

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## 1. POLICY OBJECTIVE

- 1.1 To provide for a work environment free of drugs and alcohol among employees performing safety sensitive and driving-related functions and to ensure City compliance with federal regulations.
- 1.2 To meet the requirements of the Omnibus Transportation Testing Act of 1991, including pre-employment, pre-placement, random, post accident, reasonable suspicion, return to work and follow-up drug and alcohol testing.

## 2. REFERENCES

- 2.1 United States Department of Transportation regulations, "Procedures for Transportation Workplace Drug and Alcohol testing Programs" 49 CFR part 40.
- 2.2 United States Department of Transportation, Federal Highway Administration (FHWA) regulations, "Controlled Substances and Alcohol Use and Testing" 49 CFR parts 381, et al.
- 2.3 Federal Drug Free Workplace Act of 1988.
- 2.4 City of Eureka Drug-Free Workplace policy.

## 3. APPLICABILITY

- 3.1 The operation of commercial motor vehicles requiring a Commercial Drivers License is a safety-sensitive function and employees performing this function are covered by this policy and the Federal Highway Administration (FHWA) regulations.
- 3.2 A listing of positions which are covered by this policy is attached as Appendix "C" to this policy and will be maintained by the Personnel Department.
- 3.3 Pursuant to 49 CFR 382.113, each employee, as described in 3.2 above, will be required to be tested in accordance with 49 CFR Part 382, et al., prior to performing a safety-sensitive function. The conditions requiring the testing of designated employees are described in this policy.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

#### 4. DEFINITIONS

- 4.1 ACCIDENT – an accident involving either: a) the loss of human life (FHWA); or b) resulting in a moving violation citation to a covered employee from the law enforcement agency investigating the accident (FHWA).
- 4.2 ALCOHOL – the intoxicating agent in beverage alcohol, ethyl alcohol, or other low-molecular weight alcohol, including methyl or isopropyl alcohol.
- 4.3 ALCOHOL CONCENTRATION – the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.
- 4.4 ALCOHOL USE – The consumption of any beverage, mixture or preparation, including any medication or food, containing alcohol.
- 4.5 COMMERCIAL MOTOR VEHICLE – is 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 of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.
  - (2) Has a gross vehicle weight rating of 26,001 or more pounds.
  - (3) Is designed to transport 16 or more passengers including the driver.
  - (4) Is of any size and is used in the transportation of hazardous materials requiring placards.
- 4.6 CONTROLLED SUBSTANCES – marijuana, amphetamine, opiates, phencyclidine (PCP), cocaine or methamphetamine.
- 4.7 CONFIRMATION TEST – for alcohol testing, is a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath. For controlled substances testing, it is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.
- 4.8 COVERED EMPLOYEE – an employee who is required as a condition of employment to operate, drive or maintain a commercial motor vehicle, possess the

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

applicable commercial driver license, and perform safety-sensitive driving and driving-related functions.

- 4.9 EVIDENTIAL BREATH TESTING DEVICE (EBT) – is a device 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).
- 4.10 MEDICAL REVIEW OFFICER (MRO) – is 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.
- 4.11 NEGATIVE TESTS – a test result which is reported to the City and indicates that there are insufficient or no controlled substances and/or alcohol present in a sample in an amount sufficient to generate a positive result.
- 4.12 ON-DUTY TIME – as that phrase is defined by federal regulations and this policy, means all of the time from the time a covered employee begins to work, is required to be in readiness to work, until the time he or she is relieved for work and all responsibility for performing work. It also includes all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the testing requirements.
- 4.13 PERFORMING A SAFETY-SENSITIVE FUNCTION – a driver is considered to be 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.
- 4.14 POSITIVE TEST – a confirmed test result which is at or above the positive test threshold for controlled substances pursuant to the Department of Health and Human Services (DHHS) guidelines or above 0.04 alcohol concentration for the covered employee.
- 4.15 REFUSAL – a failure to comply with the testing process including an inability to provide a urine specimen or breath sample without a valid medical explanation, a verbal refusal, obstructive behavior or physical absence which precludes completion of the test, or leaving the accident scene without a valid reason before the test has been conducted.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

4.16 SAFETY-SENSITIVE FUNCTION – For purposes of this policy, shall mean any of the functions defined in Title 49 of the Code of Federal Regulations. More specifically, safety sensitive functions include any functions performed by a covered employee during on-duty time and include:

1. All time at a carrier or shipper plant terminal, facility or other property waiting to be dispatched unless the driver has been relieved from duty by the Employer. (FHWA)
2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) or otherwise inspecting, servicing, or conditioning any commercial motor vehicles at any time. (FHWA)
3. All time spent at the driving controls of a commercial motor vehicle. (FHWA)
4. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth). (FHWA)
5. All time loading or unloading a commercial motor 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. (FHWA)
6. All time spent performing the driver requirements associated with an accident. (FHWA)
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (FHWA)

4.17 SUBSTANCE ABUSE PROFESSIONAL (SAP) – is 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 an clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

## 5. PROHIBITED CONDUCT

- 5.1 No covered employee 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.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

- 5.2 No covered employee shall remain on duty, or operate a commercial motor vehicle while that employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
- 5.3 Covered employees shall not use or consume alcohol, including medication or food that contains alcohol, while performing safety-sensitive functions.
- 5.4 No covered employee shall perform safety-sensitive functions within four (4) hours after consuming alcohol.
  - 5.4.1 Any covered employee who is required to be on standby duty and is called back to work, will be asked by his/her supervisor if he or she has consumed alcohol within the past four (4) hours. If the employee states "yes," the employee will not be allowed to perform safety-sensitive functions. (FHWA)
- 5.5 Covered employees shall not consume alcohol within eight (8) hours after an accident or until completion of a post-accident alcohol test, whichever occurs first.
- 5.6 Covered employees shall not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up controlled substance and/or alcohol test.
  - 5.6.1 Covered employees or job applicants who refuse to submit to a pre-employment/pre-placement controlled substance and/or alcohol test shall not be permitted to perform safety-sensitive functions.
  - 5.6.2 Covered employees who refuse to submit to a return to duty controlled substance and/or alcohol test shall be discharged from employment.
- 5.7 Covered employees shall not report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee has tested positive on a controlled substance test or has used any controlled substance, including over the counter and prescribed medication, unless a physician has advised the employee, and the City has been notified in writing, of the use of the controlled substance; and has advised the City and employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.
- 5.8 Any employee who engages in conduct described by 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, or 5.7 above, could be subject to disciplinary action up to and including termination.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## 6. OTHER ALCOHOL RELATED CONDUCT

- 6.1 No covered employee 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 until the start of the employee's next regularly scheduled duty period, but no less than twenty-four (24) hours following administration of the test. If the employee is prohibited from performing any job function, the employee will not be paid his/her usual salary for the period of time he/she does not perform a job function. (FHWA)
- 6.2 Any employee who engages in conduct described in 6.1 above, could be subject to disciplinary action, up to and including termination.

## 7. TRANSPORTATION OF EMPLOYEE

- 7.1 If a covered employee must take a test pursuant to Sections 10 or 12 of this policy for alcohol or controlled substances, the employee will be transported to the testing site by a supervisor. The supervisor will wait until the test is completed and then transport the employee back to his or her job site or home, whichever is appropriate.
- 7.2 If a covered employee who takes a test pursuant to Section 9, 11, 13, or 14 of this policy and produces a test result indicating an alcohol concentration equal to or greater than 0.02, the collection site will contact the City immediately and have the employee stay there until that employee is transported to his or her job site or residence by the City, whichever is appropriate.

## 8. TESTING PROCEDURES

- 8.1 All tests conducted pursuant to this policy shall comply with the requirements of applicable federal law. See Appendix "B".
- 8.2 In accordance with 49 CFR, 382.505, when an employee is tested pursuant to Sections 9, 10, 11, 12, 12, or 14 of this policy, and the alcohol concentration is found to be between 0.02 and 0.039, the employee shall be subject to Section 6 above.
- 8.3 Prior to performing an alcohol or controlled substance test, the City shall notify the employee that the alcohol or controlled substance test is required by law (49CFR, 382.113). No supervisor shall require an employee to have these tests done, other than defined by this policy.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## 9. PRE-EMPLOYMENT TESTING

- 9.1 An applicant seeking a position which requires, as a condition of employment, the operation, driving or maintenance of a commercial motor vehicle and possession of a commercial driver license shall be controlled substance and alcohol tested prior to the performance of safety-sensitive functions. An applicant shall not be hired if the controlled substance test is positive or the alcohol content is over .02.
- 9.2 A current employee applying for, and who does not currently hold, a position in which the employee is required as a condition of employment to operate, drive or maintain a commercial motor vehicle license shall be controlled substance and alcohol tested prior to the performance of safety-sensitive functions. The employee shall not be appointed if the controlled substance test is positive or the alcohol content is over .02.
- 9.3 If a current employee's alcohol test shows an alcohol content from .02 to .039, then Section 6 above applies.

## 10. POST-ACCIDENT TESTING

- 10.1 A covered employee, while driving a commercial vehicle, who is involved in an accident that results in the loss of human life; or the covered employee being issued a moving violation citation, shall be tested for alcohol and controlled substances. (FHWA)
- 10.2 A covered employee shall remain readily available for testing after an accident until tests are completed pursuant to 10.3 or 10.4 of this policy.
- 10.3 A covered employee shall be tested for alcohol within two (2) hours following the accident and under no circumstances later than eight (8) hours. If the testing is not completed within two (2) hours, the supervisor shall document the cause for the delay. If the testing is not completed within eight (8) hours, the supervisor shall cease attempts to test and document the reason the test was not conducted.
- 10.4 Employees shall be tested for controlled substances within thirty-two (32) hours following an accident. If the testing is not completed within thirty-two (32) hours, the supervisor shall cease attempts to test and document why the testing was not conducted.
- 10.5 Failure of the covered employee to remain available for testing as set forth in 10.2 constitutes a refusal.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

- 10.6 Nothing in this policy is intended to delay obtaining medical treatment after the accident, or to prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.
- 10.7 An accident that does not involve the results in 10.1 may still result in reasonable suspicion testing of covered employee(s), if the criteria for such testing are met.

### 11. RANDOM TESTING

- 11.1 The City shall randomly select covered employees for alcohol and controlled substances testing during each calendar year, in accordance with applicable federal law. The minimum annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of covered employees, until further notification is received from the Federal Department of Transportation. The minimum annual percentage rate for controlled substances testing shall be fifty percent (50%) of the average number of covered employees, until further notification is received from the Federal Department of Transportation.
- 11.2 The selection of covered employees for random alcohol and controlled substances testing shall be made by a scientifically valid method. Under the selection process used, every covered employee shall have an equal chance of being tested each time selections are made.
- 11.3 The City shall ensure that the random tests are unannounced and that the dates for administering the random tests are spread reasonably throughout the calendar year. Every covered employee who is notified of selection for random testing shall cease to perform safety-sensitive functions and shall immediately proceed to the test site.
- 11.4 A covered employee shall be subject to random alcohol testing at the following times: while the covered employee is performing safety-sensitive functions; just before the covered employee is performing safety-sensitive functions; or just after the covered employee has ceased performing such functions.
- 11.5 Substitute employees, if they are also covered employees, are subject to random testing.
- 11.6 In the event a covered employee who is selected for a random test is on vacation or off-duty, the City can either select another driver or keep the original selection confidential until the driver returns.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## 12. REASONABLE SUSPICION TESTING

12.1 The City shall require a covered employee to submit to an alcohol or controlled substances test, as appropriate, when the City has reasonable suspicion to believe that the employee has engaged in prohibited conduct.

12.2 Reasonable suspicion is based on articulable, specific, and contemporaneous observation concerning the appearance, behavior, speech, body odor, or indications of the chronic use or withdrawal effects of alcohol and controlled substances. These observations shall be made by a trained supervisor immediately prior to, during or immediately after the employees workshift.

12.2.1 Whenever practicable, it is recommended that the first trained supervisor then request an observation by a second trained supervisor to confirm or deny the need for Reasonable Suspicion Testing.

12.3 A covered employee shall be tested for alcohol within two (2) hours from the observation, and under no circumstances later than eight (8) hours. Supervisors shall document the observations made, and if the testing is not completed within two (2) hours, such documentation shall include the cause for the delay. If the test is not administered within eight (8) hours, attempts to obtain a test shall cease and the reasons for not administering the test shall be recorded. The employee may be directed to have an alcohol test only if the observation is made just prior to, during, or immediately following the performance of safety-sensitive functions.

12.3.1 The supervisor who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

12.4 It is recommended that a covered employee shall be tested for controlled substances within thirty-two (32) hours of the supervisor's reasonable suspicion determination that the covered employee engaged in prohibited conduct. If the test is not administered within thirty-two (32) hours, attempts to obtain the test shall cease and the reasons for not administering the test shall be recorded.

12.5 The observation and determination that a reasonable suspicion exists will be made by a supervisor trained in detecting the symptoms of alcohol misuse and use of controlled substances as per the regulations. The training shall consist of at least sixty (60) minutes of training on alcohol misuse and at least an additional sixty (60) of training on controlled substances use.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

- 12.6 After a reasonable suspicion assessment for alcohol has been made and no test is given, a covered employee shall not perform safety-sensitive functions until the employee has a return to duty test with the results measuring less than 0.02 alcohol concentration or twenty-four (24) hours have elapsed since the observation.
- 12.7 The supervisor who makes the observations, within twenty-four (24) hours of the observed behavior, will prepare a written report of the observed behavior. This report will be forwarded to the City's confidential file for filing purposes.

### 13. NON-COMPLIANCE WITH POLICY – ZERO TOLERANCE

- 13.1 It is the City's intention to have zero tolerance to violations of this drug and alcohol testing policy. No applicant shall be employed who test positive on a pre-employment controlled substances and/or alcohol test. No current City employee shall be promoted who tests positive on a pre-employment controlled substances and/or alcohol test.
- 13.2 A City employee who tests positive on a pre-employment needs random, and reasonable suspicion or post-accident controlled substances and/or alcohol tests shall be terminated from City employment, except as otherwise provided in Section 13.3
- 13.3 A City employee who tests positive on a pre-employment or post-accident controlled substances and/or alcohol test may request of the City Manager a "last chance" opportunity to conform to the City's policies concerning drugs and alcohol and the drug-free workplace. Such a request must be made during the ten (10) day response period after the employee has received his/her Notice of Intention to Terminate Employment. The City manager may consider the severity of the violation of this policy and the individual circumstances surrounding the violation, but it shall be at the City Manager's sole discretion to grant a "last chance" opportunity.
- 13.4 A City employee who requests a "last chance" opportunity and is granted such by the City Manager shall voluntarily enter into a "last chance" agreement (Agreement) with the City of Eureka (Appendix D). It will be the employee's responsibility to comply completely with the terms of the Agreement. Violation of any term or condition in the Agreement will be grounds for immediate termination.
- 13.5 A covered employee who violates any of the prohibitions outlined in Section 5 shall be immediately relieved of all duties.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

13.6 A covered employee who violates any of the prohibitions outlined in Section 5, and who is granted a “last chance” opportunity pursuant to Section 13.3, shall:

- a. Be referred to and submit to an examination by a SAP at the employee’s expense; and
- b. Undergo treatment and testing as indicated by the SAP and required by law as noted in Section 14 of this policy at the employee’s expense; and
- c. Be tested in compliance with Section 15 of this policy.

13.7 Refusal to submit to any required test (Sections 9, 10, 11, 12, 14, or 15) shall be deemed a positive test result.

13.7.1 The following actions shall constitute refusal to submit to a test:

- Refusal to take a required test.
- Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation
- Tampering or attempting to adulterate the specimen or collection procedure.
- Leaving the scene of an accident without a valid reason before the tests have been conducted.

13.8 A covered employee who engages in any action described in 13.7.1, or has an alcohol concentration of .02 or higher as determined by testing performed under 9, 10, 11, 12, 14, or 15 above; or has a positive drug test result as determined by the testing performed under 9, 10, 11, 12, 14, or 15 above; shall not be hired (Section 9 above) or shall be relieved of all functions and will be terminated from employment.

13.9 A covered employee who violates this policy may be liable for penalties as provided in federal statute.

#### 14. RETURN TO DUTY TESTING

14.1 Before a covered employee returns to duty requiring the performance of a safety-sensitive function, after engaging in prohibited conduct (see Section 5), he/she shall undergo a return to duty alcohol test with a result less than .02 and/or a controlled substance test with a verified negative result.

14.2 All return to duty testing will be paid by the employee.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

### 15. FOLLOW-UP TESTING

15.1 A covered employee who has been referred to an SAP pursuant to this policy shall be subject to unannounced controlled substance and/or alcohol testing, performed by the City's designated testing facility, as directed by the SAP.

15.1.1 The follow up alcohol testing may take place only just prior to, during, or immediately following the performance of safety-sensitive functions.

15.2 There shall be a least six (6) tests within the first twelve (12) month following return to duty.

15.3 The period for follow-up testing shall not exceed five (5) years from the date of return to work.

15.4 Follow-up testing is separate from and in addition to any testing required by Sections, 9,10,11,12, and 14 of this policy.

15.5 All follow up testing will be paid for by the employee.

### 16. MEDICAL REVIEW OFFICER (MRO)

16.1 If the controlled substance test produces a positive result, the MRO will review such results in accordance with 49 CFR 40.33.

16.2 Prior to making the decision to verify a positive test result for a covered employee, the MRO shall give the employee an opportunity to discuss the test result with him or her.

16.2.1 If the employee chooses to have the split sample tested, the employee will pay for such testing.

16.3 If the MRO is unable to contact the employee, he/she shall call the City, who shall contact the employee and direct him/her to call the MRO immediately.

16.3.1 The City shall document the time and date of the instruction to the employee to contact the MRO.

16.4 The MRO will notify the City as to whether or not the test is negative or positive, based on the review of the test results and communication or non-communication with the employee in accordance with 49 CFR 40.33.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

16.5 It the test is positive, the MRO will immediately notify the designated City representative of the results and, in the case of an employee who is granted a “last chance” opportunity pursuant to Section 13.3, the City will refer the case to the designated Substance Abuse Professional (SAP).

#### 17. SUBSTANCE ABUSE PROFESSIONAL (SAP)

17.1 The employee who tests positive for the presence of controlled substances or has an alcohol concentration greater than 0.04, and has been granted a “last chance” opportunity pursuant to Section 13.3, shall contact the designated SAP for evaluation and for treatment.

17.2 The SAP will determine what, if any, assistance the employee needs in resolving problems associated with alcohol misuse and controlled substance use.

17.3 If the SAP determines assistance is necessary, the follow-up testing program, as described in Section 15 will be invoked. However, whether or not assistance is determined necessary by the SAP, the employee will be tested in accordance with Section 15.2.

17.4 The employee will bear the cost of evaluation and treatment provided for under the law.

#### 18. RECORDS RETENTION

18.1 The City shall retain all records in accordance with applicable federal law, as set forth in Appendix “A”.

18.2 Upon written request from the employee, he/she may receive a copy of his/her records pertaining to his/her use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests.

18.3 Employee records shall be made available to a subsequent employer (or employee identified person) upon the receipt of the employee’s written consent for such release of those records.

18.4 The City shall notify an applicant driver of the results of a pre-employment test if the driver requests such notification within sixty (60) days of the test results.

18.5 The city shall notify the employee of the results of a random, reasonable suspicion or post-accident test for controlled substances, if the test was positive. The

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

employer will also notify the employee of the substance or substances that were verified as positive.

#### 19. EMPLOYEE INFORMATION

- 19.1 The City shall distribute this policy to every covered employee, on an individual basis, prior to the implementation of the alcohol and controlled substance testing policy. The City shall also distribute this policy to every covered employee hired after the adoption of the policy, and to every covered employee transferred into a position requiring driving a commercial vehicle.
- 19.2 Employees will be required to sign a statement acknowledging receipt of the policy.
- 19.3 The person responsible for answering employee questions concerning this policy shall be the Personnel Director or their designee.

#### EFFECT

- 20.1 This policy shall take effect January 1, 1996.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

### APPENDIX A

## ALCOHOL AND DRUG TESTING REGULATIONS FOR COMMERCIAL MOTOR VEHICLE DRIVERS

### RETENTION OF RECORDS

This section explains which controlled substance and alcohol test records must be completed and maintained, where they must be maintained and for how long. All records shall be maintained in a secure location with controlled access.

Required period of retention:

<u>Document to be Maintained</u>	<u>Period Required to be Maintained</u>
Alcohol test results indicating a breath alcohol concentration of 0.02 or greater	5 years
Verified positive controlled substance test results	5 years
Refusals to submit to required alcohol or controlled substance tests	5 years
Required Calibration of Evidential Breath Testing Devices (EBTs)	5 years
Substance Abuse Professional's (SAP's) evaluations and referrals	5 years
Annual calendar year summary	5 years
Records related to the collection process (except calibration) and required training	2 years
Negative and cancelled controlled substance test results	1 year
Alcohol test results indicating a breath alcohol concentration less than 0.02	1 year

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

### TYPES OF RECORDS REQUIRED TO BE MAINTAINED

1. Records related to the collection process:
  - Collection logbooks (if used).
  - Documents related to the random selection process.
  - Calibration documentation for EBTs.
  - Documentation of Breath Alcohol Technician (BAT) training.
  - Documentation of reasoning for reasonable suspicion testing.
  - Documentation of reasoning for post-accident testing.
  - Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing.
  - Consolidated annual calendar year summaries.
2. Records related to the driver's test results.
  - City's copy of the alcohol test form, including results.
  - City's copy of the drug test chain of custody and control form.
  - Document sent to the City by the Medical Review Officer.
  - Documentation of any driver's refusal to submit to a required alcohol or controlled substance test.
  - Documents provided by a driver to dispute results of test.
3. Documentation of any other violation of controlled substance use or alcohol misuse rules.
4. Records related education and training:
  - Records pertaining to substance abuse professional's (SAP's) determination of driver's need for assistance.
  - Records concerning a driver's compliance with SAP's recommendations.
5. Records related to education and training:
  - Materials on drug and alcohol awareness, including a copy of the City's policy on drug use and alcohol misuse.
  - Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials.
  - Documentation of supervisor training.
  - Certification that training conducted under this rule complies with all requirements of the rule.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

6. Records related to drug testing:

- Agreements with collection site facilities, laboratories, MROs, and consortia.
- Names and positions of officials and their role in the Employer's alcohol and controlled substance testing program.
- Monthly statistical summaries of urinalysis (40.29(g)(6)).
- The City's drug testing policy and procedures.

LOCATION OF RECORDS:

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the Employer's principal place of business within two (2) business days after a request has been made by an authorized representative for the Federal Highway Administration.

For example: Specific records may be maintained on computer or at a regional or terminal office, provided the records can be made available upon request from FHWA within two (2) working days.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## APPENDIX B

### ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROCEDURES AND POLICY

#### INTRODUCTION

The City of Eureka shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include, but are not limited to the following information. In all cases, the requirements of 49 CFR Part 40 shall be followed.

#### CONTROLLED SUBSTANCES TESTING

##### APPLICABLE DRUGS

1. Employees subject to controlled substances testing shall be tested for the following substances:
  - Marijuana
  - Opiates
  - Phencyclidine (PCP)
  - Cocaine
  - Amphetamines
2. Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration check (PH, specific gravity or creatinine). The test may be cancelled if adulterants are detected. The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines.
3. Employees shall have individual privacy when providing a specimen except when:
  - a. The employee presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1.0C or 1.8oF from the specimen temperature.
  - b. The collector observes the employee attempting to adulterant or substitute the specimen.
  - c. The employee's last provided specimen was determined to be diluted.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

d. The employee has previously had a verified positive test.

In 'a' and 'b' above, the employee must provide a specimen under direct observation.  
In 'c' and 'd' above, the City may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
  - a. The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
  - b. The employee will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets, etc.
  - c. The donor shall be required to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
  - d. A bluing agent shall be added to the toilet bowl and donor may flush the toilet only after releasing the specimen to the collector.
  - e. The specimen must be a least 45 ml to be acceptable.
  - f. The collector must measure the specimen temperature within four (4) minutes of urination to determine sample acceptability.
5. If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four (24) ounces of fluids to drink. The donor shall have a period of up to two (2) hours to produce an acceptable sample. If the donor is unable to produce a sample without a valid medical reason, the City may consider the circumstance to be a refusal to test.
6. The specimen shall be divided into two (2) parts. The collector shall pour 30 ml of urine from the specimen bottle into a second bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the split sample.
7. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
8. The collector and donor must be present together to complete the following process:
  - a. Seal and label the specimen bottle
  - b. Donor initials the bottle label or seal.
  - c. The chain of custody forms must be signed and dated.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

9. If an employee refuses to cooperate with the collection process, the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

#### SPLIT SAMPLE

1. If the test result of the primary specimen is positive, the employee may, no later than seventy-two (72) hours, request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a DHHS-certified laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) in the primary specimen, the MRO shall cancel the test and report the cancellation to the City.
4. All costs associated with the analysis of the split sample shall be the responsibility of the employee unless the result of the split sample is cancelled.

### ALCOHOL TESTING

#### TESTING PROCEDURES

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing the test results. Tests shall be conducted by a Breath Alcohol Technician (BAT).
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six (6) seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

6. If the result of the screening test is less than 0.02 breath alcohol concentration, no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test, the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen (15) minutes and no more than twenty (20) minutes from the screening test.

The fifteen (15) minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent a artificially high reading.

9. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
10. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the City may determine the circumstance to be a refusal to test.

#### INABILITY TO PROVIDE ADEQUATE BREATH

1. If the employee fails to provide an adequate amount of breath, he/she shall provide the City with an evaluation from a licensed physician, who is acceptable to the City, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath, then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## APPENDIX C

### COVERED EMPLOYEES (by Job Title)

Equipment Mechanic  
Heavy Equipment Operator  
Maintenance Crew Supervisor  
Maintenance Worker I  
Maintenance Worker II  
Parts/Inventory Control Clerk  
Senior Maintenance Worker  
Treatment Plant Operator I  
Treatment Plant Operator II  
Utility Worker I  
Utility Worker II

Note: Not every employee in each of the above listed classes is required to possess a commercial driver's license, or to drive covered vehicles, as a condition of employment.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING  
POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

## APPENDIX D

### AGREEMENT

The parties agree to the following:

Effective \_\_\_\_\_ as a condition of \_\_\_\_\_'s (the employee) continued employment with the City of Eureka (City), and in lieu of the proposed discipline, it is hereby agreed by the parties that:

1. Employee understands and agrees that his/her condition on (date) violated the City's Drugs/Alcohol Policy, and the City's Personnel Rules and Regulations, and the terms of his/her driver's license, which are job requirements. Employee understands and agrees that the proposed discipline for this misconduct is justified. Employee agrees that (s)he is being given one last chance to become a satisfactory employee, and that the proposed discipline is held in abeyance by the City subject to his/her meeting the terms and conditions of this Agreement.
2. If Employee fails to fulfill any provisions of this Agreement, employee will be terminated from employment. Prior to termination, the employee's Department head will discuss provision violations with the Employee. The Department Head, at his/her discretion, will then decide if the provisions of this Agreement have been violated. Before the termination is finalized, the City Manager or designee will review the employee's written response. The Employee gives up the right to appeal the termination to the Personnel Board. It is agreed that no further attempt to enroll the employee in any type of rehabilitation program will be made. Employee hereby waives the right to appeal this Agreement to the Personnel Board.
3. Employee agrees to follow and complete, in a timely fashion, a mandatory referral to the City's Substance Abuse Professional (SAP), and to follow the advice of the SAP. This may include the completion of an alcohol/drug detoxification and recovery plan (Plan). The employee will cooperate with requests made by the SAP for information, and with the SAP's effort to establish the Plan. It is the employee's obligation to successfully complete the Plan, including follow-up testing, within the timeframe set out by the SAP. The City shall have no obligation to monitor or otherwise insure the success of the Plan. All costs and expenses for the SAP and for fulfilling the plan are the sole responsibility of the Employee, and not the City.

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

4. Employee agrees and represents (s)he will participate in the Plan prepared by the SAP, and abide by the Plan. A refusal by the Employee to follow the Plan or failing to follow the Plan for any reason will be a violation of this Agreement and will constitute grounds for immediate termination.
5. Employee hereby authorizes the City and/or the SAP to obtain copies of all medical and patient records of treatment or participation in any program and/or alcohol/drug recovery plan. Attached hereto is a copy of a Consent to Release Client Records which Employee agrees to sign concurrently with execution of this Agreement
6. Employee will, when requested by the City, submit to alcohol and/or drug tests for five years at any time (random) while employee is on duty. Refusal to do so when requested will violate the terms of this Agreement and will constitute grounds for immediate termination. Any and all costs for City-requested random testing pursuant to this section shall be paid for by the City.
7. Each of the parties acknowledges, agrees and understands that this Agreement is executed voluntarily, with benefit of representation if so desired by employee, and without duress or undue influence on the part of, or on behalf of, any person or entity.
8. This Agreement may be amended only by an agreement in writing. The parties jointly agree to execute such documents as are necessary to effectuate this Agreement.
9. The Union concurs with the terms and conditions of this Agreement, by its acceptance of the Eureka's Drug and Alcohol Testing Policy.
10. The Agreement to waive rights to a Personnel Board hearing expires five (5) calendar years from the date of execution.

Dated: \_\_\_\_\_

**Employee Representatives**

\_\_\_\_\_  
**Employee Name (Print)**

By: \_\_\_\_\_  
**City of Eureka**

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF EUREKA

Category: PERSONNEL

POLICIES & PROCEDURES

Subject: DRUG AND ALCOHOL TESTING POLICY

Date Adopted:  
May 7, 1996

File 3.44  
Number

CONSENT TO RELEASE CLIENT RECORDS

I, \_\_\_\_\_, hereby authorize the SUBSTANCE ABUSE PROFESSIONAL (SAP( RETAINED BY THE CITY OF EUREKA and (name of provider of alcohol or drug recover plan)) to disclose records pertaining to my participation in the recovery plan to the City of Eureka Personnel Director.

Such disclosure shall be limited to the following specific information:

All medical records pertinent to participation in an alcohol or drug recovery plan, including but not limited to records pertaining to drugs and alcohol education and treatment.

The disclosure of information or records authorized herein is required for the following purposes:

To determine compliance with the Agreement, dated \_\_\_\_\_, and attached to this consent.

This consent is subject to revocation by the undersigned at any time except to the extent that action has been taken in reliance thereon. If not earlier revoked, it shall terminate five (5) years from date of execution.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Employee Name

Employee Representative

By: \_\_\_\_\_

My initials \_\_\_\_\_ indicate that I have received a copy of this consent to release records.