



**CITY OF WASILLA**

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REQUESTED BY: ADMINISTRATION  
PREPARED BY: CLERK'S OFFICE

**RESOLUTION NO. WR95-44**

A RESOLUTION OF THE CITY OF WASILLA, ALASKA APPROVING COMMERCIAL DRIVER LICENSE (CDL) HOLDER ALCOHOL AND DRUG ABUSE POLICY.

WHEREAS, New federal regulations require that all holders of commercial drivers licenses have random drug and alcohol screening; and

WHEREAS, WMC 3.10.010(M) allows for the adoption of policies by Council resolution; and

WHEREAS, It is the goal of the City of Wasilla to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse;

NOW THEREFORE BE IT RESOLVED, that the City of Wasilla adopt Personnel Policy No. 95-02, CDL Driver-Alcohol and Drug Abuse Policy

I certify that a resolution in substantially the above from was passed by a majority of those voting at a duly called and conducted meeting of the governing body of the City of Wasilla this 11th day of December, 1995.

APPROVED:

JOHN C. STEIN, Mayor

ATTEST:

MARJORIE D. HARRIS, CMC  
City Clerk

(SEAL)

# CITY OF WASILLA

## Personnel Policy No. 95-~~04~~

### CDL DRIVER-ALCOHOL AND DRUG ABUSE POLICY

#### A. INTRODUCTION

The City of Wasilla (City) values our employees and recognizes each person's need for a safe and healthy work environment. The City of Wasilla has a strong commitment to the health, safety and welfare of its employees, their families, and our citizens. Widely available statistics and information establish that the incidence of drug and alcohol abuse is increasing and that the effect is devastating to lives, business, and the community at large. Employees who use illegal drugs and abuse alcohol tend to be less productive, less reliable, more prone to accidents, and more prone to greater absenteeism resulting in the potential for increased accidents, costs, and risks. The City of Wasilla is concerned because of the potential for abuse among some of our employees could endanger the safety of other employees and the general public. The City's commitment to maintaining a safe and secure workplace requires a clear policy and supportive programs relating to the detection, and prevention of substance abuse and alcohol misuse by employees.

The violation of this policy, regulations and Federal, State or Local laws may result in severe disciplinary action, up to and including termination, at the City's sole discretion.

#### B. GOAL

It is the goal of the City of Wasilla to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse. We believe this goal to be in the best interest of our employees, our citizens and the general public.

#### C. SCOPE (§382.601(b)(2))

This policy applies to all employees of the City of Wasilla who because of their duties must possess a Commercial Drivers License (CDL). This policy is in effect while on the job and in situations where an employee's off-the-job or off-premises conduct impacts work performance or undermines the public confidence in or harms the reputation of the City of Wasilla. It is also intended to apply to employees of firms doing business with the City of Wasilla while on our premises.

The City of Wasilla recognizes that involvement with alcohol or other drugs of the job eventually takes its toll on job performance. The City's concern is to ensure that employees report to work in a condition to perform their duties safely and efficiently in the interest of their fellow workers and citizens as well as themselves.

The United States Department of Transportation requires certain employees to undergo drug and alcohol testing. The employees who must be tested are those required to have a Commercial Driver's License (CDL),

Who must have a CDL and be tested? Any driver who drives a motor vehicle:

- \* With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds;
- \* With a gross vehicle weight rating of 26,001 or more pounds;
- \* Designed to transport 16 or more passengers; or,
- \* Of any size that is used to transport hazardous material which require the vehicle to be placarded under the hazardous materials regulations.

#### D. POLICY STATEMENT(§382.601(a))

The City of Wasilla will not tolerate or condone substance abuse by its employees. It is the policy of the City of Wasilla to maintain a workplace free from alcohol and other drug abuse and its effects. For the purposes of this policy, the workplace includes: City Property, Buildings, Parks and Vehicles. Employees are subject to searches of their personal property located at the workplace.

It is the policy of the City of Wasilla that employees, while at the workplace, shall not engage in the distribution, dispensing, sale, use, possession, storage, transfer or manufacture of illegal drugs or controlled substances. Employees shall not offer to buy or sell such substances; use alcohol during working hours or abuse prescribed drugs.

This policy is not intended to restrict the normal use of medications prescribed by a physician. However, employees must explain to their physician the type of work they are engaged in and ask the physician whether the medication could affect the safe performance of their duties. CDL employees may not use medication containing alcohol while performing safety sensitive functions. Employees are responsible for reporting this information to their supervisor before starting their next shift.

It is the policy of the City of Wasilla to commit the resources necessary to achieve and maintain a drug-free and alcohol-free environment.

#### E. SAFETY SENSITIVE FUNCTIONS(FHWA-CDL Drivers)(§382.601(h)(3))

A driver shall not use alcohol when performing safety-sensitive functions nor perform safety sensitive functions within four hours of using alcohol. Most testing will be done while the driver is performing a safety-sensitive function, just before the driver is to perform a safety sensitive function, or just after the driver has ceased performing such functions.

A driver shall not report for duty or remain on-duty when his or her job requires performing safety-sensitive functions if he or she has been using drugs or has tested positive for drug use.

A driver is performing a safety sensitive function when:

- Waiting at a terminal, facility, or other property to be dispatched, unless the driver has been relieved from duty by the city;
- Performing pre-trip inspections or servicing the motor vehicle;
- Driving the motor vehicle;
- On the vehicle, except when resting in the sleeper berth;
- Loading or unloading the vehicle, supervising the loading or unloading, giving receipts for the load, or remaining in readiness to operate the motor vehicle;
- Performing duties and services at an accident scene; or,
- Repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

#### F. PROHIBITED CONDUCT(§382.601(b)(4))

A driver shall not:

- \* Report for or remain on duty performing a safety-sensitive function while having a blood alcohol concentration of 0.04 or greater;

*Note: Employees who have a BAC between 0.020 and 0.039 must be removed from safety sensitive duties for 8-hours or until a breath the result is below 0.020 (Commercial Motor Vehicle drivers testing in this range must be removed from driving for 24 hours). FRA & FHWA rules do not allow for retesting.*

- \* Use alcohol while performing safety-sensitive functions;

- \* Abuse controlled substances;
- \* Be on duty or operate a commercial motor vehicle while possessing alcohol unless the alcohol is manifested and transported as part of the shipment;
- \* Perform safety-sensitive functions within four hours of using alcohol,
- \* Use alcohol for 8 hours following an accident unless the driver has been given a post-accident test; or
- \* Refuse to submit to a required alcohol and/or drug test involving post-accident, random, reasonable suspicion, or follow-up testing.

**G. WHEN A DRIVER MUST BE TESTED**(§382.601(b)(5) & (6))

The DOT rules are very specific regarding when an employee must submit for a drug and an alcohol test. The drug test will use urine and the alcohol test will use breath.

<u>Type of Test</u>	<u>Alcohol</u>	<u>Drugs</u>
Pre-employment	No	Yes
Random	Yes	Yes
Reasonable Suspicion	Yes	Yes
Post-Accident	Yes	Yes
Return to Duty	Yes*	Yes
Follow-Up**	Yes*	Yes

\*if required by a substance abuse professional.

\*\*Required if the test results of the original tests were \_ 0.04 BAC

1. **PRE-EMPLOYMENT TESTING**—Those persons that an employer intends to hire must be tested for drug use, prior to employment. For drug testing, a negative test result must be received before the employee performs safety sensitive duties.

*Exception: The city may use a driver who is regularly employed by another motor carrier without having the driver submit to a drug test. This includes trip lease and drivers used under an interchange arrangement.*

2. **REASONABLE SUSPICION TESTING**—Reasonable suspicion means that the city believes that the driver's appearance or conduct are indicative of the use of alcohol and/or drugs. The actions or observations of the driver must occur while the driver is on duty or just preceding the work period. The conduct, appearance, or actions of the driver must be observed by a supervisor or City official. The supervisor or official must have received training in detection of probable alcohol and/or drug use.

In the case of suspected drug use, the driver must be taken immediately to a collection site and a urine sample must be obtained. The Driver will not be assigned to safety sensitive functions until the results of the test are obtained by the City of Wasilla. Drivers who are tested for reasonable suspicion may be suspended without pay until the results of the test are received by the City of Wasilla. If the test comes back as negative the employee may, at the unlimited discretion of the City of Wasilla, be compensated, in whole or in part for the period of suspension.

In the case of suspected alcohol use, the test must be done as soon as possible. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on the driver.

The driver's action that causes the employer's supervisor or official to require the test must be documented and signed by the witness within 24 hours after the behavior is noticed.

3. **RANDOM TESTING**—Random testing ensures that every driver has an equal chance of being tested. Random tests are unannounced.

The regulations provide that a minimum testing rate of 50% is to be used in drug testing. For alcohol testing the random rate is 25%.

The rate for random testing is based on a 1 year period. The unannounced tests should be spread reasonably throughout the year. However, for seasonal employees random selection will necessarily be concentrated during the employment season. There are no requirements as to how often the random test must be conducted. It could be on a daily, weekly, monthly or quarterly basis.

**4. POST ACCIDENT TESTING**—An employee must supply a urine specimen for drug testing or a breath test for alcohol following certain types of accidents. DOT Agency rules dictate when. For FHWA, if there is a fatality, testing must be done. Also, testing must be done if the accident results in a death or bodily injury to a person who immediately receives medical treatment away from the accident site, or one of the involved vehicles is towed from the scene, and the CDL driver receives a citation under State or local law for a moving traffic violation. Drivers who are tested for post accident will be suspended without pay until the results of the test are received by the City of Wasilla. If the test comes back as negative the employee may, at the unlimited discretion of the City of Wasilla, be compensated, in whole or in part for the period of suspension.

**5. RETURN-TO-DUTY AND FOLLOW-UP TESTING**—These tests are required when an employee who has violated the prohibited alcohol conduct standards or tested positive for drugs returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. The City of Wasilla is under no obligation to keep a driver employed or to rehire a driver who has violated our Alcohol and Drug Abuse Policies. Drivers may be returned to duty or rehired solely at the discretion of the City of Wasilla and only after the driver has complied with DOT requirements at his or her own expense.

## H. REFUSAL TO SUBMIT TO A TEST (§382.601(b)(7)(8))

The DOT rules provide that an employee shall not refuse to submit to a post accident test, reasonable suspicion test, random selection test, or follow-up test.

No employer shall permit a driver who refuses to submit to a required test to perform or continue to perform safety-sensitive functions.

In alcohol testing, the refusal to sign the certification in Step 2 on the form is regarded as a refusal to take the test. Not providing an adequate amount of breath may, under certain conditions, be regarded as a refusal to take a test.

In drug testing, failure to provide sufficient urine may constitute a refusal.

Failure to cooperate with the testing process may also be considered a refusal to test.

## I. TESTING PROCEDURES (§382.601(b)(6))

### **1. DRUG TESTING PROCEDURES**

The testing program required by the regulations is limited to five drug types:

(1) Marijuana, (2) Cocaine, (3) Opiates, (4) Amphetamines, (5) Phencyclidine (PCP).

All drug testing must be done from urine specimens collected under highly controlled conditions. Specimen collection procedures require a designated collection site; security for the collection site; chain of custody documentation; use of authorized personnel; privacy during collection; integrity and identity of the specimen; and transportation to the laboratory.

Driver protection is built into the testing procedures. In order to meet the federal requirements the only laboratories that can be used are those that have been certified by the Federal Government. The Substance Abuse and Mental Health Services Administration (SAMHSA) certifies laboratories that have met all of the guidelines established by the Department of Health and Human Services.

After the urine specimen has been collected and forwarded to the laboratory, two tests may be performed. The initial test the immunoassay test. This is a screening test to determine drug usage for the five classes of drugs. The second test is a confirmation test.

The positive levels for the five classes of drug tests are in the table below:

<u>DRUGS</u>	<u>Initial</u> Test Levels (ng/ml)*	<u>Confirmation</u> Test Levels (ng/ml)*
Marijuana	50	15
Cocaine	300	150
Opiates	300	
Morphine		300
Codeine		300
Phencyclidine (PCP)	25	25
Amphetamines	1000	500
Methamphetamine		500

\*ng/ml means nanograms per milliliter. A nanogram is one billionth of a gram. A milliliter is one thousandth of a liter.

If the results of the initial test are negative, the testing laboratory will advise the city's Medical Review Officer (MRO) that the drug test for the driver was negative. No additional tests on the specimen will be done.

If the results of the initial test are positive, that is, if the results exceed the test levels for any of the five drug classes, a second (confirmation) test is performed. This test is done in an entirely different manner from the initial one. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry techniques.

Only specimens that are confirmed positive on the second or confirmation test are reported positive to the Medical Review Officer for review and analysis.

A split specimen collection will be done. That is, the urine is divided into two specimen bottles. If the test result of the primary specimen is positive, the employee may request the Medical Review Officer to send the second (or split) specimen to a different certified lab for testing solely at the employee's expense. The testing of the split specimen will be for the presence of drugs with no cut-off levels. If the result of the test of the split specimen is "negative", the MRO shall cancel that test. If you want the split specimen tested, the employee must advise the MRO within 72 hours of being notified of the positive test result of the primary specimen.

The employer needs to keep a record in the driver's file showing the type of test (pre-employment, random, etc.); date of collection; location of collection; entity performing the collection; name of the lab; name of the MRO; and the test results.

## **2. ALCOHOL TESTING PROCEDURES**

Alcohol testing is done by testing breath, because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The test are displayed and printed in terms of grams of alcohol per 210 liters of breath. The testing device is called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument which determines the concentration of alcohol expressed as "percent by weight". It does this by analyzing a specific volume of expired breath. The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A BAC (blood alcohol concentration) of 0.100 means one tenth of a gram of alcohol per 210 liters of breath. The EBT will print three copies of each test result and the test results are numbered. A test may have two separate parts. The first test is the initial or screening test. If the screening test shows a reading less than 0.02 the test is recorded as "negative". If the screening test result is 0.02 or greater a confirmation test will be done. The alcohol testing will be done in a site that affords privacy to the employees being tested. This site could be a room, van, or a partitioned-off area. Only one breath test will be done at a time. The Breath Alcohol Technician (BAT) giving the test will not leave the testing sight during your test.

The BAT will ask the employee for a picture ID and will also show the employee a like ID, if requested. The technician will explain the testing process to the employee and answer any questions. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the employee is requested to blow into the mouthpiece for at least 6 seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will read the results of the test and a copy of the printed results will be affixed to the Breath Alcohol Testing Form and copy 2 will be given to the employee. Printed results are not required for the screening test but must be used for the confirmation test.

When the initial test results show a reading of 0.02 BAC or greater, a confirmation test is necessary. Before the confirmation test, a 15 minute waiting period will be observed. The purpose of the 15 minute waiting period is to ensure that the presence of mouth alcohol from recent use of food, alcohol or hygiene product, does not artificially raise the test result. If the confirmation test is done on the same EBT as the first test, the testing procedures will be the same.

When the confirmation result is different from the initial test, the confirmation test results will always be used to determine the consequences for the employee. A breath alcohol testing form will be prepared with copy 2 for the tested employee.

## **J. CONSEQUENCES OF A POSITIVE TEST (§382.601(9))**

### ***CONSEQUENCES FOR DRIVERS WHO TEST 0.04 BAC AND ABOVE***

A driver who tests 0.04 or above is subject to discipline up to and including termination and

- Cannot perform a safety-sensitive function,
- Will be made aware of resources for solving alcohol and drug problems,
- Must be evaluated by a substance abuse professional (SAP),
- Comply with treatment recommendations, and
- Must undergo a return to duty drug test with a negative test result.

The positive tested driver will also be subject to unannounced follow-up drug tests for up to 5 years depending on the evaluation of the substance abuse professional.

### ***CONSEQUENCES OF A TEST OVER 0.02 BAC BUT LESS THAN 0.04 BAC***

No driver who is found to have a BAC of 0.02 or greater but less than 0.04 shall perform safety sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following the test. A driver who tests between 0.02 and 0.039 twice in one year is subject to discipline up to and including termination.

**CONSEQUENCES OF A POSITIVE DRUG TEST**

- A driver who tests positive for drugs is subject to discipline up to and including termination and:
- Cannot perform a safety-sensitive function,
  - Must be evaluated by a substance abuse professional,
  - Comply with treatment recommendations, and
  - Must undergo a return to duty drug test with a negative test result.

The positive tested driver will also be subject to unannounced follow-up drug tests for up to 5 years depending on the evaluation of the substance abuse professional.

**K. RELEASE OF INFORMATION**

All information concerning individual employee test results are considered confidential and will be held in strict confidence by all the City of Wasilla supervisors and managers. Only those supervisors with a direct need to know will be informed.

Except as provided for in 49 CFR Part 382 and Part 40, the City of Wasilla will not release individual test results or other personal information.

Individual results from drug tests required by this Policy may be released if the individual tested signs a specific authorization for the release of the results to an identified person.

Individuals tested under this policy may receive results of their test.

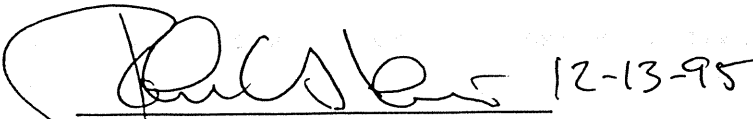
**L. RECORDS AND REPORTS.** The City of Wasilla will maintain records and reports required by 49 CFR Part 382 and Part 40 will be kept and reported as required.

**M. GENERAL**

Employees are encouraged to report unsafe practices and violations of this Policy to management. Employees who fail to report known unsafe practices or violations of this Policy are subject to discipline, including termination. If discipline, testing, examination, or search takes place because of a coworker's report to the City, the City reserves the right to refuse to disclose the identity of the reporting party to the affected employee or their representative.

The Mayor has overall authority to implement this Policy in accordance with DOT rules, CFR 49.

**THIS POLICY APPLIES TO ALL CDL DRIVER EMPLOYEES. COMPLIANCE WITH THIS POLICY IS A TERM AND CONDITION OF EMPLOYMENT. EACH EMPLOYEE AGREES TO COMPLY WITH THIS POLICY BY HIS OR HER CONTINUED EMPLOYMENT WITH THE CITY. ACKNOWLEDGMENT OF RECEIPT AND UNDERSTANDING OF THIS POLICY IS A CONDITION OF EMPLOYMENT.**

  
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Mayor