements of federal law and this program;
2. To federal, state, or local officials with regulatory authority over the City or any of its covered employees and who have legitimate need for access;
3. To a subsequent employer upon receipt of a written request from a covered employee. This access is only as expressly authorized by the terms of the employee's request;
4. To a decision maker in connection with a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or drug test administered under this program, or from the City's determination that the covered employee engaged in conduct prohibited by this program; or
5. To a person identified by the covered employee in accordance with the terms of the employee's written consent authorizing such release.

C. Confidentiality and Record Keeping

The City desires to comply with the confidentiality and record keeping requirements. As such, the City stipulates that with the exception of the City Manager, City Attorney, or Human Resources & Risk Management Director or designee, Collection Facility, Testing Laboratory, and Substance Abuse Professional, the results of individual tests shall not be released to anyone without the expressed written authorization of the tested individual, unless ordered by means of proper legal procedure and appropriate legal authority, such as a court-ordered subpoena, or in connection with a City disciplinary, grievance, or arbitration proceeding initiated by or on behalf of the individual and arising from a certified positive alcohol or drug test.

To maintain confidentiality, records pertaining to program administration, the collection process, and individual test records will not be a part of the individual personnel files. A separate test records retention system will be maintained by the Human Resources & Risk Management Office as part of the employee's medical information file.

The records will be secured and maintained by the Human Resources & Risk Management Director. Access to the test records is restricted to the Human Resources & Risk Management Director. The release to City management of such information from the Human Resources & Risk Management Director will require the signed release of the employee.

However, information related to an employee's availability for work will be provided to the employee's supervisor in order to insure that an employee is removed from a safety-sensitive function when necessary, accommodated in a non safety-sensitive position when necessary, and returned to a safety-sensitive function when appropriate. In the case of reasonable cause testing, the Department Head will receive the results of the alcohol and/or drug tests.

The following lists of records shall be retained and maintained by the Human Resources & Risk Management Office:

1. Supporting documents for pre-employment, post-accident, reasonable cause, or random testing decisions.
2. Records of the collection process to indicate specimen identification, accountability, and chain of custody.

3. Any individual reports or records provided directly to the tested employee by the Medical, Collection, or Testing facility.
4. Records of test results and any information provided by the affected employee concerning split samples, retests, or follow-up tests.
5. Return to work test records.
6. All reports forwarded to reporting agencies.
7. Records and documents provided by the Human Resources & Risk Management Director, Rehabilitation Agencies, and any consultants.

City of Chico
REASONABLE SUSPICION DOCUMENTATION
Confidential - to be completed by Supervisor

Employee Data

Name: _____
Division: _____ Job Title: _____
Date of Incident: _____
Time Started Work: _____ Time Relieved of Duty: _____
Location Relieved of Duty: _____

Check everything you have observed today:

- | | | |
|--|--|---|
| <input type="checkbox"/> Impaired coordination | <input type="checkbox"/> Inability to sit still | <input type="checkbox"/> Alcohol on breath |
| <input type="checkbox"/> Slow reaction time | <input type="checkbox"/> Unsteady gait | <input type="checkbox"/> Sweating |
| <input type="checkbox"/> Inattention to personal hygiene | <input type="checkbox"/> Vomiting | <input type="checkbox"/> Chills |
| <input type="checkbox"/> Irritability | <input type="checkbox"/> Bloodshot or
glassy eyes | <input type="checkbox"/> Slurred speech |
| <input type="checkbox"/> Excessive talking, walking | <input type="checkbox"/> Nose irritation | <input type="checkbox"/> Pupils dilated or constricted |
| <input type="checkbox"/> Unusual behavior for this
person - describe: | <input type="checkbox"/> Inattentive | <input type="checkbox"/> Confrontational or violent
behavior |
| | <input type="checkbox"/> Drowsiness | <input type="checkbox"/> Other - describe: |

Describe the employee's explanation for physical condition/behavior:

Names of who witnessed the employee's condition:

Suggested Steps to Document

1. Keep situation confidential.
2. Second supervisor present whenever possible. If not, why not?
3. Union representation?
4. Ask employee if there is anything wrong.
5. Tell employee your observations.
6. Did employee admit to recent use of alcohol and/or drugs?
7. Tell employee, "I don't know what is causing these symptoms -- it could be alcohol or drugs -- it could be that you are very ill. I am going to take you to an evaluation which will include an alcohol and drug test."
8. Employee sent for alcohol and drug test.
9. Who took employee to evaluation?
10. If employee resists, inform him/her he/she will be charged with insubordination for refusing to go to evaluation or take the tests.
11. Did employee refuse to go to alcohol or drug test?
12. Did employee refuse to sign consent release or any other test form?
13. Did employee ultimately submit to alcohol and drug test?
14. Did you charge the employee with insubordination if he/she refuses to cooperate?
15. Did you arrange for employee to be driven home after tests?

City of Chico
REASONABLE SUSPICION DOCUMENTATION

Confidential - to be completed by Supervisor
continued

Documentation

Describe the situation that lead you to believe there was reasonable suspicion. Document the steps taken.

Date of Report:

Supervisor preparing
report: _____

Signature

Name of Second Supervisor:

Name of Union Representative:

Department
Head: _____

Signature

Testing for Reasonable Suspicion (DOT and Post Accident)

Between 8:00 a.m. and 5:00 p.m., Monday through Friday, call HR&RM at extension 7900. Employee should be taken to Enloe Occupational Health Center, 888 Lakeside Village Commons, Chico. A qualified technician will perform the testing.

Before 8:00 a.m. and after 5:00 p.m., holidays, and weekends, call Enloe Hospital at 891-7300. They will meet you at the Emergency Room at Enloe Hospital. Enloe Hospital will do the evaluation and the testing.

**CITY OF CHICO
CERTIFICATE OF RECEIPT
DRUG AND ALCOHOL TESTING POLICY, PROCEDURES, AND PROGRAM**

I, _____, understand that I am employed by the City of Chico in a position that is covered by the federal alcohol and drug testing regulations and that I will be subject to the alcohol and drug testing programs described in this program which implements those federal alcohol and drug testing regulations. I hereby certify that the City has provided me with a copy of this program. I understand that the City will maintain the original of the signed certificate and that I will be provided a copy of the certificate. I also understand that federal law requires the City to ensure that I have been provided with a copy of the City's alcohol and drug testing program and also requires me to sign this statement certifying my receipt of a copy of this program.

Date _____

Signature of Employee

Printed Name of Employee

I hereby acknowledge that I asked for and received a copy of this certificate of receipt.

Date _____

Signature of Employee