

**Federal DOT Drug and Alcohol Testing Policy** **Section 1.4.3****PURPOSE**

The U.S. Department of Transportation (DOT) issues regulations implementing the Omnibus Transportation Employee Testing Act of 1991. This Act is designed to improve the overall safety of the transportation industry by requiring employers to test safety-sensitive employees for the use of controlled substances and alcohol. The City of San José is legally required to enforce Federal DOT regulations and implement controlled substance and alcohol testing for employees who require a commercial driver's license.

In 1989 the City of San José adopted a Drug-Free Workplace and Substance Abuse Policy applicable to all employees. The Federal DOT legal requirement reinforces the City's commitment to promote a drug-free workplace and to ensure that employees involved in safety sensitive transportation activities avoid problems created by the use of controlled substances and alcohol.

The purpose of the following policy is to outline details of the Federal DOT program, including testing requirements and consequences to employees who have been found to use controlled substances and alcohol as outlined in this policy. In addition, this policy is intended to comply with all applicable regulations of the Federal DOT. Employees covered by this policy are also covered by the City of San José's Substance Abuse Policy.

**APPLICATION**

- The Federal DOT regulation covers City employees whose duties are such that federal regulations require them to hold a Commercial Driver's License (CDL) in order to drive a commercial motor vehicle (CMV).

**Employee Notification**

Employees initially covered by the Federal DOT's controlled substance and alcohol testing regulations have been notified of the testing regulations by the City. Any employees newly covered by these regulations will be notified of their coverage by their Department Director or Designee. The Human Resources Department will provide affected Department Directors with a copy of this Federal DOT Drug and Alcohol Testing Policy whenever revisions are made.

**Supervisor Training**

Supervisors of the covered employees must attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substance use, which may be through the use of a videotape or other media.

This training must cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and controlled substance use.

**POLICY****1. Prohibited Conduct Related to Controlled Substances**

No driver shall report for duty or remain on duty performing a safety-sensitive function when the driver uses a controlled substance in concentrations greater than those described below, except

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when the substance is prescribed by a physician, and the physician informs the driver that the substance does not adversely affect the driver's ability to perform the safety-sensitive function. The City reserves the right to have the employee's physician or the City's Medical Review Officer (MRO) provide clearance as to whether the driver can drive a City vehicle when the employee is using a prescription medication.

No driver shall perform a safety sensitive function after testing positive for a controlled substance, until such time that they are authorized to return to full duty by the Substance Abuse Professional (SAP) and has a verified negative controlled substances test.

**2. Prohibited Conduct Related to Alcohol**

No driver shall report to duty or remain on duty requiring the performance of a safety sensitive function with a breath alcohol concentration level of 0.04 or greater.

No driver shall use alcohol while performing a safety sensitive function. No driver shall possess alcohol while on duty or operating a Commercial Motor Vehicle.

No driver shall perform a safety-sensitive function within four (4) hours after using alcohol. No driver shall use alcohol within eight (8) hours after an accident, or until an alcohol test has been completed, whichever comes first.

No driver shall perform a safety sensitive function after testing positive for a controlled substance, until such time that they are authorized to return to full duty by the SAP and a breath alcohol test value less than 0.02.

**3. Refusal to Submit to an Alcohol or Controlled Substance Test**

No driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post-accident, random, reasonable suspicion, or follow-up tests. In addition to direct refusal to give a urine (or other approved) specimen, refusal also includes inability to give a urine (or other approved) specimen or failure to provide a sufficient amount of urine (or other approved specimen) without a reasonable medical explanation, not reporting to the collection site in the time allotted by the department, refusing to sign the necessary forms, failing to remain at the testing site until the testing process is complete, failing to permit the observation or monitoring of controlled substance test, if applicable, and failure to cooperate with any part of the testing process. Any of the above occurrences will constitute a refusal to take a controlled substance test.

Refusal to test will be considered a positive test and the employee will be disqualified from driving until a verified negative test result is obtained. In addition, disciplinary action may be taken for refusing to submit to any controlled substance or alcohol testing required by this policy.

**4. Types of Testing**

**Pre-employment Testing:** The regulations require urine (or other approved specimen) controlled substance testing of candidates for positions that require Class A or B drivers' licenses. Candidates who have a verified positive controlled substance test may have their offer of employment rescinded. An employee who transfers, demotes, or promotes into a position that requires a Class A or B driver's license will be subject to urine (or other approved specimen) testing prior to starting the new assignment.

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**Reasonable Suspicion Testing:** Drivers must be tested based on reasonable suspicion, provided that the conduct underlying the decision to test is witnessed by a supervisor. If the incident causing reasonable suspicion occurs during or shortly before normal business hours (8:00 a.m. – 5:00 p.m.), the employee shall visit the City’s designated occupational health clinic, Carbon Health. Carbon Health’s normal business hours are Monday – Sunday from 9:00 a.m. - 7:00 p.m. There are several locations throughout the San José area, the location nearest to City Hall is listed below. Please see the [Carbon Health website](#) for additional locations, dates and times.

1411 Berryessa Road, #30  
San Jose, CA 95133  
Phone: (408) 689-7020

If the incident occurs after-hours, weekends, holidays or at other times when Carbon Health is closed, contact:

Butterfield Testing Solutions  
Phone: (503) 925-8428

Butterfield is a mobile testing service and will respond to the employee’s location provided by the supervisor requesting the test. Butterfield is staffed by certified technicians. All test results will be treated as confidential and returned to the City.

If there are exigent circumstances where Carbon Health and Butterfield are not available or the employee needs immediate medical attention, the alcohol/drug testing can be performed at an emergency room.

**Random Testing:** The employer must annually test at least 50% of the total number of covered drivers on a random basis each year for controlled substances and 10% for alcohol. The test must be unannounced, with all drivers selected from a random pool. Individuals in the pool may be randomly selected for drug testing only or may be randomly selected for both drug and alcohol testing. When an individual is randomly selected for both drug and alcohol testing, these tests will be administered during a single visit to the collection facility to minimize the number of work disruptions.

**Post Accident Testing:** The driver is responsible for providing a urine (or other approved specimen) and breath sample for testing as soon as possible after an accident that (1) involves a fatality, or (2) bodily injury that requires immediate medical treatment away from the scene and results in the driver receiving a citation under state or local law for a moving traffic violation, or (3) a tow away accident and results in the driver receiving a citation under state or local law for a moving traffic violation. Drivers who are subject to post-accident testing are required to remain readily available for testing for the next eight (8) hours for an alcohol test and for the next thirty-two (32) hours for a drug test, unless tested or excused from testing. Except in medical emergencies, failure of the driver to remain readily available for drug and/or alcohol testing will be considered a refusal to submit to testing. If the accident occurs during or shortly before normal business hours, the employee shall visit the City’s designated occupational health clinic, Carbon Health. Carbon Health’s normal business hours are Monday – Sunday from 9:00 a.m. - 7:00 p.m. There are several locations throughout the San José area, the location nearest to City Hall is listed below. Please see the [Carbon Health website](#) for additional locations, dates and times.

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**Return to Duty and Follow-up Testing:** A return to duty test must be conducted when an individual who has violated the prohibited drug or alcohol conduct standards returns to performing safety-sensitive functions. The driver needs to have a verified negative controlled substances test or if applicable, a breath alcohol test value less than 0.02. Follow-up testing is conducted periodically after the individual has returned to work, based on a plan established by Human Resources and communicated to departments.

## 5. Prohibited Substances

A urinalysis will be performed to detect the presence of the illegal substance shown below or its defined metabolite equivalent. A positive test is one in which the concentration meets or exceeds the following DOT levels. Measurements are in nanograms per milliliter.

Type of Drug or Metabolite	Initial Test * (Immunoassay)	Confirmation Test ** (GC/MS)
(1) Marijuana metabolites	<b>50</b>	
(i) Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)		<b>15</b>
(2) Cocaine metabolites (Benzoylecgonine)	<b>150</b>	<b>100</b>
(3) Phencyclidine (PCP)	<b>25</b>	<b>25</b>
(4) Amphetamines	<b>500</b>	
(i) Amphetamine		<b>250</b>
(ii) Methamphetamine		<b>250</b>
(iii) Methylenedioxyamphetamine (MDMA)	<b>500</b>	<b>250</b>
Methylenedioxyamphetamine (MDA)	<b>500</b>	<b>250</b>
(5) Opiate Metabolites		
(i) Codeine/Morphine	<b>2000</b>	
(ii) Codeine		<b>2000</b>
(iii) Morphine		<b>2000</b>
(iv) 6-Acetylmorphine	<b>10</b>	<b>10</b>
(6) Semi-synthetic Opiate		
(i) Hydrocodone/Hydromorphone	<b>300</b>	<b>100</b>
(ii) Oxycodone/Oxymorphone	<b>100</b>	<b>100</b>

\* Immunoassay

\*\* Gas chromatography/Mass spectrometry

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On an initial drug test, a result below the cutoff concentration is reported as negative. If the result is at or above the cutoff concentration, a confirmation test will be conducted automatically by the testing laboratory. On a confirmation controlled substance test, a result below the cutoff concentration for the specific assay method is reported as negative and a result at or above the cutoff concentration for the specific assay method is a confirmed positive.

The use of legally prescribed medications that may contain a controlled substance in concentrations greater than those specified above is prohibited when operating a commercial motor vehicle.

The use of beverages or food containing alcohol or any other substances including medications that produce an alcohol level of 0.04 or greater is prohibited. A safety sensitive driver cannot drink 4 (four) hours prior to work regardless of alcohol level.

Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine. If a verified adulterated or substituted controlled substance test result is received, this will be handled in the same manner as a confirmed positive for a drug or drug metabolite and the employee must be immediately removed from performing safety sensitive functions.

If a controlled substance test result is received indicating that the employee's specimen is negative dilute and the creatinine concentration is greater than or equal to 2 mg/dL but less than 5 mg/dL, the Medical Review Officer will request an immediate recollection under direct observation.

## **6. Consequences of a Positive Alcohol or Drug Test**

Following receipt of the initial report of the verified positive test result, a driver who engages in prohibited conduct (Sections 1 and/or 2 of this policy) shall be removed immediately from performing any and all safety-sensitive functions, including those defined by DOT and such other functions as: any work with vehicles, machinery or tools; any work in the street or a potentially hazardous location, or any other work where drug or alcohol-induced impairment may constitute a danger to the employee or others. If a non-safety sensitive function is not available, the employee may be required to take available paid leave or unpaid leave until he or she is approved to return to full duty.

A positive alcohol breath test between .02 and .04 will result in the removal of the driver from the safety-sensitive function for 24 hours.

A driver will not be hired or promoted if they refuse to submit to a pre-employment drug or alcohol test, or if they test positive for a controlled substance or alcohol test. In addition, disciplinary action may be taken for refusing to submit to any controlled substance or alcohol testing required by this policy.

## **7. Referral, Evaluation and Treatment**

When an employee has violated DOT drug and alcohol regulations, they cannot again perform any DOT safety-sensitive duties for any employer until and unless that employee completes the SAP evaluation, referral, and the education/treatment process set forth in this subpart and in applicable DOT agency regulations and has a verified negative test for controlled substances. The first step in this process is a SAP evaluation.

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Any one of the following constitutes cause for a SAP referral: a verified positive DOT controlled substance test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including adulterating or substituting a urine or other approved specimen) or any other violation of the prohibition on the use of alcohol or controlled substances under a DOT agency regulation constitutes a DOT controlled substance and alcohol regulation violation.

Drivers who have engaged in conduct prohibited by this policy will be:

- Provided resources for evaluation and resolving issues associated with alcohol misuse and/or controlled substance use.
- Evaluated by a SAP who will recommend the appropriate level of assistance for the employee to resolve issues associated with alcohol misuse and/or controlled substance use.
- Investigated for possible disciplinary action.

**First Offense:** In an effort to encourage the employee to take responsibility, the first violation of this policy will result in a formal, mandatory referral to the Employee Assistance Program (EAP), using the established referral procedures, in addition to any disciplinary action the City may impose for violations of this policy. A written record of this referral will be maintained in a restricted confidential employee medical file. Positive controlled substance or alcohol test results and related information will be used only for medical or disciplinary purposes. This does not prohibit the City of San Jose from taking disciplinary action against any employee for a first offense.

A Substance Abuse Professional (SAP) will assess the employee's need for treatment. If treatment is recommended by the SAP, the employee must complete the treatment before they can return to the safety-sensitive duties. An employee declining to be evaluated by the SAP may be subject to disciplinary action independent of any other misconduct.

Successful completion of the treatment will be considered a condition for continued employment. At the department's discretion and subject to the availability of a suitable position, the employee may be permitted to work in a non-safety-sensitive function while undergoing the prescribed treatment.

- Treatment is available through the employee's health insurance plan.
- An employee who enters an approved program shall pay 30% of the treatment costs, and the City will pay the remainder of the cost not covered by the employee's health insurance.
- The employee may use accrued, authorized paid leave (i.e., sick leave, vacation) during their absence for treatment.
- Further details of the Substance Abuse Treatment Program may be obtained by consulting your Memorandum of Agreement or by contacting the Office of Employee Relations.

**Second Offense:** During an employee's career, a second opportunity for treatment may be offered in the event of a relapse. Discipline, which could result in termination, will be imposed for the second positive test itself subject to due process. If a second treatment program is allowed, the employee will be responsible for the full cost.

- Treatment is available through the employee's health insurance plan.

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- Any rehabilitation program must be approved for the employee prior to enrollment in the program.
- The employee may use accrued, authorized paid leave (i.e. sick leave, vacation) during their absence for treatment.
- Further details of the Substance Abuse Treatment Program may be obtained by consulting your Memorandum of Agreement or by contacting the Office of Employee Relations.

**Referral to Substance Abuse Program Procedures**

- All drug tests are reviewed by the MRO. The MRO will sign the chain of custody form.  
  
The MRO calls the employee to inform him/her of a positive result and follows MRO protocol for verification.
- The City's occupational health clinic or a contracted drug and alcohol testing vendor then informs the City's designated employer representative(s) and the Office of Employee Relations.
- The employee's manager or supervisor removes the employee from performing safety-sensitive duties. the designated Department representative contacts the EAP by calling 800-344-4222.
- A SAP is then contacted to conduct an assessment of the employee and determines the employee's treatment plan.
- The employee is then required to complete any treatment recommended by the SAP. Any employee seeking treatment who has work restrictions or needs a leave of absence, shall provide medical verification. Employees with work restrictions will be engaged in the interactive process under the City's Reasonable Accommodation Program and employees who need leave will be provided with information to apply for a leave of absence, including information about Family and Medical Leave (FMLA) and California Family Rights Act (CFRA).
- The SAP representative confirms any recommended treatment was completed with the employer.
- At the conclusion of the treatment, the SAP conducts a post-treatment assessment. The assessment includes a review of the treatment plan, discharge plan, and suggested aftercare.
- A Completion of Treatment letter is generated based upon the recommendations of the treatment program and the SAP. The SAP representative also directly contacts the designated employe representative to expedite communication of the discharge/aftercare plan. A designated employe representative or Employee Relations representative will then inform the appropriate department representative that the treatment has been completed.

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Before a driver returns to work requiring performance of a safety-sensitive function, following a positive test result, they must:

- Follow the rehabilitation program prescribed by the SAP, and
- Obtain a verified negative return-to-duty controlled substance and/or obtain a breath alcohol test level less than 0.02, and
- Submit to unannounced follow-up alcohol and/or controlled substances tests. The number and frequency of such follow-up testing shall consist of at least six tests in the first 12 months.

**DRUG AND ALCOHOL TESTING PROCEDURES****1. Drug Testing Procedures**

**Selection Process for Random Drug Testing:** The City's occupational health clinic will provide a list on a quarterly basis of the employees covered by this policy and select the sample for each testing period. All drivers will have an equal chance of being selected on each testing day. The City's occupational health clinic will notify departments of randomly selected employees. Drivers notified of selection for testing must proceed immediately to the designated testing site. A reasonable amount of transportation time will be allowed. The time allowed between notification and testing is no more than the requisite travel time to the testing site. In the event the employee is on vacation or an extended medical absence, another employee may be selected for testing through the randomization process.

**Collection of Urine (or other approved specimen):** The employee will submit for urine (or other approved specimen) drug testing at the City's occupational health clinic or contracted drug and alcohol testing vendor.

**Split Specimen:** The urine (or other approved) specimen is divided into two containers, each of which is sealed, labeled, and maintained separately. At the request of the employee the "split" specimen can be used for confirmation.

**Documentation and Chain of Custody Procedures:** The City's occupational health clinic or contracted drug and alcohol testing vendor completes the Federal Chain of Custody form certifying that the specimen is properly collected, identified and labeled.

**Laboratory Procedures:** The testing laboratory must be certified by the Department of Health and Human Services (DHHS). The split specimen bottle remains sealed and is stored at the laboratory.

Urine (or other approved) specimens are first tested by a screening procedure. Tests that screen positive must have the substance confirmed by gas chromatography/mass spectrometry (GC/MS), which both identifies the substance correctly and measures its concentration in the urine. Blind samples will be sent to the laboratory at a rate of 1% of all specimens, up to a maximum of 50 blind samples per quarter.

**Reporting of Results:** All controlled substance tests are reviewed and interpreted by the Medical Review Officer (MRO) before they are reported to the employee. The employee will be notified of a

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positive test result by the MRO. After the employee is notified, the City's occupational health clinic representative will inform the employee's Department Director or authorized representative and the Office of Employee Relations of the verified test result.

## 2. Alcohol Testing Procedures

**Random Testing Procedure:** Random alcohol testing must be conducted just before or after an employee's performance of safety-sensitive duties. The number of random tests must equal 10% of all employees covered by this program per year. The City's occupational health clinic will randomly select 10% of the drivers and provide a list to the City. Drivers notified of selection for testing must proceed immediately to the designated testing site. A reasonable amount of transportation time will be allowed. The time allowed between notification and testing is no more than the requisite travel time to the testing site. A certified Breath Alcohol Tester will conduct all breath alcohol testing.

**Method:** Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration approved evidential breath testing (EBT) device operated by a trained Breath Alcohol Tester (BAT).

**Criteria for Positive Test Results:** An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the initial test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from their safety-sensitive position for 24 hours.

**Reporting of Results:** The Department Director or designee will be notified by OER or Human Resources immediately if the alcohol test result is positive. If an employee is taken in for reasonable suspicion testing and tests positive, they City employee accompanying the employee should only be informed of a positive result so they can determine appropriate next steps.

## 3. Dilute or Adulterated Specimens

If a verified adulterated or substituted drug test result is received, this will be handled in the same manner as a confirmed positive test for a controlled substance and the employee will immediately be removed from performing safety-sensitive functions. This action will be taken upon receiving the initial report of the verified adulterated or substituted test result. If a controlled substance test result is received indicating that the employee's specimen was negative dilute with a creatinine level greater than or equal to 2 mg/dL and less than 5 mg/dL, a second collection must take place immediately under direct observation.

## 4. Record Retention

Drug testing records will be maintained by the City's occupational health clinic or contracted drug and alcohol testing vendor. Negative test results will be held for one year and the positive test results will be held for five years. Documentation of employees who refuse to take the controlled substance test will also be included in the records. All records pertaining to controlled substance and alcohol testing will be confidential on a need-to-know basis. Positive controlled substance or alcohol tests results and related information will be used only for medical or disciplinary purposes.

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Approved:

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/s/ Aram Kouyoumdjian  
Director of City Manager's Office  
Employee Relations/Human Resources  
Department

\_\_\_\_\_  
September 9, 2025  
Date

Approved for posting:

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/s/ Jennifer A. Maguire  
City Manager

\_\_\_\_\_  
September 9, 2025  
Date