

RESOLUTION NO. 1143

A RESOLUTION ADOPTING THE CITY OF CANBY DRUG & ALCOHOL POLICY FOR USE WITH DOT REGULATED EMPLOYEES AND IDENTIFYING AN EFFECTIVE DATE

WHEREAS, the City of Canby is committed to a safe and drug free workplace; and

WHEREAS, for individuals performing safety-sensitive functions, an employee substance abuse testing program is mandated under U.S. Department of Transportation (DOT), and Federal Transit Administration (FTA) regulations; and

WHEREAS, Section III-14a of the Oregon State Management Plan for Public Transportation programs requires that certain grant sub recipients develop and adopt an anti-drug use and alcohol abuse policy in accordance with 49 CFR Part 655; and

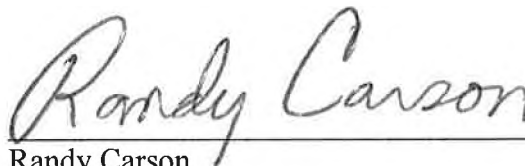
WHEREAS, the City of Canby has these Drug and Alcohol Testing policies for safety and for compliance with the FTA regulations 49 CFR Parts 40 and 655.

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

To adopt the City of Canby Drug & Alcohol Policy for Use with DOT Regulated Employees and to identify an effective date, attached hereto as Exhibit "A".

This resolution shall take effect September 19, 2012.

ADOPTED this 19th day of September 2012, by the Canby City Council.



Randy Carson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder

**CITY OF CANBY, OREGON
DRUG AND ALCOHOL POLICY
FOR USE WITH DOT REGULATED EMPLOYEES**

Effective September 19, 2012

The City of Canby ("CITY") is committed to a safe and drug free workplace. For individuals performing safety-sensitive functions, an employee substance abuse testing program is mandated under U.S. Department of Transportation (DOT), Federal Transit Administration (FTA) regulations. City of Canby has these Drug and Alcohol Testing policies for safety and for compliance with the FTA regulations 49 CFR Parts 40 and 655.

This Policy includes communication of resources for employees who voluntarily seek assistance before an alcohol or drug dependency problem affects their work performance or is discovered through a drug and alcohol test.

This Drug and Alcohol Testing Policy is intended to comply with FTA regulations.

The effective date of this policy is September 19, 2012 and has been approved and adopted by the City Administrator.

This policy applies to the job classifications which are safety sensitive, but may not be limited to: drivers, dispatchers and fleet maintenance workers. These job classifications are considered safety-sensitive positions and individuals filling these positions are subject to this policy as a condition of employment.

This policy provides guidelines for circumstances under which this Department of Transportation (DOT) mandated testing will be conducted.

Individuals covered by this policy have been provided a copy of these DOT provisions and by your signature, you are verifying that you have read and understand the policy. Employees should note that in addition to the required DOT regulations they are also subject to any other CITY drug and alcohol policy.

The following conditions and activities are expressly prohibited:

The manufacture, sale, use, or possession of alcohol, any controlled or illegal substance, or prohibited drug (except strictly in accordance with medical authorization) or any other substances that may impair job performance or pose a hazard, when use or possession occurs on CITY premises or property, or during work time, or while representing the CITY in any work-related fashion.

Reporting for work having consumed alcohol; or used illegal or prohibited drugs, on or off-duty; or controlled substances at a time, or in such quantities, or in a manner that may impair work performance is prohibited. The covered employee may be tested for controlled substances at any time during his/her work day. Alcohol testing will be conducted just before, during or after

performing safety-sensitive functions. For purposes of this policy, having any detectable level of an illegal or controlled drug, or alcohol with an alcohol concentration of .02 or greater, in one's system while covered by this policy will be considered to be a violation. Employees with an alcohol concentration of less than .04 will not be subject to discipline [other than removal from the job as stated in this policy]. If an employee had multiple events where their BAC was between .02 and .039, the employee may be subject to discipline.

Alcohol and Drug Problems

In some cases alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Individuals who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. The individual is responsible for seeking help when needed, and prior to any discovery of a substance abuse problem on the job. The following Substance Abuse Professional can provide help and referrals:

Sue Blayre
Blayre Agency
525 Ferry Street SE, # 304A
Salem, OR 97301
503.884.3271

In addition, the City offers an Employee Assistance Program, which is a free and confidential counseling and referral service for you. Assistance is available 24 hours a day by calling toll free 800-433-2320 or visiting www.cascadecenters.com.

Education and Training

It is the CITY's policy that training and education programs will be made available to all covered employees and independent contractors. Supervisors and managers will receive at least 2 hours of instruction on supervisory responsibilities, effects of alcohol and drug use, procedures of the CITY's drug and alcohol program, and indicators of probable alcohol misuse and drug use. Only supervisors and managers who have received the above training are qualified to make the determination to send employees for drug and alcohol testing. Covered employees will receive at least 60 minutes drug and alcohol training covering: effects on an individual's health, work, and personal life; signs and symptoms of drug and alcohol problems; and available methods of intervention.

Definitions

"Alcohol" means the intoxicating agent in beverage alcohol.

"Alcohol concentration (or content), BAC" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

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

“Contractor” means a person or organization that provides a safety-sensitive service for a recipient, subrecipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

“Covered Employee” means any person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to 49 CFR Part 655.

“Drug” has the meaning of any controlled substances, prescription, or over-the-counter medication.

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

“Employer” means a recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes subrecipients, operators, and contractors.

“FTA” means the Federal Transit Administration, an agency of the US Department of Transportation.

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

“Medical Review Officer (MRO)” means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

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

“Prohibited drug” means marijuana, cocaine, opiates, 6-Acetylmorphine, amphetamines, MDMA, phencyclidine.

“Recipient” means an entity receiving Federal financial assistance under 49 US Code 5307, 5309, 5311 or under section 103(e)(4) of title 23 of the United States Code.

“Refuse to submit (to an alcohol or controlled substances test)” means that a covered employee:

- Fails to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer.
- Fails to remain at the testing site until the testing process is complete; provided that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused the test. The testing process commences once the applicant has been provided the specimen collection cup.
- Fails to provide a urine specimen for any drug test required by 49 CFR Part 655 or DOT agency regulations, if the employee leaves after the testing process has commenced.
- Fails to provide an adequate amount of saliva or breath for any alcohol test required by 49 CFR Part 655 or DOT agency regulations. An applicant, in the case of a pre-employment test, who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process commences is not deemed to have refused to test.
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen.
- Fails or declines to take a second test the employer or collector has directed.
- Fails to provide a sufficient amount of urine when directed, unless it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure to provide.
- Fails to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation part of the "shy bladder" procedures in 49 CFR Part 40, subpart I.
- Fails to sign the certification at Step 2 of the alcohol testing form (ATF).
- Fails to cooperate (e.g., refuse to empty pockets when so directed by the collector, fail to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process.
- Is reported by the MRO as having a verified adulterated or substituted test result.
- For an observed collection, fails to follow the observer's instructions to raise his/her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he/she has any type of prosthetic or other device that could be used to interfere with the collection process.
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- Admits to the collector or MRO that he/she has adulterated or substituted the specimen.

"Performing" (a safety sensitive function) means a covered employee is considered to be performing a safety sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

"Safety-sensitive function" means:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Drivers License;
- Controlling movement or dispatch of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives Section 5307 funding and is in an area of less than 200,000 population; or, Section 5311 funding and contracts out such services.
- Carrying a firearm for security purposes.

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

"Vehicle" means a bus, electric bus, van, automobile, rail car, trolley car, trolley bus, work truck, vessel, or other CITY driven equipment. A "mass transit vehicle" is a vehicle used for mass transportation.

Prohibitive Conduct

The following is considered prohibitive conduct under this policy:

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.
2. No covered employee shall use alcohol while performing safety-sensitive functions.
3. No covered employee shall perform safety-sensitive functions within four hours after using alcohol. *On call employees* are prohibited from consuming alcohol during the specified hours that he/she is on-call. The following procedure shall be followed:
 - (a) The opportunity for the covered employee to acknowledge the use of alcohol at the time he/she is called to report to duty and the inability to perform his/her safety-sensitive function.
 - (b) The requirement that the covered employee take an alcohol test, if the individual has acknowledged the use of alcohol, but claims ability to perform his/her safety-sensitive function.
4. No covered employee shall refuse to submit to a random, reasonable suspicion, or follow-up drug and/or alcohol test required by 49 CFR Part 655. A refusal to test for drugs constitutes a verified positive drug test result.

5. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the individual uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the individual that the substance will not adversely affect his/her ability to safely and effectively perform his/her assigned duties.
6. Prescription Medications: The appropriate use of legally prescribed medications is not prohibited. However, the employee has the responsibility to discuss the potential effects of any prescription medication in relation to his/her safety-sensitive job duties with the prescribing medical practitioner including its potential to impair mental functioning, motor skills, or judgment. The employee must refrain from performing any safety-sensitive function any time their ability to safely perform their job duties is adversely impacted by the use of a prescription medication or any time the prescribing medical practitioner indicated that the employee's fitness-for-duty may be compromised.
 - a) A legally prescribed drug means the employee has a prescription or other written approval from a medical practitioner for his/her use of a drug in the course of medical treatment. The written statement must include the employee's name, the name of the substance, quantity/amount to be taken, and the period of authorization.
 - b) The misuse or abuse of prescription medications is prohibited. Examples of misuse and/or abuse include:
 - Use of a medication that is not prescribed for the employee.
 - The employee exceeds the prescribed dosage or frequency of use.
 - Use of medication for purposes other than their intended use.
 - Use of any medication that contains alcohol within four hours of performing safety-sensitive functions.
 - The use of any prescription medications that adversely impacts the employee's ability to safely perform his/her safety-sensitive job functions.
 - c) In some instances employees may be able to judge how a substance is impacting him/her. As such, the employee has the responsibility to inform the prescribing medical practitioner of performance altering side effects and request medical disqualification from performance of his/her safety-sensitive duties. The employee is encouraged to discuss/consider alternative treatments that do not have the performance altering side effects.
 - d) Additionally, an employee will be medically disqualified from the performance of safety-sensitive functions if the medical practitioner determines that the employee's medical history, current condition, side effects of the medication being prescribed and other indications pose a potential threat to the safety of coworkers, the public and/or the employee.
 - e) The medical practitioner statements and any other medical information obtained through this process are confidential information and will be maintained in confidential medical files in the HR Manager's office.

If, as a result of testing under this policy, the individual is found to have the presence of controlled substances in the body which is a result of the use of his/her legally prescribed medication that has not been reported, the individual shall be removed from

service until it is determined that the use of medication will not impair his/her ability to safely and effectively perform assigned duties.

7. No covered employee shall report for duty, remain on duty, or perform a safety-sensitive function, if the individual tests positive for prohibited drugs.

Other Related Alcohol Conduct

A covered employee tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the individual's alcohol concentration measures less than 0.02; or the start of the individual's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

Controlled Substances and Alcohol Testing

The covered employee may be tested for controlled substances at any time during his/her work day, except pre-employment, and alcohol testing will be conducted just before, during or after performing safety-sensitive functions.

In addition, any covered employee who receives a negative dilute controlled substances test result will be required to submit a second test. Once notified the applicant/covered employee must proceed immediately to the collection site.

Employees and / or applicants will be subject to testing as follows:

Pre-Employment

Covered employees will be tested for prohibited drugs, and the employer must receive notification of a verified negative drug test result, prior to the individual performing any safety-sensitive function. An individual may not transfer from a non safety-sensitive function to a safety-sensitive function until he/she takes a drug test with a verified negative test result. A covered employee who has been removed from the random testing pool for more than 90 consecutive calendar days, regardless of the reason, shall submit to a pre-employment test with a verified negative result prior to resuming performance of safety-sensitive functions. If the applicant or employee's test is canceled, then he/she must take another pre-employment drug test. An applicant who tests positive on a pre-employment test will not be hired and will not be eligible to reapply for employment with the City of Canby.

The CITY will make required inquiries to all previous DOT covered employers to obtain information regarding any verified positive drug test results, any alcohol test results 0.04 or greater, or any refusals to test that occurred within the past two (2) years. This information will be obtained by employee's written consent. This consent is a condition of employment. Refusing to provide consent will result in the job offer being withdrawn. If an applicant or transferring employee's test is canceled, then he/she must take another pre-employment drug test.

In instances where a covered employee is on extended leave for a period of 90 days or more, regardless of reason, and is not in the random testing pool, the employee will be required to

take a drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

In addition, an applicant who tests positive on any DOT mandated pre-employment drug test, after August 1, 2001, must provide documentation of the employee's successful completion of DOT return-to-duty requirements (i.e. an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT pre-employment test all of which meet the requirements of 49 CFR Part 40). The driver/applicant will be responsible to pay for the pre-treatment evaluation, education and/or treatment, and the subsequent pre-employment test.

Random

The employer is using a consortium/third party administrator to facilitate the random selection and notification to the employer of the covered employee(s) and individual contractor(s) selected for testing. The consortium/third party administrator is:

Bio-Med Testing Service Inc.
1952 McGilchrist St. SE
Salem, OR 97302
503-535-6654

Covered employees and individual contractors will be subject to random alcohol and controlled substance testing under the following program:

1. Random selection of covered employees and individual contractors will be made by a scientifically valid method using a computer-based random number generator that is matched with the individual's Employer identification number.
2. Each covered employee shall have an equal chance of being drawn each time selections are made.
3. Selections for testing are unannounced and reasonably spread throughout the calendar year.
4. Random selections are made to ensure testing for controlled substances is conducted at not less than the minimum annual 50% rate and alcohol is conducted at not less than the minimum annual 10% rate, **or** the rates as established by the Federal Transit Administration (FTA).
5. A covered employee shall only be tested for alcohol just before, during, or after performing safety-sensitive functions, however, he/she may be tested for controlled substances anytime while performing work for the employer.
6. Once a covered employee is notified of selection for random alcohol and/or controlled substances testing he/she shall proceed to the test site immediately.

Reasonable Suspicion

Covered employees will be tested for alcohol and/or controlled substances whenever the employer has reasonable suspicion that the individual has violated any of the drug and alcohol policy (for example, if the employer observes physical signs of drug or alcohol use, such as slurred speech, unsteady gait, dilated pupils, odor of alcohol or controlled substances, etc.; or if observed unusual behavior suggesting the use of controlled substances or alcohol in violation of the CITY policy).

Reasonable suspicion drug testing is authorized when the supervisor's observation of the covered employee's behavior occurs anytime during the workday. Reasonable suspicion alcohol testing is authorized only if the supervisor's observation of the covered employee's behavior has been made during, just preceding, or just after the employee was performing any safety-sensitive function.

Reasonable Suspicion documentation is evaluated by the HR Director (or the City Administrator, if the supervisor in question is the HR Director) to prevent abuse of Reasonable Suspicion testing. In the interest of safety, such review can occur after removing the employee from service and sending the employee to testing.

The alcohol test must be completed within two (2) hours of the observation, if not, the CITY must document the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the observation. After eight (8) hours the attempt to test will cease, and the CITY must again provide the reasons for the test not being administered.

If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the employer shall prepare and maintain on file a record stating the reasons the test was not administered within the appropriate time frames.

The CITY shall not permit a covered employee to report for duty, remain on duty, perform, or continue to perform any safety-sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, until:

- 1) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02 percent; or
- 2) The start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the supervisor's determination that reasonable suspicion exists.

Supervisors and any CITY representative that may be expected to serve in a supervisory capacity, and who may be required to make a reasonable suspicion determination, must have received at least 60 minutes of training on the indications of probable drug use and an additional 60 minutes training on the indicators of probable alcohol misuse. Only those individuals who have received this two (2) hours of training are qualified to make these decisions.

Post-Accident Testing

As soon as practicable following an accident, each surviving covered employee on duty in the vehicle at the time of the accident shall be tested for prohibited drugs and alcohol. Any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information at the time of the decision, shall be tested for prohibited drugs and alcohol if any of the following conditions are met:

1. If the accident involved the loss of human life (fatality).
2. If the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident.
3. If the accident involved one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. Disabling damage includes any damage, which precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair. This includes damage to vehicles that could have been driven, but would have been further damaged by such movement (i.e. limped away).

A covered employee may not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. The alcohol test must be completed within two (2) hours of the accident, if not, the covered employee or independent contractor must advise the CITY of the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the accident. After eight (8) hours the attempt to test will cease, and the individual must again provide the reasons for the test being administered

If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the employer shall prepare and maintain on file a record stating the reasons the test was not administered within the appropriate time frames. Upon request, these records shall be submitted to the FTA Administrator.

A controlled substances test shall be administered as soon as practicable following the incident, up to 32 hours following the accident. After 32 hours the attempt to test will cease, and the covered employee or individual contractor must provide the reasons for the test not being administered properly. All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.

A covered employee must remain readily available for testing, or may be deemed by the CITY to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that the CITY is unable to perform a drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the CITY may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

Return-to-Duty

No covered employee found to be in violation of the "Prohibitive Conduct" section of the policy will be permitted to return-to-duty involving safety-sensitive functions until the individual has a verified negative controlled substances test and/or an alcohol test with a result less than 0.02 alcohol concentrations.

No covered employee found to be in violation of the "Other Related Alcohol Conduct" section of this policy will be permitted to return-to-duty involving safety-sensitive functions until the individual has an alcohol test with a result of less than 0.02 concentration, or the start of the individual's next regularly scheduled duty period, but not less than eight (8) hours from the time of the initial test.

Failure to Cooperate

Individuals who are subject to this policy are expected to comply fully with any required testing as a condition of employment. Failure to do so (including, for example and not limited to, refusing to sign certification statement on the alcohol testing form, refusing to test, obstructing the testing process, failing to make oneself available for a required test, failing to provide an adequate urine or breath sample for testing, attempting to adulterate or substitute a specimen, or in any way tampering with a required test) will cause the covered employee to be immediately relieved from performing safety-sensitive functions. This will also be considered a violation of CITY policy that will subject the individual to discipline, up to and including termination of employment and/or contract. These actions are considered a refusal to test and will constitute a verified positive drug test result.

The CITY also reserves the right to involve law enforcement officials for any conduct it believes might be in violation of local, state or federal law.

Testing Procedures

Controlled substances and alcohol testing will be conducted in accordance with procedures of 49 CFR Part 40, as amended. Detailed collection and alcohol testing procedures are available to all covered employees and can be obtained from the HR Director.

Urine Specimen Collection

Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered employee and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances the applicant or covered employee will be afforded complete privacy in the restroom for providing the urine sample. Certain situations do require the urine sample be provided under same gender direct observation. Those situations include:

- The temperature on the original specimen was out of range; or
- The original specimen appeared to have been tampered with (ie unusual color, odor, foam, etc); or
- The laboratory reported to the MRO that a specimen was invalid, and the MRO reported to the CITY that there was not an adequate medical explanation for the result; or
- The MRO reported to the CITY that the original positive, adulterated, or substituted test results had to be cancelled because the test of the split specimen could not be performed; or
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to the CITY as negative-dilute and a second collection must take place under direct observation; or
- All return-to-duty or follow-up drug tests.

When that occurs, the donor will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

Refusing to permit an observed collection or possessing or wearing a prosthetic or other device that could be used to interfere with the collection process are considered a refusal to test and will constitute a verified positive drug test result.

Laboratory Analysis

Only a laboratory certified by the Department of Health and Human Services (DHHS) will be retained by the CITY to perform the analysis of the urine specimen for controlled substances. The initial screening test will be performed by immunoassay and will test for substances and at cutoff levels required by 49 CFR Part 40. All specimens identified as positive on the initial screening test will be confirmed using gas chromatography/mass spectrometry techniques at cutoff levels required by 49 CFR Part 40.

Breath Alcohol

Testing will be conducted by a qualified technician according to 49 CFR Part 40 procedures. Either a breath or saliva sample will be used for the screening test. If the result of the screening test is an alcohol concentration of 0.02 percent or greater, a breath alcohol confirmation test shall be performed on an EBT (evidential breath testing device). Devices used for either the screening or confirmation testing shall be identified on the Conforming Products List (CPL) approved by the National Highway Safety Administration (NHSA).

Medical Review

All controlled substances test results will be reviewed by a Medical Review Officer (MRO) before being reported to the CITY. The MRO will attempt to contact the covered employee to discuss the test results before reporting positive results to the CITY.

The Medical Review Officer for the City of Canby is:

Dr. Benjamin Gerson
10551 Decatur Rd, Ste. 200
Philadelphia, PA 19154
Phone: 215-637-6800
Fax: 215-637-6998

Notification of Results

The CITY will notify the affected covered employee of any controlled substances test that is reported positive by the MRO and will immediately remove the employee from performing safety-sensitive functions. An employee may request a copy of controlled substances test results from the CITY with a written request. In addition, the CITY will notify applicants of the results of pre-employment controlled substances testing if the applicant requests that information in writing within 60 days after we notify the applicant that he/she has or has not been hired.

Reanalysis of Original Specimen or Split Specimen Retest

Within 72 hours of the MRO notifying the individual of a verified positive controlled substances test, he/she may request the reanalysis of the original specimen. Only the MRO may authorize such a reanalysis, and such a reanalysis may take place only at laboratories certified by the Department of Health and Human Services (DHHS). If the reanalysis fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test.

All covered employees have a right to request the reanalysis of the original specimen. The cost of the split specimen retest will be the employee's responsibility to pay. Payroll deduction may be necessary to cover the costs associated with the split specimen retest.

Confidentiality

Records required under this policy, including test results, will be maintained in a secure location with controlled access. Each covered employee shall upon written request, be entitled to receive copies of his/her own records, and to have copies of his/her records made available to any subsequent employer. Information may also be disclosed to the relevant, local, state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or on behalf of the employee.

Evaluation and Referral

DOT regulations require that any covered employee who violates the prohibitions of the alcohol and controlled substances rules of 49 CFR Part 655 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. In addition to the CITY's Employee Assistance Program, the following Substance Abuse Professional can provide help and referrals:

Sue Blayre
Blayre Agency
525 Ferry Street SE, # 304A
Salem, OR 97301
503.884.3271

Consequences

Employees violating this policy or federal regulations will be prohibited from performing any safety-sensitive functions as defined by this policy and may be subject to disciplinary action up to and including termination of employment. The CITY also reserves the right to involve law enforcement officials for any conduct, which it believes, might be in violation of local, state or federal law.

Questions?

If you have any questions about this policy or the regulations, you may contact the Designated Employer Representative (DER): - City of Canby HR Director 503.266.4021.

This policy replaces and supersedes any previously distributed policy.

The policy has been approved by:

Signature

Printed Name and Title

Date

**CITY OF CANBY, OREGON
DRUG AND ALCOHOL POLICY
FOR USE WITH DOT REGULATED EMPLOYEES**

CERTIFICATE OF ACKNOWLEDGEMENT

I hereby acknowledge that I was notified that the City of Canby would require me to complete a pre-employment drug test.

CERTIFICATE OF RECEIPT

I hereby certify that on the date shown below I received a copy of City of Canby Drug and Alcohol Policy for Use With DOT-Regulated Employees, consisting of fifteen (15) pages including these Certificates of Receipt, and a copy of drug and alcohol awareness training materials. I agree to comply with this policy, including any required alcohol or controlled substance testing.

CERTIFICATE OF TRAINING

I hereby certify that I have reviewed the drug and alcohol awareness training materials included with City of Canby Drug and Alcohol Policy.

Signature

Printed Name and Title

Date

-----**Do Not Write Below – For Office Use**-----

Time and Date of Pre-employment Test: _____

Time and Date Test Result Received: _____ Reported By: _____

Date Hired: _____

(Original to be kept in employee file.)

(Employee to receive duplicate copy.)