



THE CITY OF LAMAR CDL Drug and Alcohol Testing Policy

I. Policy Objective

It is the Policy of the City of Lamar to provide a workplace reasonably free of known hazards. The City views the use and presence of illegal drugs, including marijuana, and the abuse of legal drugs and alcohol as extreme hazards to employees, visitors, customers and the community. The City is committed to ensuring a drug and alcohol-free workplace. This Policy establishes the City's procedures for testing employees and applicants for employment, and the consequences for employees who have "positive" test results from the testing. The City of Lamar expects all employees to assist in maintaining a work environment that is free from the use and effects of alcohol, controlled substances, and the abuse of prescription drugs. Employees will also comply with applicable Federal Regulations governing workplace drug and alcohol abuse and misuse. Additional information about the City's Drug & Alcohol-Free Workplace policies may be found in the City's Personnel Policy Manual Chapter IV, Section 12.

II. Applicability

This policy applies to all City of Lamar employees who operate commercial motor vehicles, including casual, intermittent, and occasional employees who perform transportation/safety sensitive functions.

Safety-Sensitive Functions: Safety-sensitive functions include all the following activities as they pertain to Drivers: 1) waiting to be dispatched; 2) all time spent at the driving controls; 3) all loading and unloading time; 4) all supervising of loading and unloading; 5) servicing, conditioning, or inspecting motor vehicles; 6) waiting or acquiring assistance for disabled motor vehicles; 7) all time other than driving time spent resting in or upon the commercial motor vehicle.

III. Regulated Substances

- A. Controlled Substances
 1. Marijuana
 2. Cocaine
 3. Amphetamine
 4. Opioids
 5. Phencyclidine (PCP)

- B. Alcohol

IV. Prohibited Use

- A. Alcohol – No driver shall or supervisor having knowledge of, permit a driver to:
 1. Report for duty or remain on duty requiring performance of any safety sensitive functions while having an alcohol concentration of 0.02 or greater.
 2. Consume alcohol while on duty
 3. Report for duty within four hours of alcohol consumption
 4. Possess alcohol while on duty or operating a commercial motor vehicle.
 5. Consume alcohol within eight hours of an accident (if required to be tested) or until testing is completed.



- B. Controlled Substances – No driver shall, or supervisor having knowledge of, shall permit a driver to:
1. Report for duty or remain on duty requiring performance of safety sensitive functions when using any controlled substance. Exception: If the use is pursuant to instructions of a physician who has provided written documentation that the substance does not adversely affect the ability to safely operate a motor vehicle.
 2. Report for duty or remain on duty requiring performance of safety sensitive function having tested positive for controlled substances.
 3. Employees covered under this policy must report any therapeutic drug use to his/her supervisor immediately.
- C. The City of Lamar Policy for Prescription Medication and over the counter medication:
1. It is the responsibility of each employee to notify their supervisor or the Human Resource Manager when they are taking ANY prescription or over the counter medication that may create impairment.
 2. Employee MUST have a valid and current doctor's prescription and MUST be under the prescribing doctor's care if taking any type of prescription medicine that can create impairment.
 4. If an employee tests positive and cannot produce a prescription, the MRO will report a positive result to the employer. Consequences for a positive test will apply.
 5. If employee tests positive and a prescription exists, the MRO will report the result as a negative, but will also report any safety concerns which may require further evaluation.

V. **Required Testing Circumstances:**

- A. Pre-employment: (The City will pay for pre-employment testing)
Those employed by the City to operate motor vehicles or perform safety sensitive functions must have a verified negative controlled substance test result prior to driving and/or performing a safety sensitive function.
- B. Post-Accident testing (The City will pay for post-accident testing):
Post-Accident testing only applies if the accident involves a commercial motor vehicle (CMV) on a public roadway or public access. If a CMV is not involved or the accident does not occur on a public roadway or public access, employees will be tested per the non-regulated post-accident policy.

Employees must be tested for alcohol and controlled substances as soon as possible when the accident meets **1 of the 3** following criteria:

1. The accident involved the loss of life.
2. A citation for a moving violation was issued to the CDL holder **and** one of the vehicles involved in the accident had to be towed.
3. A citation for a moving violation was issued to the CDL holder **and** one of the people involved in the accident had to receive medical attention immediately away from the scene of the accident.



Employees must report all accidents to their supervisor or designee immediately following the accident. Testing should take place as soon as possible. The supervisor or designee will transport the employee to the test site for a breath alcohol test within 2 hours, or when circumstances prevent testing within two hours, not later than 8 hours after the accident. The employee must submit to a controlled substance test within 32 hours of the accident.

The City of Lamar Accident Policy:

When an accident occurs involving a commercial driver but does not meet the FMCSA definition of a recordable accident as stated above, drug and alcohol testing will be required per the non-regulated post-accident policy.

- C. **Random Testing: (The City will pay for random testing)**
The annual rate of employees to be tested in the consortium who operate commercial motor vehicles will be tested for alcohol and controlled substances as established by the Federal Motor Carrier Safety Administration Administrator. Testing will be unannounced and spread throughout the year. Each driver has an equal chance of being selected for testing each time a selection is done.

The City of Lamar will be enrolled in a consortium for random testing. This selection is done by scientifically valid computer method. Once notified of selection, the employee will proceed immediately to the lab for testing or at the date and time indicated on the notice.

- D. **Reasonable Suspicion (The City will pay for reasonable suspicion testing):**

Supervisors will be trained to determine, based on observations or behaviors, that alcohol and/or controlled substance testing be conducted on an employee. Such testing **MUST** occur immediately. This includes care, custody, and responsibility for the employee. In the event of alcohol suspicion, if the test is not completed within 2 hours the reason must be documented, and attempts to test discontinued after 8 hours. For drug suspicion the discontinuation after 32 hours applies. A Breath Alcohol Technician will make an immediate determination of alcohol level. In the event of a drug test the individual may not be returned to a safety sensitive function until a negative test result is reported to the program supervisor.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or other company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

- E. **Return to Duty Testing (Employee pays for return to duty testing):**
If any of the testing results are positive, employees must obtain the service of a SAP (substance abuse professional) and abide by his or her recommendation, at the employee's expense, to rehabilitate before resuming safety sensitive functions. Once treatment is completed employee must take a return to duty test. If the test is negative, employee may, upon approval from program supervisor return to his/her previous duties.
- F. **Follow Up Testing (Employee pays for follow up testing):**
If it is determined that an employee needs assistance in resolving misuse, the employee understands that they are subject to unannounced follow-up testing as directed through a cooperative effort between the SAP and program supervisor. A minimum of 6 follow up



tests must take place during the 12 consecutive months after treatment was completed. Follow up testing may continue for up to 5 years.

VI. Testing Procedures:

Testing shall be conducted in a manner to ensure adherence to standards of confidentiality, privacy, accuracy, and reliability as approved by the U.S. Department of Transportation and the U.S. Department of Health and Human Services.

All controlled substance testing will take place at a HHS certified laboratory.

A. Controlled Substance Testing:

1. Urine will be the required substance and will be collected under controlled circumstances.
2. Urine shall be divided into split specimens (2 containers) and each shall be labeled thoroughly to preserve identity.
3. Specimens are transported to Department of Health and Human Services approved testing lab.
4. Specimens undergo testing by an initial screening procedure, which is followed by GC-MS confirmation testing if necessary.
5. The urine is positive for a substance if the substance is present in an amount greater than the minimum threshold.
6. A Medical Review Officer, or their assistant will contact the employee if there is a positive result, to verify the result.
7. The Medical Review Officer or MRO assistant reports the result to the City's program supervisor.
8. The Medical Review Officer gives the donor/employee the option of testing the remaining split specimen at an HHS certified laboratory of their choice at their expense.

B. Alcohol:

1. A breath specimen or a saliva specimen is required to test for alcohol.
2. Breath Test or Saliva test will be conducted by a certified alcohol technician.
3. Tester uses an approved Evidential Breath testing device, or DOT approved saliva test kit.
4. The initial test must give results of less than 0.02 or a retest (confirmation) test must be done following a 15-minute wait.
5. If the confirmation reveals a concentration of greater than 0.02, the individual is in violation of this policy.

Post accident breath or blood testing may be conducted by Federal, State, or local official having independent authority, if the results can be obtained by the employer.

Refusal to Submit:

It is prohibited conduct to refuse to submit to a controlled substance or alcohol test as required by this policy. A refusal to submit is defined as follows:

- A. Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City, after being directed to do so.
- B. Failure to remain at the testing site until the testing process is complete. Provided, that 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;



- C. Failure to provide a urine specimen for any drug test required by this policy. Provided, that an employee who does not provide a urine specimen because they have left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- D. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the driver's provision of a specimen;
- E. Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- F. Fails or declines to take a second test the employer or collector has directed the employee to take;
- G. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER. 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;
- H. Failure to follow directions or cooperate with any part of the testing process; or
- I. Is reported by the MRO as having a verified adulterated or substituted test result.
- J. An employee admits to the collector that they have adulterated or substituted their specimen.
- K. The employee behaves in a confrontational way that disrupts the collection process.
- L. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- M. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- N. The employee refuses to wash his or her hands – after being directed to do so.

Consequences:

Anyone who violates a prohibition of this policy will immediately be removed from performing any safety sensitive function and will be subject to corrective action as outlined in Chapter IV, Section 15 of the City's Personnel Policy. In regard to a pre-employment test, individual will be advised on the resources available for evaluating and resolving misuse.

Anyone who violates a prohibition of this policy will immediately be removed from performing any safety sensitive function. Then the employee must be seen and evaluated by a Substance Abuse Professional as soon as possible.

If the employee is allowed by the City of Lamar to return to operating a motor vehicle or engaging in any safety sensitive functions under the City of Lamar employment, the employee must undergo return to duty testing with a verified negative result and, if identified by the Substance Abuse Professional (SAP) as needing assistance in resolving misuse, must have been evaluated by the SAP for compliance with rehabilitation. The employee will then be subject to unannounced follow up testing as directed by the SAP. This as at least 6 tests in the first 12 months after completing treatment. Follow up testing may, at the sole discretion of the employer, continue for up to 5 years.

In the case of breath alcohol testing if the employee has an alcohol level of (.02 - .039) the employee will be removed from duty for a period of 24 hours. If the breath test result is greater than (.039) the same consequence stated above for a positive drug result will apply.

The employee is responsible to pay for the SAP evaluation, all return-to-duty testing, all follow-up testing, and all rehabilitation costs.



OTHER PROHIBITIONS

- **Hemp**

Recently, a number of products have appeared on the markets that are advertised as “Hemp” products. The hemp contained in these products is Cannabis Sativa, or Marijuana. The legal counsel for the department of transportation has issued the following guidance regarding Hemp products. Whatever else it may be, consuming Hemp food products is not a legitimate medical explanation for a prohibited substance or metabolite in an individual’s specimen. The City of Lamar will not accept the ingestion of a hemp-based product as an excuse for testing positive for the marijuana metabolite.

- A. **Adulterants**

If an employee is found to have adulterated, substituted, tampered, misidentified, or otherwise act to deceive the employer regarding test samples will be immediately terminated.

- B. **Dilute Specimens** Employees are required to provide a normal urine specimen for testing. If the drug screen test result is reported as dilute the employee must be tested again immediately. The employee will be required to re-test at their expense until a normal sample is given.

- C. **Medical Marijuana**

Marijuana is a federally prohibited substance. An authorization for use of marijuana for medical purposes will not be an acceptable excuse for testing positive for THC the marijuana metabolite. Marijuana is considered a prohibited substance. Anyone testing positive for marijuana will be subject to the consequences of this policy for a positive drug test. No exceptions.

VII. **Records:**

All records must be made available at the place of business within 2 days of a request by the FHA. Not all records must be kept on site, some may be the responsibility of the consortium or testing site.

- A. **Retention Period**

- 1. The following records will be retained for 5 years:

- Verified positive results
 - Alcohol results over 0.02
 - Documentations of refusals.
 - Employee referrals to the SAP
 - Annual management system information reports.

- 2. The following results will be retained for 2 years:

- Records related to all processes and employee training.

- 3. The following results will be retained for 1 year:

- Records of negative drug and alcohol results less than 0.02

- B. **Types of Records That Will Be Maintained:**

- 1. **Collection processes:**

- Log books (if used)
 - Random selection documents
 - Calibration documents (EBT)
 - BAT training documents
 - Reasonable suspicion documents
 - Post accident decision documents
 - Documents verifying medical inability to provide adequate breath or urine



- MIS reports
- 2. Test Results:
 - Employer's copy of alcohol test
 - Employer's copy of controlled substance chain of custody
 - Documents from MRO
 - Documents related to refusal to submit
 - Documents presented by driver to dispute refusal to submit
- 3. Evaluations:
 - Determinations by the SAP of assistance needed to resolve misuse.
 - Compliance with SAP
- 4. Education and Training:
 - Materials on misuse awareness, including the policy
 - Driver's signed receipt of education materials
 - Documents of supervisor training to qualify for making reasonable suspicion of judgements.
- 5. Agreements with collection site, labs, MRO, and consortium.
- C. Access to Records:
 - 1. The driver is entitled to a copy of his/her records
 - 2. Records are available for officials with regulatory authority of the NTSB
 - 3. Subsequent employers or others may have a copy of the records upon specific written request from the driver.
 - 4. Records are available to State and/or Federal inspection officers.

VIII. **Training:**

The City of Lamar will complete the following training requirement.

If a driver is an owner operator, supervisory training is not required. Owner operator agrees to fulfill the required 2-hour supervisor training in the event of adding 1 or more drivers to his/her company.

- A. Those designated to determine if reasonable suspicion exists will receive 60 minutes of alcohol and 60 minutes of controlled substance training, which covers the physical, speech, and promotions indicators of misuse.
- B. Each covered employee will be provided materials about the effects of drug and alcohol use (such as film or written) and the company policy and the name of the supervisor who can answer their questions about the material.
- C. Each employee must sign a certificate of receipt of the materials.

IX. **Reporting by Employees**

The following procedure shall be used when an employee suspects controlled substance use or alcohol misuse by an employee subject to the requirements of this policy/procedure.

- A. The employee shall report the concern to his/her supervisor. If the supervisor is not available the employee shall report the concern to the department director or the Human Resource Manager. All such reports shall be held in confidence.
- B. The employee shall not discuss the concern with other employees.



- C. The supervisor or other authorized person to whom the report has been made shall take the necessary steps to confront the employee suspected of having the controlled substance and/or alcohol problems and take the necessary action pursuant to this policy.
- D. The DER (Designated Employee Representative) is: The Human Resource Manager

Employees who have questions regarding this testing policy or other questions regarding DOT regulations that apply to them should contact the Human Resource Manager for assistance.

X. Inquiries from Previous Employers

The City of Lamar shall inquire from previous employers, on all drivers requiring a CDL license, hired after January 1, 1995, and all applicants offered a driver's position or employee transferred to a driver's position, pursuant to the driver's written authorization, for each individual and/or entity, inquires about the following information during the preceding three years from the date of application:

- A. Alcohol tests with a result of 0.04 alcohol concentration or greater.
- B. Verified positive controlled substances test results.
- C. Refusals to be tested.
- D. Any information from previous employer obtained from other previous employers.

This required information will be obtained prior to the first time a driver performs a safety sensitive function or no later than 30 days after the driver performs a safety sensitive function.

In addition to the above requested information, this employer will require each employee to sign an affidavit whether they have tested positive, or refused to test, an 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 three years.

If the employee admits that he or she had a positive test or a refusal to test, he or she will not be used to perform a safety sensitive function until and unless the employee documents successful completion of the return to duty process.

XI. Reporting to the Clearinghouse:

The City will report the following results to the Federal Motor Carrier Safety Administration Clearinghouse:

- A. Verified positive, adulterated, or substituted drug test results
- B. Alcohol confirmation test with a concentration of 0.04 or higher
- C. A refusal to submit to any tested required in this policy
- D. The City's report of an actual knowledge including:
 - 1. On-duty alcohol use
 - 2. Pre-duty alcohol use
 - 3. Alcohol use following an accident
 - 4. Controlled substance use
- E. A substance abuse professional report of the successful completion of the return-to-duty process
- F. A negative return-to-duty test
- G. The city's report of completion of follow-up testing



XII. Employment Agreement:

I understand and agree to comply with the City of Lamar policy regarding alcohol and controlled substance use and/or abuse. I further understand that failure to comply with this policy may result in dismissal from employment.

I understand that I am responsible for paying for return to duty, follow up testing and for any required rehabilitation under this policy. I also understand that the City of Lamar will pay for post-accident, random and reasonable suspicion testing.

I also understand that if I have any questions on this policy and procedure I can contact the under signed Supervisor and/or his superior.

Employee Name (printed): _____

Employee Signature: _____

Date: _____

Supervisor's Name (printed): _____

Supervisor's Signature: _____

Date: _____