

City of White Sulphur Springs, Montana

**U.S. Department of Transportation
Federal Motor Carrier Administration
Drug and Alcohol Testing Program**

CITY OF WHITE SULPHUR SPRINGS, MONTANA
 U.S. Department of Transportation
 Federal Motor Carrier Administration
 Drug and Alcohol Testing Program

Table of Contents

REQUIREMENT TO ADOPT DRUG AND ALCOHOL TESTING PROGRAM	4
APPLICABILITY	4
KEY TERMS	4
PROHIBITIONS	5
A. Alcohol Use	5
B. Drug Use	6
VOLUNTARY SELF-IDENTIFICATION PROGRAM	7
TESTING PROGRAM COMPONENTS AND CUT OFF CONCENTRATIONS.....	8
A. Controlled Substance Testing	8
B. Alcohol Testing.....	8
REMOVAL FROM DUTY	10
TYPES OF TESTING CONDUCTED	10
A. Pre-employment Testing	10
B. Reasonable Suspicion Testing	10
C. Post-Accident Testing	11
D. Random Testing	12
E. Return to Duty and Follow-up Testing	13
TEST PROCEDURES.....	13
A. Participation is Required	13
B. Preliminary Procedures	13
C. Procedures for Alcohol Testing	14
D. Procedures for Drug Testing	14
E. Conclusion of Testing Process.....	14
F. Split Samples	15
SPECIAL TESTING PROCEDURES	15
A. Direct Observation Drug Testing	15
B. Specimen Temperature Outside of Range	15
C. Dilute Sample.....	15
D. Shy Bladder Procedure	17
REFUSAL TO TEST	18
POSITIVE TEST PROCEDURES	18
A. Positive Alcohol Tests	18
B. Positive Drug Test Procedure	19
LEGAL SANCTIONS AND ADMINISTRATIVE ACTION	19
A. Legal Sanctions.....	19
B. Administrative Action.....	20
OBTAINING TEST RESULTS FROM PREVIOUS EMPLOYERS.....	20
A. Inquiries to Previous Employers.....	20
B. Clearinghouse Inquiries.....	21

DRUG AND ALCOHOL TESTING CLEARINGHOUSE.....	22
A. Reporting Testing Program Results	22
B. Queries of the Drug and Alcohol Testing Clearinghouse.....	22
C. Prohibitions	22
D. Exception to Prohibitions	23
E. Recordkeeping Required.....	23
F. Covered Employees Must Allow City to Access Clearinghouse Information	23
RECORDS AND REPORTS	24
CONFIDENTIALITY OF INFORMATION OBTAINED THROUGH TESTING.....	24
ADDITIONAL PROVISIONS	24
RESOURCES.....	25
GLOSSARY	25
APPENDIX A: USE OF ALCOHOL AND CONTROLLED SUBSTANCES (1)	29
APPENDIX B: FORMS	33
DOT DRUG AND ALCOHOL TESTING APPLICATION SUPPLEMENT.....	34
DOT TESTING CONSENT TO RELEASE INFORMATION.....	35
DRUG/ALCOHOL TEST NOTIFICATION FORM	37
CONSENT TO CONDUCT CLEARINGHOUSE QUERIES	38
APPENDIX C: POST ACCIDENT TESTING FLOW CHART.....	39
APPENDIX D: REASONABLE SUSPICION CHECKLIST	40
ACKNOWLEDGEMENT OF RECEIPT	41

DRAFT

REQUIREMENT TO ADOPT DRUG AND ALCOHOL TESTING PROGRAM

This policy is required under the U.S. Department of Transportation:

- Federal Motor Carrier Administration's *Procedures for Transportation Workplace Drug and Alcohol Testing Programs* found at [49 CFR Part 40](#); and
- Office of Secretary, *Controlled Substances and Alcohol Use and Testing* found at [49 CFR Part 382](#)

APPLICABILITY

This policy applies to:

1. City employees who, as a result of their job duties, must hold a commercial drivers' license.
2. Applicants for City employment in a covered position. These individuals will be subject to pre-employment drug and alcohol testing after a conditional employment offer has been made.
 - a. The drug and alcohol testing must be the last step in the conditional offer process, and the applicant must be told that she or he will receive the job if he or she passes the DOT drug and alcohol test.

KEY TERMS

NOTE: A glossary is provided beginning on page 22.

For purposes of this Policy:

- **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- **Clearinghouse** – Refers to the federal Department of Transportation's Drug and Alcohol Testing Clearinghouse.
- **Commercial Motor Vehicle** - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
 - (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
 - (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).
- **Controlled substance** – For purposes of this policy, "Controlled Substances" includes:
 - Marijuana metabolites.
 - Cocaine metabolites.

- Amphetamines.
- Opioids.
- Phencyclidine (PCP)

Throughout this document, 'controlled substances' are also referred to as 'drugs'.

- **Covered Employee** –Any City employee whose job duties require him/her to hold a commercial driver's license.
- **On Duty** – The time during which an employee is performing a safety-sensitive function.
- **Medical Review Officer (MRO)** – A licensed physician and who is responsible for receiving and reviewing laboratory results generated by the City's drug testing program and evaluating medical explanations for certain drug test results.
- **Safety-sensitive function** - All time from the time a covered employee begins to work or is required to be in readiness to work until the time the employee is relieved from work and all responsibility for performing work. Under the law, safety-sensitive functions 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 covered employee has been relieved from duty by the employer;
 - (2) All time inspecting equipment as required by 49 CFR §§392.7 and 392.8 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 (a berth conforming to the requirements of 49 CFR §393.76);
 - (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 (SAP)** – A licensed physician or a licensed certified psychologist, social worker, employee assistance professional, or marriage and family therapist, or drug and alcohol counselor certified by an organization listed at <https://www.transportation.gov/odapc/sap>.

PROHIBITIONS

The following prohibitions apply while a City employee is serving in any capacity with City, in any City-owned or leased vehicle, in any personal vehicle being used for City business, in all City owned property, and at any City-approved activity:

A. Alcohol Use

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. No supervisor having knowledge that a covered employee has an alcohol concentration of 0.04 or greater shall permit the covered employee to perform or continue to perform safety-sensitive functions.

2. No employee tested under this program who has an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle. The City shall not permit an employee with a BAC of .02 or greater but less than .04 to perform or continue to perform safety-sensitive functions, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
 - a. The City will not take any action against a covered employee under this program based solely on test results showing an alcohol concentration less than 0.04. However, this does not prohibit the City from taking actions otherwise consistent with law.
3. No covered employee shall use alcohol while performing safety-sensitive functions or while on standby. No supervisor having actual knowledge that an employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.
4. No employee shall report for duty or remain on duty within four hours after using alcohol. No supervisor having actual knowledge that an employee has used alcohol within four hours shall permit an employee to report for duty or remain on duty.
5. No employee required to undergo a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

B. Drug Use

1. No covered employee shall remain on duty requiring the performance of safety sensitive functions when the employee uses any drug or substance identified in 21 CFR 1308.11 Schedule I. See <https://www.deadiversion.usdoj.gov/21cfr/cfr/2108cfrt.htm>
2. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is at the instructions of a licensed medical practitioner who is familiar with the employee's medical history and has advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle.
3. No supervisor having actual knowledge that a covered employee has used a controlled substance in violation of paragraphs 1 and 2 above shall permit the employee to perform or continue to perform a safety-sensitive function.
4. The City may require a covered employee to provide the City with information about any therapeutic drug use.
5. Covered employees must consult with a pharmacist when purchasing over-the-counter medications, as some over-the-counter medications may result in positive drug or alcohol tests.

VOLUNTARY SELF-IDENTIFICATION PROGRAM

- A. The City encourages employees who are struggling against the use of alcohol or drugs to seek help. The City will not terminate the employment of, discipline, or discriminate against an employee solely because the employee voluntarily seeks treatment for an alcohol or substance abuse problem by following the procedures outlined below.
- B. Covered employees who self-identify to alcohol misuse or controlled substances use will not be subject to the Administrative Action provisions found on page 18 if:
1. The admission is in accordance the policy found in paragraph C below.
 2. The covered employee does not self-identify in order to avoid testing under this program;
 3. The covered employee makes the admission of alcohol misuse or controlled substances use before performing a safety sensitive function (specifically, the admission must be made prior to reporting for duty); and
 4. The covered employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with this self-identification program.
- C. If a covered employee admits to alcohol misuse or controlled substances:
1. The City will not take adverse action against an employee who self-identifies within the parameters of Section B, above.
 2. The employee will be allowed a sufficient opportunity to seek evaluation, education or treatment to establish control over the his/her drug and/or alcohol problem
 3. The employee will be allowed to return to safety-sensitive functions upon:
 - a. Successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, (i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor);
 - b. The employee undergoing:
 - 1) a Return to Duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - 2) The employee undergoing a Return to Duty controlled substance test with a verified negative test result.
 4. Based on the advice of the employee's substance abuse expert, and as part of a Return to Duty Agreement, the City may incorporate employee monitoring and may require non-DOT follow-up testing.
- D. Employees who are struggling with drug and/or alcohol abuse have the following resources available:
- The City's Employee Assistance Program (enter phone number)

- Substance Abuse and Mental Health Services Administration’s National 24-hour Addiction Helpline: 1-800-662-HELP (4357)
- A list of Montana-based treatment centers by level of care is available at <https://dphhs.mt.gov/amdd/substanceabuse/treatmentproviderinformation>
- Some of the costs for treatment of substance abuse-related issues may be covered through the City’s health insurance program.

For more information, contact the Clerk-Treasurer or Mayor.

- E. Employees may be disciplined for drug or alcohol -related incidents that occur prior to an employee seeking protection under this section.

TESTING PROGRAM COMPONENTS AND CUT OFF CONCENTRATIONS

A. Controlled Substance Testing

Under this program, the City will test for the following controlled substances:

Marijuana¹

Cocaine

Amphetamines, including:

- Amphetamine
- Methamphetamine
- MDMA
- MDA

Opioids, including:

- Codeine
- Morphine
- Hydrocodone
- Hydromorphone
- Oxycodone
- Oxymorphone
- 6-AM (Heroin)

Phencyclidine (PCP)

¹ The use of hemp oil products, including CBD oil, will not be an acceptable defense for a positive Delta-9-tetrahydrocanna-binol-9-carboxylic acid (THC) test.

In determining whether a drug test is positive or negative, the City will use the cutoff concentrations found in the current edition of 49 CFR § 40.87, [What are the Cutoff Concentrations for Drug Tests?](#)

B. Alcohol Testing

An Alcohol Test will be verified as a Positive Test if the initial and confirmation tests reveal a BAC greater than .04 grams of alcohol per 210 liters of breath or higher.

DRAFT

REMOVAL FROM DUTY

- A. The City will not permit a covered employee to perform safety-sensitive functions; including driving a commercial motor vehicle, if it has determined that a covered employee has violated this policy.

TYPES OF TESTING CONDUCTED

A. Pre-employment Testing

1. Applicants for covered positions are subject to pre-employment controlled substance and alcohol testing after a conditional job offer has been made. This includes new employees, employees who are moving from a non-covered position to covered position, and employees who are transferring from one covered position to another covered position.
2. A positive drug or alcohol test, a Refusal to Test, a shy bladder with no medical explanation, and a positive urine specimen with no medical explanation will disqualify a prospective applicant for employment.
3. The DER or designee will notify the applicant of the date and time of the pre-employment testing. In order to allow time to receive test results, this testing should take place no less than 3-4 working days prior to the start date. The prospective employee will be responsible for getting him/herself to the test collection site on the scheduled date and time.
4. The testing site will notify the DER of the results of the pre-employment alcohol test and the MRO will notify the DER of the results of the pre-employment drug testing process.
 - a. If both tests are negative, the DER will notify the hiring supervisor to proceed with the hiring process.
 - b. If either or both tests are positive, the DER will notify the Mayor, who will notify the applicant that the employment offer is being rescinded.
5. No supervisor shall allow a prospective employee to begin work until being notified by the DER that the pre-employment test(s) have come back as negative.

B. Reasonable Suspicion Testing

1. A covered employee will be tested for alcohol and drugs when there is reasonable suspicion of on duty use or impairment. "Reasonable suspicion" can include but is not limited to observable phenomena (e.g., a supervisor observes an employee using alcohol), and/or the physical signs of being under the influence of drugs or alcohol (e.g., the supervisor smells alcohol on an employee's breath.)
2. If a covered employee is suspected of being under the influence of or impaired by alcohol or drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion and will present this evidence to an authorized party for confirmation. Authorized parties can include but are not limited to the Public Works Supervisor, the Mayor, and the DER.
 - a. The City will ensure that supervisors of covered employees receive reasonable suspicion training that complies with 49 CFR § 382.603, Training for Supervisors.

3. A covered employee suspected of being under the influence of or impaired by alcohol or drugs shall remain on duty but shall not be allowed to operate a vehicle or perform safety-sensitive functions until reasonable suspicion has been confirmed or disproven.
4. Reasonable suspicion testing will be conducted by a qualified testing laboratory.
5. The Mayor, the employee's supervisor, or an outside transportation provider will provide transportation to the collection facility. Co-workers, friends, and family members may not transport for employees under reasonable suspicion.
6. Employees will be paid through the time the sample is given. Employees being tested under Reasonable Suspicion will be placed on paid administrative leave until the test results are received. The tests results are typically processed within two days.
7. No employee will be allowed to drive him/herself home if he/she is believed to be under the influence of alcohol or have a measurable quantity of a controlled substance in his/her system. If attempts to reach a third party for transportation home fail, someone designated by management will drive the employee home. In all cases, if the employee refuses to accept transportation and attempts to drive his/her vehicle, the City will immediately notify law enforcement officials.
8. The appropriate supervisor will, within 24 hours, prepare a written report detailing the circumstances that formed the basis to warrant the testing. This report should include the specific dates and times of reported alcohol or drug related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken. All documentation related to the determination shall be forwarded to the DER.

C. Post-Accident Testing

1. The Mayor or designee shall initiate DOT post-accident alcohol and drug testing when an accident occurs on a public road, and if:
 - a. The accident involved the loss of human life (fatality); or
 - b. The accident resulted in bodily injury to any covered employee or another person requiring immediate medical treatment away from the scene and a covered employee received a citation within 32 hours of the accident; or
 - c. The accident caused disabling damage to any motor vehicle that required any vehicle to be towed away and the covered received a citation within 32 hours of the accident.

All covered employees involved in the accident will be tested. See Post Accident Testing Flowchart, Appendix C.

2. The City may also conduct appropriate post-incident testing under a non-DOT Workforce Alcohol and Drug Testing program.
3. An employee subject to DOT post-accident testing shall remain immediately available for up to two (2) hours for such testing, or the City will consider the employee to have Refused to Test.
 - a. If there were circumstances that kept the employee from submitting to a test within 2 hours after the incident, the DER or designee in coordination with the employee's supervisor and

the Mayor shall evaluate those circumstances and make the final determination as to whether or not it will be deemed a Refusal to Test.

4. If a post-accident drug or alcohol test is not administered within two (2) hours of the occurrence, the supervisor shall document the reason(s) why it was not promptly administered.
 - a. If more than eight (8) hours pass, no alcohol test will be administered.
 - b. If more than thirty two (32) hours pass, no drug test shall be administered.If either test is not completed, the supervisor shall document the reason(s) why. The documentation shall be forwarded to the DER.
5. If a post-accident test was not conducted within the initial two-hour period, an employee will be subject to call-out for up to 32 hours following an accident for testing
 - a. An employee subject to post-accident testing shall not consume alcohol for 8 hours post-incident.
 - b. An employee subject to post-accident testing shall not consume drugs, either legal or illegal, prior to the post-accident testing. Exceptions may be made for previously prescribed maintenance medications and/or medications administered to treat any personal injury.
6. For Post-Accident testing, the City will arrange for transportation to the sample collection facility. Co-workers, friends, or family members may not transport employees to post-accident testing.
7. Employees being tested under this post-accident testing program will return to work unless Reasonable Suspicion also exists, which requires the employee to be placed on administrative leave. The tests results are typically processed within two days.
 - a. No employee will be allowed to drive him/herself home if he/she is believed to be under the influence of alcohol or have a measurable quantity of a controlled substance in his/her system. If attempts to reach a third party for transportation home fail, someone designated by the City will drive the employee home. In all cases, if the employee refuses to accept transportation and attempts to drive his/her vehicle, the City will immediately notify law enforcement officials.

D. Random Testing

1. Administration of the Random Testing Pool

The City contracts with a third party administrator to establish and administer its random testing pool and to conduct random draws. Because employees selected for random testing during one quarter are included in the population for the next quarterly draw, each covered employee has an equal chance of being randomly tested each time selections are made.

2. Random Testing Process

- a. Random controlled substance and alcohol testing may be performed at any time a covered employee is performing a safety-sensitive function.
- b. An individual selected for random testing and the individual's supervisor will be notified the same day the test is scheduled; preferably within two hours of the scheduled test.
- c. The employee will be notified whether s/he has been drawn for a drug test, an alcohol test, or both.
- d. The employee will be provided enough time to stop performing his/her job functions and report to the testing site.

e. Random tests will be conducted in a manner consistent with **Test Procedures**, below.

3. Deferral of Testing - An employee selected for random testing may be deferred from testing if the employee is:
 - a. In a leave status (e.g., sick, vacation, leave without pay) on the day of testing notification; or
 - b. In travel status away from the work site or is about to embark on travel that was scheduled prior to testing notification, and this travel cannot be delayed or rescheduled.The supervisor of an employee whose random test is deferred will notify the DER that the testing needs deferred, and when the employee has returned to work. The employee will then be subject to unannounced random testing.
4. Refusal to Test - Failure to appear for a Random Test or interfering with the testing process will be considered a Refusal to Test.

E. Return to Duty and Follow-up Testing

If an employee tests positive for drugs and/or alcohol and is not terminated, the following will occur:

1. Before returning to safety-sensitive functions work after a verified positive test for drugs and/or alcohol, the employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02.
2. The employee will be subject to unannounced follow up drug and/or alcohol testing, as required under 49 CFR Part 40 Subpart O.
 - a. The Return to Duty and Follow Up Testing will be conducted under Direct Observation.
 - b. The follow up testing will be at the frequency recommended by the Substance Abuse Professional but, at a minimum, the employee is subject to six unannounced follow-up tests in the first 12 months following the his/her return to safety-sensitive functions.
 - c. Follow up testing is distinct from any testing which may be taken as part of a rehabilitation program.
3. Upon return to work, the following shall be cause for discharge from employment:
 - a. a positive test for alcohol or drugs
 - b. the illegal use of a legal drug
 - c. failure to successfully complete a Substance Abuse Professional-recommended rehabilitation program

TEST PROCEDURES

A. Participation is Required

As a condition of continued employment, covered employees shall submit to the requirements of the City's Drug and Alcohol Testing program, including the required testing.

B. Preliminary Procedures

1. An employee will be notified by a supervisor that s/he is being sent for drug and/or alcohol testing and will be required to sign the Test Notification Form.

2. The employee will immediately report to the collection site.
3. Upon arrival at the collection site, the employee will show photo identification. Acceptable identification includes a current passport, a Montana driver's license, or Montana Identification Card. Copies are not acceptable forms of identification.
4. The employee will strictly follow all the directions of collection site personnel before, during, and after collection. Failure to do so will result in disciplinary action the same as if the test was verified positive.
5. If the employee declines to complete or does not complete a testing procedure, it will be treated as a Refusal to Test.

C. Procedures for Alcohol Testing

1. All alcohol tests are conducted using an evidentiary breath testing (EBT) device.
2. The test will be administered by the **NAME OF PROVIDER** or another qualified testing laboratory, and the procedure used will be the same as those used when collecting an evidentiary test in a criminal case.

D. Procedures for Drug Testing

1. The sample will be collected by the **NAME OF PROVIDER** and processed by a qualified testing laboratory.
2. The employee is encouraged to closely observe the entire collection procedure, including the chain of custody process, the sealing of collection containers, etc.
3. The employee will be required to remove outer garments, such as a jacket or coat. The employee will not be required to remove clothing such as a shirt and pants, and will not be required to put on a hospital gown. All personal belongings, such as a backpack or purse, must remain with the outer garments.
4. Except in the circumstances described in **Special Testing Procedures** below, employees shall be permitted to provide urine specimens in private in a restroom stall or similar enclosure so that they are not visually observed while providing the sample.
5. Collection site personnel may be within hearing range so they can confirm the sample was physically produced at that time.

E. Conclusion of Testing Process

1. The employee will be required to sign the appropriate testing forms, including a Chain of Custody form for the Drug Test specimen.
2. If the employee has any concerns regarding any part of the testing process, the employee should advise a supervisor at the collection site, the employee's supervisor, or the DER.

F. Split Samples

All urine tests are collected and stored as sealed split samples. If the test results of a primary drug test are positive, the employee may request through the Medical Review Officer (MRO), within 72 hours of notice of the initial test result, that an additional test be conducted. The test will be done on the split sample that was provided at the same time as the original sample, but will be analyzed at a different laboratory certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program. All costs for such testing are paid by the employee, after testing is complete, unless the second test invalidates the original test. Any requests to the MRO after 72 hours of notice of the initial test result will only be accepted if the delay was due to documentable facts that were beyond the employee's control.

SPECIAL TESTING PROCEDURES

A. Direct Observation Drug Testing

1. Collection site personnel of the same gender as the employee being tested may observe an employee provide a urine specimen when:
 - a. Collection site personnel have reason to believe that a particular individual has altered or substituted the specimen; or
 - b. The employee has previously tampered with a sample; or
 - c. The employee has equipment or implements capable of tampering with or altering urine samples; or
 - d. Follow Up Testing; or
 - e. Return to Duty Testing; or
 - f. The Medical Review Officer requests a Direct Observation test.
2. Direct Observation drug testing will be conducted as described in **Procedures for Drug Testing**, above, with the following exceptions/additions:
 - a. At the beginning of the test, a person of the same gender will conduct an inspection of the employee with shift lifted and trousers lowered and will check for prosthetic and other devices that could be used to cheat a drug test; and
 - b. Collection site personnel of the same gender as the employee being tested will directly observe the urine leaving the body and entering the collection container.
3. Direct observation drug testing shall not be the norm.

B. Specimen Temperature Outside of Range

There is reason to believe the donor may have altered or substituted the specimen if the temperature of the specimen is outside the range of 32-38 degrees C / 90-100 degrees F or shows signs of contaminants. In this case, another specimen will immediately be collected for testing under the Direct Observation of a representative of the collection facility.

C. Dilute Sample

1. If the Medical Review Officer (MRO) notifies the City that an employee's test was positive and dilute, the test will be treated as verified positive. The employee shall not be required to submit another test.

2. If the MRO notifies the City that an employee's test is negative and dilute:
 - a. The MRO may direct the City to immediately conduct a second test. The MRO may or may not require this test to be conducted under Direct Observation.
 - b. The result of the second test will be treated as the result of record.
 - c. If the result of the second test is also negative and dilute, the employee will not be required to take an additional test (unless the second test was not observed and the MRO determines a Direct Observation sample is required). The second result will be recorded as negative test result.

DRAFT

D. Shy Bladder Procedure

45 mL of urine is required to constitute sufficient testing volume. If the employee does not provide sufficient volume, the following "shy bladder" procedures will apply. If the employee declines to complete or does not complete these procedures, it will be treated as a Refusal to Test.

1. The initial insufficient specimen will be discarded. Specimens may not be combined.
2. The employee will be advised to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. The employee may decline to drink, but will still be required to provide a sufficient urine specimen.
3. The employee shall remain in the testing area under observation during the three hour period.
4. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection attempt will be discontinued, the collector will discard any specimen provided during the collection event, and the City's DER will be notified.
5. After consulting with the MRO, the DER will direct the employee to obtain, within five days (or within seven calendar days, whichever is sooner), an evaluation from a licensed physician who is acceptable to the MRO and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The MRO may provide this evaluation if s/he is so qualified.
6. If another physician will perform the evaluation, the MRO will provide that physician with the following information and instructions:
 - a. That the employee was required to take a DOT drug test, but was unable to provide a sufficient amount of urine to complete the test;
 - b. The consequences of the appropriate DOT agency regulation for refusing to take the required drug test;
 - c. The physician's responsibilities under the drug testing act.
7. After completing the evaluation, the referral physician must forward a written statement to the MRO in which s/he makes one of the following determinations:
 - a. A medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine.
 - b. There is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine.
8. The statement should include the basis for the recommendations and conclusions. Only the medical information necessary to explain the recommendations and conclusion shall be provided in this statement.
9. If the employee refuses to obtain the evaluation, it will be considered a Refusal to Test.

10. The MRO will seriously consider the referral physician's recommendations in making a determination whether the employee has a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. The MRO will notify the DER as soon as this evaluation is complete.
- a. If the MRO finds that the employee has a medical condition, and the medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be cancelled.
 - 1) In this case, there will be no further action taken against the employee, but the employee will remain in the random testing pool.
 - b. If the MRO finds that the employee's medical condition is a serious and permanent or long-term disability that is highly likely to prevent the employee from providing a sufficient amount of urine for a very long or indefinite period of time, the MRO will conduct a further medical evaluation to determine if there is clinical evidence that the employee is using drugs. A blood test may be required as part of this evaluation.
 - 1) If the medical evaluation reveals no clinical evidence of drug use, the test result shall be negative.
 - 2) If the medical evaluation reveals clinical evidence of the use of prohibited drugs, the test result shall be cancelled.
 - a) A cancellation is neither a positive or negative test result, and the employee will not be allowed to return to work until s/he receives a negative drug test result.
 - c. If the MRO finds that there is not an adequate basis for concluding that the employee has a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be deemed a Refusal to Test.

REFUSAL TO TEST

A. A Refusal to Test is treated the same as a Positive Test result.

B. Employees will be considered to have refused to test if they:

- Refuse or fail to provide a breath or urine specimen; or
- Refuse to complete all required tests as directed; or
- Fail to report for a required test at the scheduled time; or
- Engage in conduct that clearly obstructs the testing process; or
- Tamper with the test; or
- Alter or substitute the specimen; or
- Fail to provide adequate breath or specimen volume without a verified medical explanation; or
- Leave the scene of an accident without a legitimate reason prior to submitting to a test; or
- Leave the collection facility prior to test completion; or
- Fail to permit an observed or monitored collection when required; or
- Fail to take a second test when required; or
- Fail to undergo a medical examination when required; or
- Fail to sign testing forms as directed by collection site personnel; or
- Once testing is underway, fail to remain at the collection site and provide a specimen.

POSITIVE TEST PROCEDURES

A. Positive Alcohol Tests

1. Alcohol shall be confirmed positive if both the initial and confirmation tests reveal a breath alcohol concentration (BAC) of .04 or greater.
2. **NAME OF PROVIDER** will notify the DER of the positive test result, who will contact the Mayor and the employee's supervisor
3. Employees with a Positive Alcohol Test will be immediately placed on administrative leave without pay pending investigation and will be transported to a safe place away from the work site.
4. If the initial and confirmation BAC tests are .02 or greater but less than .04, the employee shall not perform or continue to perform safety-sensitive functions, nor shall the City permit the employee to perform or continue to perform safety-sensitive functions, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
 - a. Employees whose initial and confirmation BAC tests are .02 or greater but less than .04 may be subject to disciplinary action, up to and including discharge.

B. Positive Drug Test Procedure

1. The employee will be contacted by the Medical Review Officer (MRO) and will have the opportunity to provide an explanation of a positive result, which may include providing medical documentation of lawful use of a prescription or over-the-counter medication.
2. If the MRO determines there is no reasonable justification for the positive result, such result will be considered a verified positive test result.
 - a. The MRO will notify the employee of the verified positive test result. Once notified, the employee may, within 72 hours of notification, request to have the split specimen be tested by another laboratory certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program
 - b. If the employee is unable, for a legitimate reason, to make this request within the 72 hour period, the split specimen test will automatically be conducted.
 - c. The City will pay for the additional test if the additional test result is negative. If the additional test result is positive, the employee will be required to reimburse the City for the additional test.
3. The Medical Review Officer shall notify the DER of a verified positive test result, who will contact the Mayor and the employee's supervisor.
4. Employees with a Positive Drug Test will be immediately placed on administrative leave without pay pending investigation and will be transported to a safe place away from the work site.

LEGAL SANCTIONS AND ADMINISTRATIVE ACTION

A. Legal Sanctions

1. If an employee is found to be in actual and illegal possession of a controlled substance, illegally used drug, and/or related paraphernalia, s/he may be prosecuted under the state or federal law.

- a. The legal sanctions under Montana statute range from six months in jail and/or a \$500 fine, to 20 years in prison and/or a \$50,000 fine.
 - b. The legal sanctions under federal statute range from 5 years in prison and a \$10,000 civil fine, to life in prison and a \$50 million civil fine.
2. In Montana, the legal sanctions for driving under the influence range from a \$300 fine and 24 hours in jail to a \$10,000 fine and 5 years in prison.
 3. An employee may also be subject to federal and state criminal sanctions for reckless conduct leading to actual loss of life, injury, or damage to property.

B. Administrative Action

1. Effects of Positive Drug and/or Alcohol Testing Results
 - a. Any employee who receives a verified positive drug test shall be terminated.
 - b. Any employee receiving a verified positive test for alcohol, or for legally obtained but illegally used drugs (e.g., prescription medication or over-the-counter medication) shall be subject to disciplinary action up to and including discharge. The severity of the action chosen will depend on the circumstances of each case.
2. Administrative Referral - If an employee tests positive for drugs and/or alcohol and is not terminated:
 - a. The employee will be required to meet with a substance abuse professional (SAP) who will evaluate the employee and make recommendations concerning education, rehabilitation, follow-up testing, and aftercare.
 - b. As a condition of continued employment, the employee will be required to complete any SAP-recommended rehabilitation:
 - 1) The cost of the SAP and rehabilitation will be the responsibility of the employee.
 - 2) The employee may be allowed to use accrued leave (sick leave followed by vacation leave) to complete rehabilitation until such leave is exhausted, at which time the employee may be allowed to go on unpaid leave. These employees will not be eligible for donated sick leave.
 - 3) The employee must have a negative drug test result and/or an alcohol test with a blood alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.
 - 4) The employee shall be subject to a re-entry agreement, including follow up testing.
 - c. The City may initiate action to terminate the employee for refusing or failing to comply with the SAP-designated treatment program and/or for further policy violations.

OBTAINING TEST RESULTS FROM PREVIOUS EMPLOYERS

A. Inquiries to Previous Employers

1. The City will request alcohol and controlled substances information from all the applicant's DOT-regulated employers within the previous 3 years.
 - a. The scope of the information requested under paragraph A.1 must date back 3 years from the date of application.

2. An applicant who refuses to consent to release information from his/her previous employees will not be hired.

B. Clearinghouse Inquiries

As of January 6, 2023, the City will use the federal Department of Transportation's Drug and Alcohol Clearinghouse to make these inquiries.

DRAFT

DRUG AND ALCOHOL TESTING CLEARINGHOUSE

A. Reporting Testing Program Results

The City and/or its service agents (MRO, SAP's, etc.) must submit a variety of drug and alcohol test-related data to the federal Department of Transportation's Drug and Alcohol Testing Clearinghouse. This includes:

1. A verified positive, adulterated, or substituted controlled substances test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to a test;
4. An employer's report of actual knowledge of:
 - a. On duty alcohol use;
 - b. Pre-duty alcohol use;
 - c. Alcohol use following which violates of the Post Accident testing requirements;
 - d. Controlled substance use;
5. A SAP report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

B. Queries of the Drug and Alcohol Testing Clearinghouse

1. Applicant Inquiries

- a. The City will conduct a pre-employment query of the Clearinghouse to obtain information about whether an applicant has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test; or that the former employer has reported actual knowledge that an applicant used a controlled substance, or used alcohol while on duty, within 4 hours of reporting for duty, or within 8 hours following an accident, in violation of Department of Transportation rules.

2. Annual Queries

- a. At least once a year, the City will conduct a query of the Clearinghouse to determine if information exists in the Clearinghouse about current City employees subject to DOT controlled substance and alcohol testing.
- b. In lieu of a full query, the City may obtain an individual covered employee's consent to conduct a limited query.
 - 1) If the limited query shows information exists in the Clearinghouse about the individual employee, the City will conduct a full query within 24 hours of conducting the limited query.
 - 2) If the City fails to conduct a full query within 24 hours, the City must not allow the employee to continue to perform any safety-sensitive function until the City conducts the full query and the results confirm that the employee's Clearinghouse record contains no prohibitions as defined in paragraph C, below.

C. Prohibitions

No covered City employee will be allowed to perform any safety-sensitive function if the results of a Clearinghouse query shows that:

1. The employee has:
 - a. a verified positive, adulterated, or substituted controlled substances test result;
 - b. an alcohol confirmation test with a concentration of 0.04 or higher;
 - c. refused to submit to required testing;
2. An employer has reported actual knowledge that the employee:
 - a. used alcohol on duty;
 - b. used alcohol before duty;
 - c. used alcohol following an accident; or
 - d. used a controlled substance in violation of FMCSA drug testing rules.

D. Exception to Prohibitions

The Prohibitions listed above do not apply where the query of the Clearinghouse demonstrates:

1. That the employee has successfully completed the SAP evaluation, referral, and education/treatment process; achieved a negative return-to-duty test result; and completed the follow-up testing plan prescribed by the SAP.
2. That, if the employee has not completed all follow-up tests prescribed by the SAP, the employee has completed the SAP evaluation, referral, and education/treatment process and achieves a negative return-to-duty test result. In this case, the City assumes the responsibility for managing the follow-up testing process associated with the testing violation.

E. Recordkeeping Required

1. The City will retain a record of each query and all information received in response to each query made under this section for a period of three (3) years.
 - a. As of January 6, 2023, the City will maintain a valid Clearinghouse registration, which will fulfil the recordkeeping requirement.

F. Covered Employees Must Allow City to Access Clearinghouse Information

1. Covered employees and applicants for employment in covered positions must submit written or electronic consent through the Clearinghouse granting the City access to the Clearinghouse information.
 - a. If the Clearing house shows that an individual is subject to follow-up testing and has not successfully completed all follow-up tests, the City must request the employee's follow-up testing plan from the previous employer.
2. The City will not query the Clearinghouse to determine whether a record exists for any particular employee without first obtaining that employee's written or electronic consent.
 - a. The City will retain documentation of consent for 3 years from the date of the last query.
3. The City may not permit a covered employee to perform a safety-sensitive function under this program if the employee refuses to grant the consent required above.

RECORDS AND REPORTS

- A. The DER shall maintain all records relating to testing, random draws, sample populations, and any other Policy-related documentation according to the requirements found in 49 CFR Part 382. Such information shall remain confidential, with access limited to only individuals with a need to know.
- B. Except as required by law, all testing program-related information, interviews, reports, statements, memoranda, or test results are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding.
- C. Testing program information may not be disclosed to an outside entity without the prior written consent of the tested employee, unless the disclosure is to:
1. the tested employee;
 2. the Medical Review Officer;
 3. The Department of Transportation's Drug and Alcohol Testing Clearinghouse
 4. the Substance Abuse Professional from which the employee is receiving counseling or treatment or who is otherwise participating in the employee's care;
 5. The Mayor and/or to any supervisory or management official within the City having authority to take, process, or implement personnel action against such employee;
- D. Test results with all identifying information removed may be used for data collection and other activities necessary to comply with testing requirements.

CONFIDENTIALITY OF INFORMATION OBTAINED THROUGH TESTING

Information obtained through testing that is unrelated to alcohol or drug use must be held in strict confidentiality by the Medical Review Officer and may not be released to the City without the written consent of the tested employee.

ADDITIONAL PROVISIONS

- **Limitation on Adverse Action.** No adverse action, including follow-up testing, may be taken by the City if the employee presents a reasonable explanation confirmed by the MRO that a positive test result was not caused by the use of alcohol, or by the use of a controlled substance. If the employee presents a reasonable explanation confirmed by the MRO, the positive test results must be removed from the employee's record and destroyed.
- **New Employee Notification.** Applicants for employment will be informed about the existence of a DOT Drug and Alcohol Testing Program. During the hiring process, applicants will be notified of the testing requirements and that employment is contingent upon receipt of negative pre-employment drug and alcohol tests.
- **Acknowledgement of Receipt.** Upon hire, covered employees will be required to acknowledge receipt of a copy of this DOT Drug and Alcohol Testing Program. The Acknowledgement will be maintained in the employee's personnel file.

- **Representation.** Employees may have a representative present during the testing process. The testing shall be delayed no more than ten (10) minutes to await the arrival of a representative. If representation is not available, testing shall proceed.

RESOURCES

U.S. Department of Transportation Drug and Alcohol Testing Regulations:

- Federal Motor Carrier Administration's *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*: [49 CFR Part 40](#)
- Office of Secretary, *Controlled Substances and Alcohol Use and Testing*: [49 CFR Part 382](#)

What Employees Need to Know about DOT Drug and Alcohol Testing Handbook:

<https://www.transportation.gov/sites/dot.gov/files/docs/resources/partners/drug-and-alcohol-testing/2568/employeehandbookeng2019a.pdf>

Reasonable Suspicion Training:

Reasonable Suspicion Training for Supervisors Video

<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/ReasonableSuspicion.aspx>

Motor Carrier Safety Planner, Chapter 6.5: Controlled Substances and Drug and Alcohol Use and Testing (Part 382):

- <https://csa.fmcsa.dot.gov/safetyplanner/MyFiles/Sections.aspx?ch=23&sec=70>
- <https://csa.fmcsa.dot.gov/safetyplanner/Default.aspx>

GLOSSARY

Adulterant – Adulterating substance or agent aimed to corrupt, debase, or make impure.

Adulterated specimen – A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol – means an intoxicating agent in alcoholic beverages, food, or medication; ethyl alcohol, also called ethanol; or the hydrated oxide of ethyl.

Alcohol Use - The ingesting of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Concentration (BAC) – The alcohol in a volume of is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

Breath Alcohol Technician (BAT) – A person who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing device (EBT).

Cancelled test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this Policy otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test. Having a cancelled test does not relieve the employee of the responsibility to provide a test that produces a measured outcome.

Chain of Custody – The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure generally documented using the Federal Drug Testing Custody and Control Form (CCF).

Clearinghouse – Refers to the federal Department of Transportation's Drug and Alcohol Clearinghouse.

Collection site – A place designated by the City where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or providing a breath sample to be analyzed for the presence of alcohol.

Commercial Motor Vehicle - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation test - In drug testing, a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite. In alcohol testing, a second test that provides quantitative data of alcohol concentration.

Controlled substance - For purposes of this policy, "Controlled Substances" includes:

- Marijuana metabolites.
- Cocaine metabolites.
- Amphetamines.
- Opioids.
- Phencyclidine (PCP).

Covered Employee - Any City employee who operates a commercial motor vehicle and whose job duties require him/her to hold a commercial driver's license.

Dilute specimen – A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Direct observation – means an employee being directly observed while providing a urine sample. The procedure will include direct inspection of the employee with shirt lifted and trousers lowered and direct observation of urine leaving the body and entering the collection container.

Designated Employer Representative (DER) – The City position responsible for overseeing the DOT Drug and Alcohol Testing Program.

Evidential Breath Testing Device (EBT) – Device used to measure breath alcohol concentrations.

Insufficient urine specimen – When an employee gives less than the 45 mL of urine required to constitute a sufficient testing volume. An insufficient specimen will prompt “Shy Bladder” procedures.

Invalid drug test - The result reported by a laboratory certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program in accordance with the criteria established by Department of Health and Human Services’ Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test, as verified by the MRO.

Licensed medical practitioner - 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.

Legal Drugs - Legally obtained drugs (prescription and non-prescription remedies) used according to directions to alleviate a specific condition.

Medical Review Officer (MRO) – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by the City drug testing program and evaluating medical explanations for certain drug test results.

Metabolite - The specific substance produced when the human body metabolizes a given drug as it passes through the body and is excreted in urine.

Negative Dilute Test - A urine specimen showing low concentration of creatinine in the urine caused by excessive fluid intake combined with specific gravity factors. As a result, this reduces the detection of drug metabolites in the body.

Non-negative Test – A urine specimen that is reported as adulterated, substitute, positive (for drug(s) or drug metabolites) and/or invalid. Non-negative results are considered a positive test or refusal to test if the MRO cannot determine a legitimate medical explanation.

Positive Alcohol Test (same as Verified Positive Alcohol Test) – The presence of alcohol in the breath at a level of greater than .04 confirmed by two tests with evidential breath testing devices and administered by a trained and certified Breath Alcohol Technician. Refusal to take a breath test without a valid medical explanation also constitutes a positive alcohol test.

Positive Drug Test (same as Verified Positive Drug Test) – The result reported by a laboratory certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations as verified by the MRO. Refusal to take a drug test without a valid medical explanation also constitutes a positive drug test.

Precursors – A biochemical substance which can be processed or synthesized into one of the categories of drugs to be tested under this Policy.

Random Testing - A system of drug testing undertaken without suspicion that any individual employee is under the influence of illegal drugs or alcohol at work.

Referral Physician – A licensed physician, acceptable to the MRO, who has expertise in the medical issues raised when an employee provides an insufficient urine specimen. The MRO may act in this capacity if he/she has appropriate expertise.

Re-entry Agreement – means an agreement between the City and an employee that allows an employee to continue employment under stringent guidelines prohibiting the use of drugs and/or alcohol. An employee's failure to meet the terms of the agreement may result in discharge from employment.

Safety-Sensitive Function – all time from the time a covered employee 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 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 employee has been relieved from duty by the employer;
2. All time inspecting equipment as required by 49 CFR §§392.7 and 392.8 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 (a berth conforming to the requirements of 49 CFR §393.76);
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

Sample –a breath or urine specimen that is used to determine the presence of a controlled substance, illegally used drug, or a breath alcohol content.

Shy bladder procedure –the procedure that is followed when an employee does not provide a sufficient urine volume (45 mL) for drug testing.

Split specimen – means, in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) – A licensed physician or a licensed certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Supervisor – means a City employee who supervises the work of others, up to and including the Mayor.

Unannounced test – means a test for alcohol, control substances, and/or illegally used drugs previously scheduled but announced to the employee just prior to the scheduled time, allowing only appropriate time for the employee to immediately proceed directly to the scheduled testing site.

APPENDIX A: USE OF ALCOHOL AND CONTROLLED SUBSTANCES ⁽¹⁾

A. Short Term Effects of Alcohol Use

The short-term effects of alcohol use appear after just a few drinks. However, people who have low tolerance levels—first-time drinkers or those with a specific genetic makeup—may be affected after having only one drink. Some of these effects might seem harmless, but they are signals that alcohol is having an effect in the body.

The short-term effects of alcohol use and abuse include:

- **Feelings of Relaxation:** The release of dopamine and endorphins that happen when someone uses alcohol initially results in a feeling of relaxation and a sense of euphoria. This is the 'high' that people crave and the reason many people turn to alcohol when they feel stressed or depressed.
- **Vomiting, Nausea, and Diarrhea:** Alcohol can irritate the lining of the stomach and trigger these gastrointestinal symptoms, which may become severe if drinking continues.
- **Shallow Breathing:** Because alcohol is a central nervous system (CNS) depressant, it slows various physiological functions, including breathing and heart rate. During episodes of severe binge drinking, these effects could be life-threatening.
- **Slower Reflexes and Impaired Hearing and Vision:** Because the CNS controls the senses and motor functions, drinking alcohol slows the brain's reaction time. This can result in slower reflexes, slurred speech, reduced hearing, and clouded eyesight.
- **Fatigue and Sleepiness:** Because alcohol is a depressant, it has a calming effect. After the initial high wears off, weariness and drowsiness usually set in.
- **Blackouts and Memory Lapses:** These side effects are commonly linked to alcohol abuse. Often binge drinkers have no memories of their behavior and are surprised to find they were involved in arguments or even physical altercations.
- **Clouded Thinking and Loss of Inhibitions:** Neural impairment is experienced by those under the influence, reducing inhibitions, distorting perception and undermining the ability to think clearly and rationally. This can lead to risky, aggressive or dangerous behavior, which may seem completely out of character in an otherwise easy-going individual.
- **Mood Swings:** The initial effects of drinking alcohol include the release of dopamine and endorphins in the brain, which creates feelings of euphoria that problem drinkers come to crave. But this effect is temporary and, eventually, the dopamine and endorphin levels crash and, often, the moods of alcohol abusers crash right with them. Depression in alcoholics can become chronic, and can lead to suicidal thoughts or action.

B. Long-Term Effects of Alcohol on the Body

Continuous, heavy, habitual drinking takes a toll on the human body. Some of the long-term, harmful effects of alcohol on the body include:

- **Increased Tolerance.** As the brain and body adjust to continuous drinking, tolerance gradually builds, and the problem drinker will have to consume more and more alcohol to achieve the same effects. Alcohol addiction can develop as drinking behavior escalates. Excessive alcohol use also increases the risk of alcohol poisoning and overdose, which can be fatal.
- **Potentially Harmful Withdrawal Symptoms.** Over consumption of alcohol can trigger intense withdrawal symptoms if the alcoholic attempts to stop drinking. The most severe of these

symptoms is delirium tremens (DTs), which is a medical emergency and can be deadly if it is not treated promptly.

- **Increased Risk of Developing Diabetes.** Alcohol is loaded with carbohydrates and can contribute to obesity, while also decreasing insulin sensitivity (insulin regulates blood sugar levels) as it damages the pancreas, the insulin-secreting organ of the body. As a result of these changes to the body, chronic alcohol consumption increases the risk of type II diabetes.
- **Liver Damage.** Alcohol damages the liver and can cause cirrhosis or liver cancer. Alcohol-induced liver disease is responsible for one-third of liver transplantations in the U.S., and close to 50 percent of cirrhosis fatalities can be directly linked to heavy drinking.
- **Chronic High Blood Pressure.** Problem drinkers have consistently elevated blood pressure. Chronic high blood pressure damages the kidneys, heart, and arteries, and increases the risk of stroke and heart attack.
- **Damage to the Heart.** Chronic alcohol abuse dramatically increases the risk for cardiovascular disease by boosting heart rate, blood pressure and the levels of certain fats in the bloodstream.
- **Stomach and Intestinal Ulcers.** Massive quantities of alcohol consumed over time can have a corrosive effect on the interior of the body, leading to ulcers that may ultimately burst and put the drinker's life in danger.
- **Increased Risk of Some Forms of Cancer:** The negative health effects of alcohol abuse includes an increased risk for cancer of the mouth, throat, breast, liver, and colon.
- **Organ Failure and Death** - If one does not stop the excess use of alcohol, their organs may start to shut down, causing coma and eventually death.

C. Long-Term Psychological and Neurological Effects of Alcoholism

Chronic alcohol consumption damages brain cells, sometimes permanently. Alcohol is, by nature, neurotoxic, and long-term consumption can have a dramatic impact on brain functioning and psychological wellness. Some of the severe conditions or disorders it can cause include:

- **Mild to Severe Cognitive Impairment:** Excessive drinking causes a loss of brain cells, which results in decreased brain mass. This can result in memory problems and learning difficulties. Eventually, this deterioration can provoke the onset of alcohol-related dementia, a severe disease that mimics Alzheimer's.
- **Mental Disorders:** Chronic alcohol consumption increases the risk of a person developing mental health conditions like depression or anxiety disorders. In other instances, people may drink to escape the debilitating symptoms of an existing mental illness, such as bipolar disorder. However, studies have shown that the use of alcohol can make these symptoms more, not less, debilitating.
- **Wet Brain Syndrome:** This is a neural disorder that occurs in up to 80 percent of alcoholics. It is caused by a deficiency of thiamine or vitamin B1, which is one of the side effects of alcohol abuse. Alcoholics tend to ignore their diets, which can lead to thiamine deficiency, but chronic drinking also impairs the body's ability to absorb thiamine from the usual food sources. If not treated, wet brain syndrome can cause permanent neurological damage, including severe learning difficulties and memory problems that may render the person incapable of living independently.
- **Hepatic Encephalopathy:** Alcohol damages the liver, the organ responsible for breaking down toxins and excreting them from the body. Poor liver function can cause a buildup of poisons like ammonia and manganese, which can migrate to the brain and damage neural cells severely enough to cause cognitive dysfunction. There is high risk for a condition called hepatic

encephalopathy, a neuropsychiatric disorder that causes changes in mood, personality and motor functioning. In severe cases, hepatic encephalopathy sufferers may slip into a coma.

- **Fetal Alcohol Syndrome (FAS):** FAS is a lifelong developmental disorder that occurs in children who had been exposed to alcohol in utero. It can cause stunted growth, abnormal facial features and mental, emotional, behavioral and cognitive impairment consistent with damage to the central nervous system. FAS is one of the most devastating alcohol side effects, and it is a risk faced by any pregnant woman who chooses to drink.
- **Co-occurring Drug Addiction:** Alcoholism alters the reward circuitry of the brain, boosting production of pleasure-inducing neurochemicals like dopamine and endorphins. Other drugs cause the same effects, and alcoholics who come to crave feelings of intoxication and euphoria may be drawn to other substances that fill their psychological need to get high.

Other behavioral, emotional and psychological long-term effects of alcohol abuse may include:

- Changes in sleeping patterns
- Swings or shifts in mood and personality
- Shortened attention span
- Isolation from others
- Problems with job performance, leading to job loss
- Problems with coordination
- Violent behavior
- Inability to speak or think coherently
- Low self-esteem
- Thoughts of suicide or suicide attempts

D. Substance Abuse

According to the National Survey on Drug Use and Health, approximately 20.3 million people aged 12 or older had a substance use disorder in 2018, with 14.8 million struggling with an alcohol abuse and 8.1 million dealing with a drug abuse disorder.

Prescription Drug Abuse

While street, such as heroin and crystal meth, drugs are known to be dangerous, prescription drugs are often viewed in a more favorable light, due to their status as being doctor prescribed. Though many believe these drugs are “safer” as a result, they can be as addictive as heroin.

Prescription drugs are often misused in the United States. In 2018, around 9.9 million people aged 12 or older abused those medicines at least once in the past year.

Opioids—including morphine, OxyContin (oxycodone), and Vicodin (hydrocodone)—killed more than 47,000 Americans as a result of an overdose in 2017.

Short- and Long-Term Effects of Drug Abuse

Drugs work by stimulating various parts of the human body, including certain areas of the brain. The different types of controlled substances produce a variety of short-term effects, but the most common ones may include:

- increased heart rate;
- high blood pressure;
- dizziness;
- tremors;
- mood changes; and
- paranoia.

In high dosages, the risk for more dangerous effects, including heart attack, stroke, respiratory failure and coma, increase.

In the long-term, substance abuse may lead to mental and physical effects that will require treatment to resolve. These effects may include paranoia, psychosis, immune deficiencies, and organ damage.

E. Tolerance, Dependence, and Addiction

When a person continues to take a drug, they can reach a point where they no longer respond to the drug as they did previously, so they need to increase the dosage of the drug to experience the same effect as they did before. This is known as "tolerance."

If a person experiences withdrawal symptoms when they stop using a drug, this is identified as "dependence." Withdrawal symptoms can range from mild to life threatening. Many abusers continue to use to avoid these symptoms.

Even when the effects of drugs are damaging to a person's health and harms their relationships with friends, family members and coworkers, the need for a substance may overcome any rational thinking. This is known as "addiction." Addiction is a chronic disease whose symptoms include compulsive drug seeking despite harmful consequences.

Per the National Institute of Drug Abuse, addiction is a persisting disease that requires ongoing management. Individuals are never "cured" of addictions; instead, they learn how to manage their disease so they can lead healthy, balanced lives.

F. Interventions

Often those struggling with substance abuse – drugs or alcohol -- will show no desire to change their behavior, or they may not even recognize it as being a problem. Interventions seek to increase an alcohol or controlled substance abuser's desire to quit by confronting them with the effects of their behavior. Employers or therapists can initiate interventions, but they are thought to be most effective when involving family members and close friends.

During an intervention, affected people communicate, honestly but compassionately, about how they have been hurt by the subject's substance abuse. This combination of confrontation and support often provides the initial desire for change that is necessary to progress.

If you have questions about how an intervention works, contact an SAP professional.

(1) Information in this Appendix is from Drugabuse.com, Addictionresource.com, and SunshineBehaviorialHealth.com

APPENDIX B: FORMS

DRAFT

DOT DRUG AND ALCOHOL TESTING APPLICATION SUPPLEMENT
(To be completed by every applicant for a covered position.)

Applicant Name (please print): _____

Position Applying for: _____

Please answer the following questions:

Yes **No**

 Within the last three (3) years, have you ever tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which you applied for, but did not obtain, safety-sensitive transportation work?

 If you answer "yes" above, have you successfully completed the return-to-duty process?

APPLICANT CERTIFICATION:

I understand that the information listed above will be verified and that false information may be grounds for not offering me employment, or for termination of employment at any point in the future.

Applicant Signature

Date

DOT TESTING CONSENT TO RELEASE INFORMATION

Previous Employers Subject to FMCSA Drug and Alcohol Testing

SECTION I. (Employee and New Employer)

In accordance with 49 CFR Section 40.25 and 29 CFR Section 382.413, I hereby authorize the employer listed below to release, to the City of White Sulphur Springs, Montana, the following information:

1. Alcohol tests with a result of 0.04 or higher within the past 3 years;
2. Verified positive drug tests within the past 3 years;
3. Refusals to be tested within the past 3 years;
4. Other violations of FMCSA drug and alcohol testing regulations within the past 3 years;
5. Information obtained within the past 3 years from previous employers of a drug and alcohol rule violation; and
6. Documentation, if any, of completion of the return-to-duty process following a rule violation occurring within the past 3 years.

Previous Employer Name: _____
Mailing Address: _____
Phone #: _____ **Fax #:** _____
Designated Employer Representative (if known): _____

Employee Printed or Typed Name: _____ **SS or ID Number:** _____

Employee Signature _____ **Date** _____ **Application Date** _____

SECTION II. (Former Employer)

If the employee was **not** subject to Department of Transportation testing requirements, please check here: , fill in the dates of employment: from _____ to _____, sign and date this form below, and return it to the City.

In the **three years** prior to the **application date** listed above, for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? ____ YES ____ NO
2. Did the employee have verified positive drug tests? ____ YES ____ NO
3. Did the employee refuse to be tested? ____ YES ____ NO
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? ____ YES ____ NO
5. Did a previous employer report a drug and alcohol rule violation to you? ____ YES⁽¹⁾ ____ NO
⁽¹⁾ If you answered "yes" to item 5, please provide a copy of the previous employer's report.
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process?
 ____ N/A ____ YES⁽²⁾ ____ NO
⁽²⁾ If you answered "yes" to item 6, please provide the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record, etc.)

Representative of Previous Employer:

 Signature _____ Title _____

Phone #: _____ Date: _____

PLEASE:

- RETURN IN THE ENCLOSED SELF-ADDRESSED, STAMPED ENVELOPE
- FAX TO: (406) 547-XXXX
- EMAIL TO: _____

THANK YOU FOR YOUR COOPERATION!

DRAFT

DRUG/ALCOHOL TEST NOTIFICATION FORM

Employee Name: _____

Name of Supervisor: _____

In compliance with the City of White Sulphur Springs' DOT Drug and Alcohol Testing Program, you are hereby notified that you are being tested for the following reason(s):

- Pre-Employment
- Return to Duty
- Random
- Post-Accident
- Reasonable Suspicion

The substance(s) to be tested for include: (check all that apply)

- Alcohol
- Drugs

Upon receipt of this notification, you must report to the designated collection site to provide urine and/or breath specimen(s) for testing.

The designated testing site is: _____

The testing is scheduled for: _____ Time: _____

EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT

Signature: _____ Date: _____

Manager's Signature: _____

Notification Date: _____ Time: _____

To be completed only if Employee Refuses to Sign:

Did the employee refuse to test? Yes No

Name of Witness: _____

Witness Signature: _____ Date: _____

CONSENT TO CONDUCT CLEARINGHOUSE QUERIES

I hereby give the City of White Sulphur Springs, Montana (City) permission to conduct a limited query of the Federal Motor Carrier Association's (FMCSA) Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse). I understand that this query will be conducted to determine whether drug or alcohol violation information about me exists in that Clearinghouse.

I hereby give the City of White Sulphur Springs, Montana, permission to conduct (check one):

- A Single Limited Query
- Multiple Limited Queries

EMPLOYEE: Please read this carefully before signing. Consult with your attorney if necessary.

I understand that:

1. If a limited query conducted by the City indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the City without first obtaining additional specific consent from me.
2. Under FCMSA regulations, if I refuse to provide consent to the City to conduct a limited query of the Clearinghouse, the City cannot allow me to perform safety-sensitive functions, including driving a commercial motor vehicle.

This consent expires on _____
Date

Employee Signature

Date

Printed Name

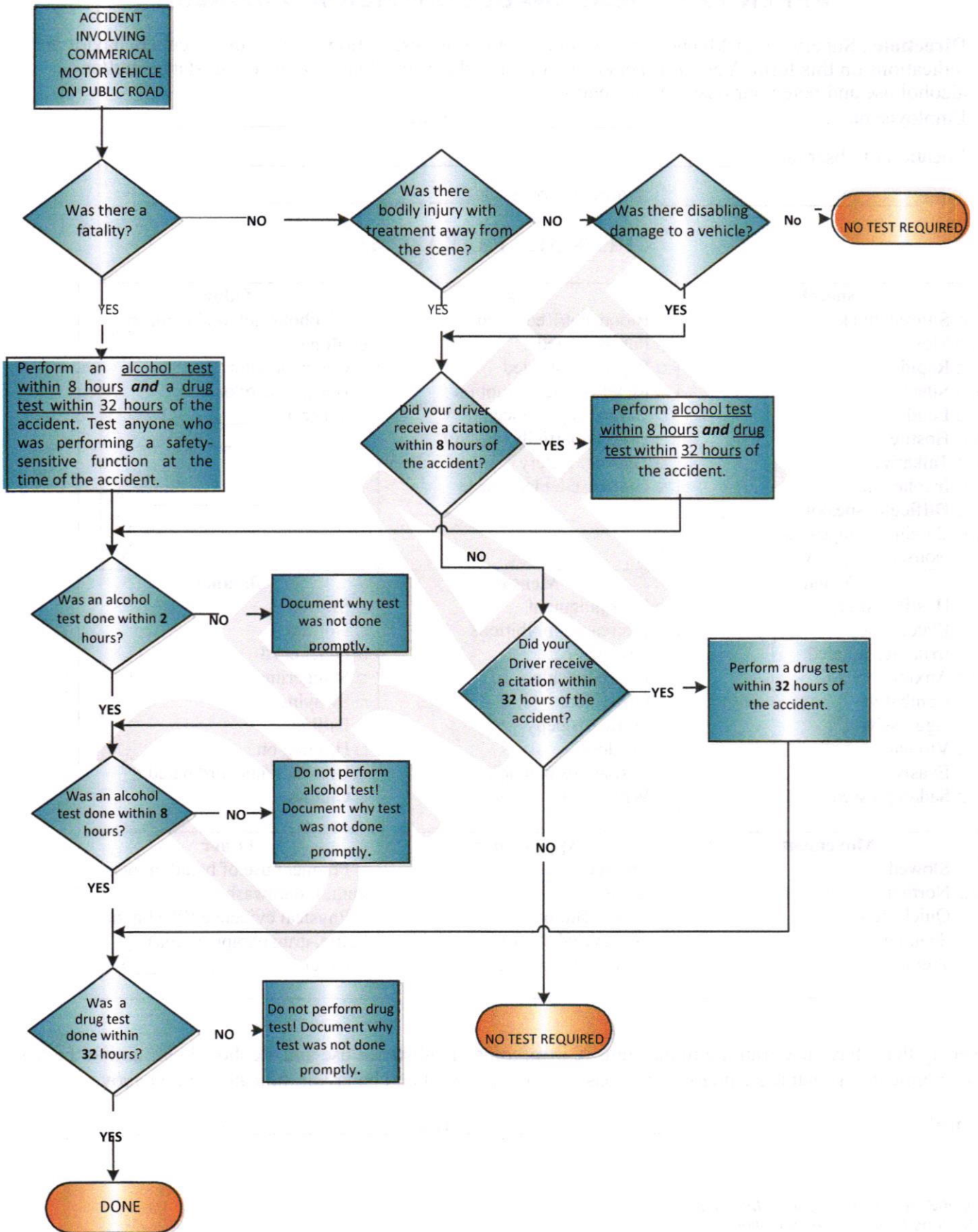
Witness:

Signature /Title

Date

Printed Name

APPENDIX C: POST ACCIDENT TESTING FLOW CHART



APPENDIX D: REASONABLE SUSPICION CHECKLIST

Directions: Supervisor or Manager, please document your observations of the employee's behavior and indications on this form. You must personally observe the probable indicators of substance and/or alcohol use and note your observations below.

Employee name: _____ Date: _____

Location of observations: _____

Time: _____ Name of observer: _____

CHECK ALL THAT APPLY:

<p style="text-align: center;">Speech</p> <ul style="list-style-type: none"> <input type="checkbox"/> Slurred, thick <input type="checkbox"/> Slow <input type="checkbox"/> Rapid <input type="checkbox"/> Silent <input type="checkbox"/> Loud <input type="checkbox"/> Hostile <input type="checkbox"/> Talkative <input type="checkbox"/> Incoherent <input type="checkbox"/> Difficulty speaking <input type="checkbox"/> Cursing, inappropriate <input type="checkbox"/> Nonsensical, silly 	<p style="text-align: center;">Eyes</p> <ul style="list-style-type: none"> <input type="checkbox"/> Bloodshot/Reddened <input type="checkbox"/> Pupils dilated <input type="checkbox"/> Pupils constricted <input type="checkbox"/> Repetitive jerky motion <input type="checkbox"/> Glazed appearance <input type="checkbox"/> Droopy/partially closed <input type="checkbox"/> Tearing, watery <input type="checkbox"/> Unfocused, blank stare 	<p style="text-align: center;">Odor</p> <ul style="list-style-type: none"> <input type="checkbox"/> Alcohol smell on breath or clothing <input type="checkbox"/> Chemical odor <input type="checkbox"/> Burnt rope odor <input type="checkbox"/> Other odor: _____ _____ _____
<p style="text-align: center;">Mood</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hostile/ Angry <input type="checkbox"/> Elated, "up" <input type="checkbox"/> Irritable, agitated <input type="checkbox"/> Anxious <input type="checkbox"/> Combative <input type="checkbox"/> Aggressive <input type="checkbox"/> Violent <input type="checkbox"/> Evasive <input type="checkbox"/> Sad/depressed 	<p style="text-align: center;">Mental</p> <ul style="list-style-type: none"> <input type="checkbox"/> Poor judgment <input type="checkbox"/> Decreased inhibitions <input type="checkbox"/> Disoriented <input type="checkbox"/> Unpredictable <input type="checkbox"/> Distracted <input type="checkbox"/> Drowsy/sleepy <input type="checkbox"/> Restless <input type="checkbox"/> Suspicious/paranoid <input type="checkbox"/> Withdrawn 	<p style="text-align: center;">Balance</p> <ul style="list-style-type: none"> <input type="checkbox"/> Slowed <input type="checkbox"/> Normal <input type="checkbox"/> Quickened <input type="checkbox"/> Staggering <input type="checkbox"/> Swaying <input type="checkbox"/> Falling <input type="checkbox"/> Holding on <input type="checkbox"/> Unsteady/uncoordinated <input type="checkbox"/> Clumsy
<p style="text-align: center;">Movement</p> <ul style="list-style-type: none"> <input type="checkbox"/> Slowed <input type="checkbox"/> Normal <input type="checkbox"/> Quickened <input type="checkbox"/> Shaking <input type="checkbox"/> Tremors 	<p style="text-align: center;">Appearance</p> <ul style="list-style-type: none"> <input type="checkbox"/> Flushed <input type="checkbox"/> Sweating <input type="checkbox"/> Cold, clammy <input type="checkbox"/> Disheveled, messy <input type="checkbox"/> Vomit on clothing 	<p style="text-align: center;">Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Frequent use of breath mints, gum, mouthwash <input type="checkbox"/> Physical evidence (like liquor bottle, drug paraphernalia) <input type="checkbox"/> Other: _____

I certify that I have had training in the signs & symptoms of substance use and alcohol abuse, and to the best of my judgment reasonable suspicion exists based on the physical and behavior indicators noted above.

Signed: _____ Date: _____

