EFFECTIVE DATE: January 1, 1995

SUBJECT: ALCOHOL AND CONTROLLED SUBSTANCES TESTING - PAGE 1

I. PURPOSE:

The purpose of this directive is to outline the alcohol and controlled substances testing process for the City of San Antonio as required by federal law (Omnibus Transportation Employee Testing Act of 1991, as amended). This directive applies only to City employees whose positions require a Commercial Driver's License.

II. DEFINITIONS:

A. ALCOHOL CONCENTRATION means 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.

B. APPROPRIATE TRAINING means 120 minutes (2 hours) of training required for supervisors to determine whether reasonable suspicion exists to require alcohol/controlled substances testing. APPROPRIATE TRAINING for employees who require a CDL means a minimum of 60 minutes (1 hour) of training on the policies and procedures of the Alcohol and Controlled Substances Testing Program.

C. CONTROLLED SUBSTANCES include marijuana, cocaine, opiates, amphetamines, and phencyclidine.

D. EMPLOYEE/DRIVER/COVERED EMPLOYEE means any employee of the City of San Antonio whose position requires a Commercial Driver's License (CDL) and, at the direction of the City, performs a safety-sensitive function.

E. SAFETY-SENSITIVE FUNCTION includes on-duty time spent:

1. at a carrier or shipper plant, terminal, facility, or other property, or on any public property waiting to be dispatched, unless the driver has been relieved from duty;

2. inspecting, servicing, or conditioning any commercial motor vehicle at any time.

3. at the driving controls of a commercial motor vehicle in operation.

4. in or upon any commercial motor vehicle.

5. loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.

6. performing the driver requirements required under the law relating to accidents.

7. repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

F. SELECTEE means a person selected to fill a position with the City of San Antonio which requires a Commercial Driver's License.

G. SUBSTANCE ABUSE PROFESSIONAL means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors' Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

III. GENERAL REQUIREMENTS:

A. The controlled substances and alcohol testing process covers every applicant/employee whose position requires a Commercial Driver's License.

B. Covered applicants/employees are subject to the following types of alcohol and controlled substances testing:

1. Pre-Employment Testing

2. Post-Accident Testing

3. Random Testing

4. Reasonable Suspicion Testing

5. Return-to-Duty Testing

6. Follow-up Testing

IV. PRE-EMPLOYMENT/TRANSFER TESTING PROCESS:

A. The hiring department indicates on the requisition that the position requires a Commercial Driver's License (CDL).

B. The job announcement includes a statement indicating that the selectee must comply with the Controlled Substances and Alcohol Testing rules outlined by the U. S. Department of Transportation.

C. Once the hiring department makes a selection, the Human Resources Department refers the selectee for alcohol and controlled substances testing as part of the routine new hire processing or as part of the transfer/promotion/demotion process for a City employee moving into a position requiring a CDL.

D. The Human Resources Department obtains, pursuant to selectee's consent, information on the selectee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the selectee's previous employers. If this information is not obtained within 14 days after the driver begins performing a safety-sensitive function, the driver must be removed from performing the safety-sensitive function.

E. Processing is discontinued, and the Human Resources Department notifies the selectee of disqualification if the selectee:

1. refuses to be tested.

2. has an alcohol concentration of 0.04 or more or a positive controlled substances test.

3. refuses to consent to verification of test results for preceding two years.

V. POST-ACCIDENT TESTING PROCESS:

A. The City of San Antonio tests each driver of a commercial vehicle who is involved in an accident for the presence of alcohol and/or controlled substances, if any of the following circumstances exist:

1. The accident involves loss of human life, or

2. The driver receives a citation for a moving traffic violation arising from the accident.

B. The driver notifies his/her supervisor of the accident. If the accident meets the criteria in A., then the supervisor takes the employee to the Occupational Health Clinic for controlled substances and/or alcohol testing. Provisions may be made with other agencies/departments for testing after normal working hours.

C. Occupational Health notifies the driver in writing that testing is required under the law.

D. If a post-accident alcohol test is not administered within two hours following the accident, the supervisor must prepare a report stating why the test was not promptly administered (Completed report should be forwarded through the department's chain of command to Risk Management.) If the test is not administered within eight hours following an accident, attempts to administer the test must cease and a report must be prepared, in accordance with the law, explaining the events that resulted in the failure to administer the test. (Completed report should be forwarded through the department's chain of command to Risk Management.)

E. If a controlled substances test is not administered within thirty-two hours following the accident, attempts to administer the test must cease, and the supervisor must prepare a report including the reason(s) the test was not administered within the required timeframe. (Completed report should be forwarded through the department's chain of command to Risk Management.)

F. An employee subject to post-accident testing who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing is considered to have refused to submit to testing.

VI. RANDOM TESTING PROCESS:

A. Periodically throughout the year the Risk Management Division generates a random list of employees whose positions require a CDL. The listing should include a minimum of 50 percent of covered employees for controlled substances testing and a minimum of 25 percent of covered employees for alcohol testing.

B. The Risk Management Division coordinates the random testing schedule with the Occupational Health Clinic.

C. The Risk Management Division provides the random list to the appropriate department heads on the day before testing is to occur. The department heads are responsible for maintaining the confidentiality of the list. Each employee will be notified immediately prior to transporting the employee to Occupational Health.

D. Employees may only be randomly tested for the presence of alcohol while performing safety-sensitive functions, immediately after performing a safety-sensitive function, or immediately after they have ceased performing a safety-sensitive function. Employees may be randomly tested for controlled substances at any time while on duty.

E. The supervisors are required to transport their employees to the Occupational Health Clinic for testing. If the employee's immediate supervisor is unavailable, another supervisor may transport the employee to the Clinic.

F. Occupational Health notifies the employee in writing that testing is required under the law.

VII. REASONABLE SUSPICION TESTING PROCESS:

A. The determination of reasonable suspicion can only be made by supervisors who have received appropriate training, and reasonable suspicion testing may be authorized only if the supervisor's observations are made during, just preceding, or just after the employee was performing a safety-sensitive function. The supervisor should monitor the following symptoms as indicators of the possible use of alcohol/ controlled substances: body odor; appearance; speech; behavior.

B. Reasonable suspicion testing for alcohol is authorized only if the required observations are made during, just preceding, or just after the period of the work day that the employee is performing a safety-sensitive function. For controlled substances testing, the observations must be made while the employee is on duty.

C. The supervisor transports the employee to the Occupational Health Clinic. If the employee's immediate supervisor is unavailable, another supervisor may transport the employee to the Clinic. Provisions may be made with other agencies/departments for testing after normal working hours.

D. At the Occupational Health Clinic, the supervisor is required to document in writing the specific facts, symptoms, and/or observations that form the basis for the determination that reasonable suspicion exists and that testing of the employee is warranted.

E. Occupational Health notifies the employee in writing that testing is required under the law.

VIII. RETURN TO DUTY:

A. The results of the alcohol testing must indicate an alcohol concentration of less than 0.02 before the employee can return to a safety-sensitive function. The results of the controlled substances testing must be negative before the employee can return to a safety-sensitive function. An employee with an alcohol concentration of 0.02 or greater but less than 0.04 is not permitted to perform safety-sensitive functions for twenty-four hours or until a retest shows that the employee's alcohol concentration has dropped below 0.02.

B. Upon determination that an employee has misused alcohol or controlled substances (a test result with an alcohol concentration of 0.04 or greater or positive controlled substances test), the employee may not return to a safety sensitive function until the employee undergoes evaluation, and where necessary, treatment; and a substance abuse professional determines that the employee has successfully complied with any recommended course of treatment; and the employee's alcohol concentration is less the 0.02 on a return-to-duty test or negative on a return-to-duty controlled substances test.

IX. CONSEQUENCES FOR EMPLOYEES ENGAGING IN ALCOHOL/CONTROLLED SUBSTANCES RELATED CONDUCT

Any driver who violates the prohibitions set forth in Subpart B of 49 C. F. R., Part 382, relating to alcohol concentration, alcohol possession, on-duty use, pre-duty use, use following an accident, refusal to submit to a required alcohol or controlled substances test, controlled substances use and controlled substances testing shall have imposed the consequences for drivers engaging in substance use-related conduct set forth in Subpart E of 49 C. F. R., Part 382, to include removal from safety-sensitive functions and required evaluation and testing. Other alcohol-related conduct shall result in removal from safety-sensitive functions as provided for in 49 C. F. R., Sec. 382.505. In addition, the provisions of Administrative Directive 4.79, Use of Intoxicants/Drugs in the Workplace, shall be applied and disciplinary action taken consistent with law. (Attached)

X. SUPERVISOR/EMPLOYEE TRAINING AND EMPLOYEE REFERRAL, EVALUATION, AND TREATMENT

A. Supervisor Training

Training will be provided by the Risk Management Division or other designated agencies. The training is mandatory for supervisors of employees whose positions require a CDL. Department heads may require other employees to attend. The training will include the following:

1. Sixty (60) minutes of training in the recognition and signs of controlled substances abuse.

2. Sixty (60) minutes of training in the recognition and signs of alcohol misuse.

B. Covered Employee Training

Training will be provided by the Risk Management Division or other designated agencies. Covered employees will receive the following:

1. the identity of the person in the City designated to answer employees' questions about the materials.

2. the categories of employees subject to alcohol and controlled substances testing.

3. enough information about safety-sensitive functions performed by the employee to make clear what part of the work day the employee must be in compliance with the regulations.

4. specific information to inform the employee what conduct the regulations prohibit.

5. the circumstances under which an employee will be tested for controlled substances and/or alcohol.

6. an explanation of the procedures used to test for alcohol and controlled substances, to protect employee privacy and the integrity of the testing process, safeguard the validity of the test results and see that the results are attributed to the right person.

7. the requirement that the employee submit to controlled substances and alcohol tests.

8. an explanation of what constitutes a refusal to be tested and the consequences.

9. the consequences for employees who have been found to have violated Subpart B including requirements for removal from duty (PROHIBITIONS-Federal Register, p. 7507)

10. the consequences for covered employees having concentrations of .02 but less than .04 in a breath alcohol test.

11. information regarding the effects of alcohol and controlled substances on one's health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem (the employee's or a co-worker's); and available methods of intervention including confrontation and intervention.

C. Employee Referral, Evaluation, and Treatment

1. In the event an employee has a verified positive controlled substance test and/or an alcohol concentration of 0.04 or more, the employee may not return to a safety sensitive function until the following steps have been taken.

   a. The employee must be evaluated by a substance abuse professional who shall determine what assistance, if any, is needed to help resolve any problems associated with alcohol or controlled substances abuse.

   b. If the substance abuse professional indicates a need for assistance, then the employee shall be referred for counseling, evaluation, and treatment and may utilize employee's health insurance package providing treatment for alcohol and controlled substances abuse.

2. If the initial evaluation by the substance abuse professional indicates a need for assistance in resolving alcohol or substance abuse problems, the employee must be re-evaluated by a substance abuse professional to ensure the employee has properly followed any rehabilitation program prescribed by the substance abuse professional. Before returning to duty the employee must undergo a return-to-duty controlled substances test that returns a verified negative test and/or an alcohol test indicating less than 0.02 alcohol concentration.

3. Upon the employee's return to work in a safety sensitive function, the employee is required to take a minimum of six (6) follow-up tests during the first twelve (12) months following return-to-duty. If so indicated by the substance abuse professional, the follow-up testing may continue for up to sixty (60) months.

XI. RECORDS RETENTION:

Records are required to be maintained in accordance with federal law and local government retention schedules.

XII. REPORTING REQUIREMENTS:

Occupational Health is responsible for maintaining test results. Risk Management Division is responsible for maintaining and reporting statistical information.

CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM
FOR

ADMINISTRATIVE DIRECTIVE 4.3
Alcohol and Controlled Substance Testing

Employee:

I acknowledge that on _____, 20____, I received a copy of Administrative Directive 4.3, Alcohol and Controlled Substance Testing. I understand if I should have any questions I should contact my Human Resources Generalist.

_____	_____
Employee Name (Print)	Department
_____	_____
Employee Signature	SAP ID #

Subpart B-Prohibitions

§ 382.201 Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

§ 382.204 Alcohol possession.

No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. No employer having actual knowledge that a driver possesses unmanifested alcohol may permit the driver to drive or continue to drive a commercial motor vehicle.

§ 382.205 On-duty use.

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

§ 382.207 Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

§ 382.209 Use following an accident.

No driver required to take a post-accident alcohol test under § 382.303 of this part shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

§ 382.211 Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under § 382.303, a random alcohol or controlled substances test required under § 382.305, a reasonable suspicion alcohol or controlled substances test required under § 382.307, or a follow-up alcohol or controlled substances test required under § 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

§ 382.213 Controlled substances use.

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
(b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.
(c) An employer may require a driver to inform the employer of any therapeutic drug use.

§ 382.215 Controlled substances testing.

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

Subpart E-Consequences For Drivers Engaging In Substance Use-Related Conduct

§ 382.501 Removal from safety-sensitive function.

(a) Except as provided in subpart F of this part, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by subpart B of this part or an alcohol or controlled substances rule of another DOT agency.
(b) No employer shall permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if the employer has determined that the driver has violated this section.
(c) For purposes of this subpart, commercial motor vehicle means a commercial motor vehicle in commerce as defined in § 382.107, and a commercial motor vehicle in interstate commerce as defined in part 390.

§ 382.503 Required evaluation and testing.

No driver who has engaged in conduct prohibited by subpart B of this part shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of § 382.605. No employer shall permit a driver who has engaged in conduct prohibited by subpart B of this part to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of § 382.605.

§ 382.505 Other alcohol-related conduct.

(a) No driver tested under the provisions of subpart C of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for an employer, including driving a commercial motor vehicle, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
(b) Except as provided in paragraph (a) of this section, no employer shall take any action under this part against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law.