

CITY OF PORTLAND

**DRUG & ALCOHOL
TESTING**

FOR

**COMMERCIAL DRIVERS
LICENSES**

January, 1997

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PART 1 - OVERVIEW

The City of Portland is committed to the establishment of a drug and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991

All employees who are assigned to duties which require the possession of a Commercial Driver's License (CDL) are affected by this policy and subject to the rules and procedures which follow. All employees who are assigned to duties which require the possession of a Commercial Driver's License (CDL) are subject to the U S Department of Transportation drug and alcohol testing regulations for Commercial Drivers Licenses. This policy is written and is intended to comply with those regulations. The policy is intended to guide employees in the application of the regulations. Where the policy appears to differ from the regulations, the regulations will always apply. A copy of the actual regulations is attached.

The purpose for this policy and the federal drug testing regulations is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

"Drugs" as used in this policy refers to controlled substances as covered by the Omnibus Act and include marijuana, cocaine, opiates, amphetamines and phenocyclidine (PCP).

For purposes of this policy and as they apply to the federal regulations, the terms "employee" and "driver" are the same.

All covered applicants and employees shall be subjected to pre-employment / pre-duty testing, reasonable suspicion testing, random testing, post-accident testing, return to duty testing and follow-up testing as required by the regulations.

Pre-employment drug and alcohol testing costs will generally be paid for by the City. All required drug and alcohol testing of employees including pre-duty, reasonable suspicion, random, return to duty, post-accident, and follow-up testing costs will be paid for by the City.

The City will comply with applicable collective bargaining agreements except where they may conflict with the federal regulations.

All offers of employment with the City of Portland will be made contingent upon testing results. A non-employee applicant who tests positive or who refuses to take required drug and alcohol tests will not be hired and will not be eligible for any employee assistance programs.

Assignments and/or promotions of employees to positions requiring a CDL will be made contingent upon testing results. An employee who tests positive or who refuses to take required drug and alcohol tests will not be appointed and will be removed from further consideration for permanent, temporary or working-out-of-classification assignments within the classification for which the assignment or promotion requiring a CDL was sought. Disciplinary action may also result.

In the event an employee or applicant is unable to provide an adequate urine or breath specimen, the Medical Review Officer (MRO) will determine if there is a reasonable medical explanation. If there is no reasonable medical explanation, the inability will be recorded as a positive test result. However, no employee or applicant will be assigned to any safety sensitive function without first testing negative for drugs or alcohol.

Employees who test positive will be subject to immediate disciplinary action up to and including discharge from the City of Portland. Employees who test positive will also be notified of referral services. Additionally, employees may be subject to CDL prohibitions and penalties under the Omnibus Act and applicable Federal Motor Carrier Safety Regulations.

Employees who refuse to comply with testing requirements will be discharged.

An employee will not be allowed to return to work in a regulated safety sensitive capacity following a drug or alcohol test under the regulations until the employee has a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use. The employee will be compensated for all time lost if the test results are negative. If the test results are positive, all time lost will be unpaid, or, at the bureau's discretion, the employee may be allowed to use vacation or compensatory time.

PART 2 - IMPORTANT DEFINITIONS

The following important definitions are provided as a guide to understanding some of the terms used in this policy. A more complete listing of definitions is found in the regulations included at the end of this policy document (§ 382.107 & 40.3).

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Canceled or invalid test. In drug testing, a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. For purposes of this part, a sample that has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing, a test that is deemed to be invalid under § 40.79 of the federal regulations. It is neither a positive nor a negative test.

Collection site A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collection site person A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen provided by those individuals.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle-

- (1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds), or
- (2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds), or
- (3) Is designed to transport 16 or more passengers, including the driver, or
- (4) 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 Regulations (49 CFR Part 172, subpart F)

Controlled substances mean marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP) (§ 40 21)

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs

- (1) **Inclusions** Damage to motor vehicles that could have been driven, but would have been further damaged if so driven
- (2) **Exclusions.**
 - (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts
 - (ii) Tire disablement without other damage even if no spare tire is available
 - (iii) Headlight or taillight damage
 - (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative

Driver means any person who operates a commercial motor vehicle This includes, but is not limited to Full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer

EBT (or evidential breath testing device). An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs

Medical Review Officer (MRO). A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and

evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions

Refuse to submit (to an alcohol or controlled substances test) means that a driver

- (1) Fails to provide adequate breath for alcohol testing as required by part 40 of the federal regulations, without a valid medical explanation, after he or she has received notice of the requirement for breath testing in accordance with the provisions of the regulations,
- (2) Fails to provide an adequate urine sample for controlled substances testing as required by the federal regulations, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing in accordance with the provisions of the regulations, or
- (3) Engages in conduct that clearly obstructs the testing process

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include

- (1) All time at an employer 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 by the employer,
- (2) All time inspecting equipment or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time,
- (3) All time spent at the driving controls of a commercial motor vehicle in operation,
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth,
- (5) 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, and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Substance abuse professional. A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional, or an addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders

PART 3 - PROHIBITIONS

All employees who are assigned to duties which require the possession of a Commercial Driver's License (CDL) are prohibited from

- (a) Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater (§ 382.201)
- (b) Using or possessing alcohol while on duty (§ 382.205)
- (c) Reporting for duty within four hours after using alcohol (§ 382.207)
- (d) Using alcohol for eight hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first (§ 382.209)
- (e) Refusing to submit to a post-accident alcohol or drug test, random alcohol or drug test, reasonable suspicion alcohol or drug test, or a required follow-up alcohol or drug test (§ 382.211)
- (f) Reporting for duty or remaining on duty when the employee uses any drugs except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the employee that the drug will not adversely affect the employee's ability to safely operate a commercial motor vehicle. The City may require an employee to inform the City of any therapeutic drug use (§ 382.213)
- (g) Reporting for duty, remaining on duty or performing a safety-sensitive function, if the employee tests positive for controlled substances (§ 382.215)

PART 4 - TESTS REQUIRED

- (a) **Pre-Employment & Pre-Duty Testing.** (§ 382.301)

Prior to the first time an employee performs safety-sensitive functions for the City, the employee shall undergo testing for controlled substances as a condition prior to being assigned the safety-sensitive function. The City, at its sole discretion, may waive this requirement by complying with the exception provisions of § 382.301 of the federal regulations.

The City reserves the right to institute pre-employment / pre-duty testing for alcohol as provided for in § 382.301 of the federal regulations.

Pre-duty testing will also be required of covered employees each time an employee returns to work if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing will not be necessary following an absence. An employee will be removed from the random testing pool if they will be off the job for more than 60 calendar days.

Pre-duty testing will also be required of any employee transferred voluntarily or involuntarily to a position covered by these rules & procedures and the regulations.

(b) **Post-Accident Testing.** (§ 382 303)

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As soon as possible following an accident on a public road the City shall test the employee for alcohol and controlled substances, if the accident involved a fatality, or if the employee received a citation and the accident resulted in injury to any person who receives medical treatment away from the scene of the accident or any of the vehicles was damaged to the point that it had to be towed

The following table from the regulations will assist employees and supervisors in understanding when a post-accident test is required

Type of Accident Involved	Citation Issued to City Employee Driver	Test Must be Performed by City
Human Fatality	YES	YES
	NO	YES
Bodily Injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

Alcohol tests If a required test for alcohol is not administered within two hours following the accident, the City must prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test for alcohol is not administered within eight hours following the accident, the City must cease attempts to administer an alcohol test and shall prepare and maintain the same record

Controlled substance tests. If a required test for controlled substances is not administered within 32 hours following the accident, the City must cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered

Employee Responsibilities. An employee who is subject to post-accident testing must remain readily available for such testing or may be deemed by the City to have refused to submit to testing. This does not mean that necessary medical attention for injured people following an accident should be delayed or that the employee may not leave the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care

Use following an accident. An employee required to take a post-accident alcohol test may not use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first

City Responsibilities. The City will provide employees with necessary post accident information, procedures and instructions, so that employees will be able to comply with the requirements of the post-accident testing regulations

Exception Post-accident testing does not apply as a result of an accident that occurs when

- (1) only boarding or alighting from a stationary motor vehicle, or
- (2) involving only the loading or unloading of cargo, or
- (3) in the course of the operation of a passenger car or a multipurpose passenger vehicle by the City unless the motor vehicle is transporting passengers for hire or hazardous materials that require the vehicle to be marked or placarded

(c) **Random Testing.** (§ 382 305)

The City shall conduct random drug and alcohol testing annually in accordance with the minimum annual percentage rate set by the Federal Highway Administration

Alcohol tests. The minimum annual percentage rate for random alcohol testing is currently 25% of the average number of covered employees

Controlled substances tests The minimum annual percentage rate for random controlled substances testing is currently 50% of the average number of covered employees

Process The testing process shall be random. All employees will remain in the pool of employees for each subsequent period, whether or not they have been chosen for testing in the past. The selection of employees for random testing shall be made by a scientifically valid method as provided for in the regulations. The process selected will ensure that all employees have an equal chance of being tested each time selections are made. The City, or its contractor, will use a computerized system in which a random number generating program will be loaded into a computer along with the names and employee's social security number. All random testing will be unannounced and dates selected spread reasonably throughout the calendar year to avoid predictability.

Employees shall be tested for alcohol just before the employee is scheduled to perform his/her safety-sensitive function, during or just after performing such function.

Employees off work due to leaves, vacation and short term layoffs (less than 60 calendar days) will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and tested as soon as practicable upon return to duty.

Employee Responsibilities. Following notification of testing, selected employees shall proceed to the identified collection site immediately.

(d) **Reasonable Suspicion Testing.** (§ 382 307)

The City will conduct reasonable suspicion drug and alcohol testing as required under the regulations

Reasonable suspicion should be confirmed by a second trained supervisor, if one is available, before testing is required (*City Policy*)

Alcohol tests Covered employees will be tested for alcohol whenever there is reasonable suspicion to believe that the employee has engaged in prohibited alcohol use. Reasonable suspicion will be based on specific, contemporaneous, articulable observations made by a trained supervisor, concerning the appearance, behavior, speech or body odors of the employee

Alcohol testing is authorized only if the observations resulting in reasonable suspicion are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with the regulations. An employee may be directed by the City to only undergo reasonable suspicion testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions

The person who makes the determination that reasonable suspicion exists to conduct an alcohol test may not conduct the alcohol test of the employee

If alcohol testing is not administered within two (2) hours, the bureau will prepare and forward to the Bureau of Personnel Services a record stating the reasons the test was not promptly administered. The Bureau of Personnel Services shall maintain on file all records stating the reasons a test was not promptly administered

If alcohol testing is not administered within eight (8) hours, the bureau will cease attempts to administer an alcohol test and will prepare and forward to the Bureau of Personnel Services a record specifying why the test was not administered. The Bureau of Personnel Services shall maintain on file all records stating the reasons a test was not promptly administered

Controlled substances tests Covered employees will be tested for controlled substances whenever there is reasonable suspicion to believe that the employee has engaged in prohibited controlled substances use. Reasonable suspicion will be based on specific, contemporaneous, articulable observations made by a trained supervisor, concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances

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

City Responsibilities The bureau will ensure that the employee under reasonable suspicion is transported to the designated collection or testing site

(e) **Return to Duty Testing** (§ 382 309)

Return to work alcohol tests. An employee will not be allowed to return to work in a regulated safety sensitive capacity following prohibited conduct until the employee has a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. The employee will be compensated for all time lost if the test results are confirmed negative. If the test results are confirmed positive, all time lost will be unpaid, or, at the bureau's discretion, the employee may be allowed to use vacation or compensatory time.

Return to work controlled substances tests. An employee will not be allowed to return to work in a regulated safety sensitive capacity following prohibited conduct until the employee has a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use. The employee will be compensated for all time lost if the test results are confirmed negative. If the test results are confirmed positive, all time lost will be unpaid, or, at the bureau's discretion, the employee may be allowed to use vacation or compensatory time.

(f) **Follow-up Testing** (§ 382 311)

Employees who are allowed to continue employment following prohibited conduct shall be subject to the following follow-up testing requirements:

Follow-up testing will be conducted whenever a SAP determines that an employee is in need of resolving problems associated with drug use, and/or alcohol misuse.

Follow-up testing will be conducted only when the employee is performing safety sensitive functions, just before or just after the employee has performed safety sensitive functions.

Follow-up drug and alcohol testing will be unannounced. The number and frequency of such tests shall be determined by the SAP. Minimally, there shall be:

- At least 6 tests in the first 12 months following the employee's return to duty.
- Testing shall not exceed 60 months from the date of the employee's return to duty. The SAP, however, may terminate the follow-up testing at any time after the first 6 tests if s/he determines the testing is no longer needed.
- All follow-up testing will generally be at the City's expense.

See § 382 311 and 382 605 of the regulations for more details of the requirements of follow-up testing.

PART 5 - TESTING PROCEDURES

The City of Portland, in cooperation with contracted collection and testing facilities shall maintain drug and alcohol testing procedures in compliance with the federal regulations. See § 40.1 through 40.111 of the regulations for details of the testing procedures which must be followed.

PART 6 - CONSEQUENCES

An employee who has engaged in any of the conduct prohibited in the sections above shall be subject to the following consequences per DOT regulations and City of Portland policy

- (a) The employee will be removed from performing safety-sensitive functions, including driving a commercial motor vehicle (§ 382 501)
- (b) The employee will be advised of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs (§ 382 605a)
- (c) The employee must be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use (§ 382 605b)
- (d) Before an employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by the regulations, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance (§ 382 605c1)
- (e) An employee identified in paragraph (c) above as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed and shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the City following the employee's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six tests in the first 12 months following the employee's return to duty. The City may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determines that return-to-duty and follow up testing for both alcohol and controlled substances is necessary for that particular employee (§ 382 605c2)
- (f) An employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from performing safety-sensitive functions, including driving a commercial motor vehicle. The employee will be relieved of duty, driven home and placed on unpaid status according to City procedures or temporarily placed in a non safety-sensitive assignment at the discretion of the employee's supervisor, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test (§ 382 505a & City Policy)

An employee who is found to have any alcohol concentration, but less than 0.04, will be subject to discipline, up to and including discharge (*City Policy*)

- (g) An employee who is found to have an alcohol concentration of 0.04 or greater shall be removed from performing safety-sensitive functions, including driving a commercial motor vehicle. The employee will be relieved of duty, driven home and placed on unpaid

status according to City procedures. In addition the employee must be referred to a SAP for an evaluation and may not return to duty performing safety sensitive functions until the employee has a negative test for alcohol (§ 382 501, 382 605b&c & City Policy)

An employee who is found to have an alcohol concentration of 0.04 or greater will be discharged (*City Policy*)

- (h) An employee who refuses to comply with any testing requirements will be discharged (*City Policy*)
- (i) An employee who refuses to submit to drug and alcohol testing and/or to provide for the release of information as required by the City will be discharged (*City Policy*)
- (j) A non-employee job applicant who tests positive or who refuses to take required drug and alcohol tests will not be hired and will not be eligible for any employee assistance programs (*City Policy*)
- (k) An employee who tests positive or who refuses to take required drug and alcohol pre-employment or pre-duty tests will not be appointed and will be removed from further consideration for permanent, temporary or working-out-of-classification assignments within the classification for which the assignment or promotion was sought. The employee will also be subject to disciplinary action up to and including discharge (*City Policy*)
- (l) An employee who tests positive for drugs following a post-accident test will be discharged (*City Policy*)
- (m) In the event of a post-accident drug and alcohol test, the employee must remain readily available for testing or may be discharged. However, this should not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident to obtain necessary emergency medical care (§ 382 303c & *City Policy*)
- (n) An employee who tests positive for drugs following a random test will be referred to a Substance Abuse Professional (SAP) and will be subject to discharge. An employee who agrees to enter into a "Last Chance Agreement" drafted by the City of Portland, may be allowed to continue employment, at the City's sole discretion (§ 382 605 & *City Policy*)
- (o) An employee who is required to submit to a reasonable suspicion drug test will not be allowed to return to work in a regulated safety sensitive capacity until the test results have been reviewed by the MRO. The employee will be compensated for all time lost if the results are confirmed negative. If the test results are confirmed positive, all time lost will be unpaid, or, at the bureau's discretion, the employee may be allowed to use vacation or compensatory time (§ 382 309b & *City Policy*)
- (p) An employee who tests positive for drugs following a reasonable suspicion test will be discharged (*City Policy*)

- (q) An employee who refuses to be evaluated by a SAP will be discharged (*City Policy*)
- (r) An employee who has previously tested positive for alcohol or drug use must have a negative test result before returning to duty. An employee who has a positive return to duty drug or alcohol test will be discharged (§ 382 309 & *City Policy*)
- (s) An employee who is allowed to continue employment following a positive drug or alcohol test will be subject to follow-up testing as required by the regulations. An employee who has a positive follow-up alcohol or drug test will be discharged (§ 382 605 & *City Policy*)

PART 7 - GENERAL PROCEDURES

The Personnel Director or his/her designee is designated as the City of Portland's drug and alcohol misuse prevention program coordinator. The Personnel Director or designee will coordinate the City of Portland's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991. The Personnel Director or designee will coordinate the City's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991.

- (a) ***Educational materials.*** The City will provide educational materials to covered employees that explain the requirements of this part and the City's policies and procedures with respect to meeting the regulation requirements. The City shall ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol and drug testing and to each covered employee subsequently hired or transferred into a position requiring driving a commercial motor vehicle. The City shall provide written notice to representatives of employee organizations of the availability of this information (§ 382 601)
- (b) ***Designated person to answer questions*** The person designated to answer employee questions about the educational materials required to be made available to employees is David Shaff, Human Resources Coordinator, Bureau of Personnel Services, 823-3511 (§ 382 601b)
- (c) ***Certificate of receipt*** The City will shall ensure that each covered employee is required to sign a statement certifying that he or she has received a copy of these materials described above. The City will maintain the original of the signed certificate and may provide a copy of the certificate to the employee (§ 382 601d)
- (d) ***Supervisor training.*** The City will ensure that supervisors designated to determine reasonable suspicion receive at least 60 minutes of drug use training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances (§ 382 603)
- (e) ***Medical Review Officer (MRO) notifications to the City and record retention for controlled substances***
The City of Portland, in cooperation with contracted collection and testing facilities shall maintain notification and record retention procedures in compliance with the federal

regulations See § 382 407 and 382 409 of the regulations for more details of the requirements of MRO notifications and record retention for controlled substances

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The Medical Review Officer (MRO) will report to the person designated by the Personnel Director to coordinate the City of Portland Drug and Alcohol Testing Policy That person will then be responsible for notifying the appropriate management representatives in the employee's bureau of the results of any drug or alcohol test The bureau representatives will then inform the employee of the results

(f) ***Notifications. (§ 382 411)***

The City shall notify an employee or job applicant of the results of a pre-employment controlled substance test conducted under this part, if the employee or job applicant requests such results within 60 calendar days of being notified of the disposition of the employment application

The City shall notify an employee of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this part if the test results are verified positive The City shall also inform the employee which controlled substance or substances were verified as positive

The City program coordinator shall make reasonable efforts to contact and request each employee who submitted a specimen under the City's program, regardless of the employee's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the employee

The designated management official shall immediately notify the medical review officer that the employee has been notified to contact the medical review officer within 24 hours

(g) ***Inquiries for drug and alcohol information from previous employers.***

The federal regulations require that the City must, pursuant to the driver's written authorization, inquire about certain information on a driver from the driver's previous employers, during the preceding two years from the date of application, which are maintained by the driver's previous employers under the federal drug and alcohol testing regulations See § 382 413 of the regulations for details of these inquiries

(h) ***Referral, evaluation and treatment.***

An employee who has engaged in prohibited conduct shall not perform safety-sensitive functions, including driving a commercial motor vehicle, unless the employee has met the requirements outlined in the paragraphs below The City of Portland shall not permit an employee who has engaged in prohibited conduct to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the employee has met the requirements outlined in the paragraphs below (§ 382 503)

(1) An employee who has engaged in prohibited conduct will be advised by the City of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs (§ 382 605a)

- (2) An employee driver who engages in prohibited conduct must be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use (§ 382 605b)
 - (3) Before an employee returns to duty requiring the performance of a safety- sensitive function after engaging in prohibited conduct, the employee shall undergo a return to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance (§ 382 605c1)
 - (4) In addition, each employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, must be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed in paragraph 2 above, and shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the City following the employee's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six tests in the first 12 months following the driver's return to duty. The employer may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determines that return-to-duty and follow up testing for both alcohol and controlled substances is necessary for that particular driver (§ 382 605c2)
- (i) **Retention of records.** The City shall maintain records of its alcohol and drug use prevention programs as required by the regulations and will ensure its compliance with applicable provisions of the Omnibus Act's requirements regarding the City's management information system, retention and confidentiality of records. The records shall be maintained in a secure location with controlled access. See § 382 401 to 382 413 of the regulations for details.
 - (j) **Reporting of results.** The City shall report test results as required by the regulations. See § 382 303b and 382 403 of the regulations for details.

35597

RESOLUTION No.

Approve a draft Drug & Alcohol Testing Policy for employees who operate commercial motor vehicles in order to comply with federal drug & alcohol testing regulations (Resolution)

WHEREAS, the United States Congress passed the Omnibus Transportation Employee Testing Act of 1991 which requires drug and alcohol testing of safety-sensitive employees in the aviation, motor carrier, railroad and mass transit industries, and

WHEREAS, the U S Department of Transportation (DOT) published rules mandating anti-drug and alcohol misuse prevention programs in February 1994, and

WHEREAS, the February 1994 rules expand and supplement existing drug and alcohol testing to require implementation of drug and alcohol testing for all operators of commercial motor vehicles, and

WHEREAS, the City of Portland employs approximately 460 employees who operate commercial motor vehicles and who are covered by the federal drug and alcohol testing regulations, and

WHEREAS, the federal regulations require the City of Portland to implement the drug and alcohol testing for employees who operate commercial motor vehicles, and

WHEREAS, the City of Portland recognizes illegal drug use and excessive use of legal drugs and alcohol as a threat to the public welfare and the health, safety and productivity of the employees of the City, and

WHEREAS, the City of Portland has a strong commitment to its employees to provide a safe work environment and to promote high standards of employee fitness. Consistent with the intent of this commitment, the City establishes this policy regarding drug and alcohol testing, and

WHEREAS, the City of Portland has no intention of interfering with the private lives of its employees, the City expects its employees to report to work in a condition to perform their duties in a safe, effective and efficient manner, and

WHEREAS, it is the goal of this policy to establish and maintain a work environment that is free from the effects of drug and alcohol abuse

NOW, THEREFORE, BE IT RESOLVED that the City Council of Portland, Oregon does hereby approve the draft Drug & Alcohol Testing Policy for employees who operate commercial motor vehicles attached hereto as Exhibit A

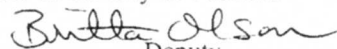
BE IT FURTHER RESOLVED that the Bureau of Personnel is directed to complete any further bargaining obligations under the law with the DCTU bargaining unit and return to the Council with a final Drug & Alcohol Testing Policy to be adopted by this Council through an ordinance

Adopted by the Council,

APR 02 1997

Mayor Katz
Janice Deardorff
March 21, 1997

BARBARA CLARK
Auditor of the City of Portland

By 
Deputy

Title

Approve a draft Drug & Alcohol Testing Policy for employees who operate commercial motor vehicles in order to comply with federal drug & alcohol testing regulations (Resolution)

<p align="center">INTRODUCED BY</p> <p>Mayor Vera Katz</p> <p align="center">NOTED BY COMMISSIONER</p> <p>Affairs</p> <p>Finance and Administration <i>uk HZ</i></p> <p>Safety</p> <p>Utilities</p> <p>Works</p> <p align="center">BUREAU APPROVAL</p> <p>Bureau <i>Janice Deardorff</i> Personnel Services</p> <p>Prepared for Janice Deardorff By David Shaff Dated March 21, 1997</p> <p>Budget Impact Review</p> <p><input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not Required</p> <p>Bureau Head <i>Tim Grewe</i> Tim Grewe</p>	<p align="right">Filed MAR 28 1997</p> <p align="center">Barbara Clark Auditor of the City of Portland</p> <p>By <u><i>Cay Kirchner</i></u> Deputy</p> <p>For Meeting of _____</p> <p>ACTION TAKEN</p>
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AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS		
				YEAS	NAYS
Consent <input checked="" type="checkbox"/>	Regular	Francesconi	Francesconi	<input checked="" type="checkbox"/>	
NOTED BY		Hales	Hales	<input checked="" type="checkbox"/>	
City Attorney <i>Sten</i>		Kafoury	Kafoury	<input checked="" type="checkbox"/>	
City Auditor		Sten	Sten	<input checked="" type="checkbox"/>	
City Engineer		Katz	Katz	<input checked="" type="checkbox"/>	