



CITY OF VISALIA PERSONNEL POLICY
Policy #123
Department of Transportation Drug and Alcohol Regulations

I. PURPOSE

It is the City's objective to have a work force that is free from the influence of substance abuse. In addition to the City's zero-tolerance Substance Abuse Policy that applies to all employees, the City complies with the United States Department of Transportation (DOT) regulations implemented with the Federal Omnibus Transportation Employee Testing Act of 1991, and the regulations of the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). This policy is intended to comply with all applicable regulations of the Federal DOT and other applicable laws, and those regulations are incorporated here by this reference. Revisions to Federal DOT Regulations will supersede this policy.

II. COVERED EMPLOYEES

A covered employee is an employee who meets any of the criteria below and as designated by the City in its sole discretion:

A. Employees who are required by their respective City department to possess a commercial driver's license (Class A or Class B), which include, but are not limited to, the following:

- Equipment Mechanic
- Fleet Maintenance Worker
- Heavy Equipment Operator
- Lead Equipment Mechanic
- Lead Solid Waste Operator
- Lead Street Maintenance Worker
- Lead Wastewater Maintenance Technician
- Mechanic Welder
- Park Maintenance Worker
- Senior Equipment Mechanic
- Senior Heavy Equipment Mechanic
- Senior Park Maintenance Worker
- Senior Street Maintenance Worker
- Senior Wastewater Maintenance Worker
- Solid Waste Delivery & Maintenance Worker
- Solid Waste Equipment Service Worker
- Solid Waste Operator
- Street Maintenance Worker

B. Employees who perform safety sensitive functions, the performance of which may affect public safety, which include, but are not limited to:

- Holding a commercial driver's license and operating and/or maintaining a vehicle specified by applicable federal regulations.

A covered employee is considered to be performing a safety sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety sensitive function, including any off-site lunch periods and breaks.



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III. PROHIBITIONS

In addition to other applicable City rules and regulations, the following conduct by "covered employees" is prohibited and may result in discipline, up to and including termination:

- A. Being under the influence of alcohol, drugs, or any controlled substances while on-duty or subject to being called to duty including standby or on-call status;
- B. Being under the influence of, or in possession of alcohol, drugs, or controlled substances when reporting for work;
- C. Ingesting, injecting or otherwise using alcohol, drugs, or controlled substances while performing job duties except in accordance with Section X of this policy regarding prescription drugs, where applicable;
- D. Performing a safety-sensitive function within four (4) hours of using alcohol;
- E. Directly or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks or while on City premises;
- F. Use of City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances;
- G. Absence or tardiness as a result of having been under the influence of alcohol, drugs, or controlled substances during non-work time;
- H. Testing positive for alcohol and/or controlled substances under any circumstances described in Section VI of this policy;
- I. Refusing to submit immediately to any alcohol, drug, or controlled substance test required by Section IX of this policy when directed by the City;
- J. Refusal to submit to a search of City owned, operated, or controlled property, including buildings, vehicles, equipment, desks, lockers, and file or storage cabinets.

IV. NOTIFYING THE CITY OF ANY CRIMINAL DRUG STATUTE CONVICTION

In accordance with the Drug-Free Workplace Act of 1988, an employee must immediately notify the City of any criminal drug statute conviction of a violation that occurred in the workplace no later than five days after such conviction. Any employee who fails to provide this notice will be subject to discipline, up to and including termination.

V. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE REQUIRED OF COVERED EMPLOYEES

A. Pre-Employment Testing

All applicants for classifications which are covered employees, as well as all employees who transfer or promote from classifications which are not covered employees to



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classifications which are covered employees shall be required to submit to pre-employment/pre-duty drug and alcohol testing. Applicants shall not be appointed to a covered employee position if they do not pass such tests.

B. Post-Accident Testing

Post-accident drug and alcohol testing shall be conducted on covered employees following an accident as outlined below. In addition to the operator of the vehicle being tested, any other covered employee whose performance may have contributed to the accident, such as a maintenance person, may be tested, if there is reasonable suspicion.

Any accident involving a fatality requires testing. Testing will also be required when the covered employee receives a citation within 8 hours of the accident and: (1) one or more motor vehicles are towed from the scene, or (2) someone is treated medically away from the scene.

Drivers are prohibited from using alcohol for eight (8) hours following an accident as described in this policy, or until they have completed a post-accident alcohol test, whichever occurs first.

Post-accident alcohol tests shall be administered within two (2) hours following an accident and no test may be administered after eight (8) hours. A post-accident drug test shall be conducted within thirty-two (32) hours following the accident.

C. Random Testing

Covered employees shall be subject to unannounced random alcohol and drug testing as follows:

- The City shall subject at least ten (10%) percent of the total number of covered employees to random alcohol testing per year. A random alcohol test shall be administered just prior to the employee performing a safety-sensitive function, while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.
- A random drug test shall be administered to at least fifty (50%) percent of the total number of covered employees per year.
- Such random alcohol and drug tests may be administered at intervals determined by the City, but no less than twice per year. Some employees may be tested more than once in a year, while others are not tested at all depending on the random selection process.
- On the date an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are covered. The employee will receive verbal notice from his/her supervisor indicating that he/she is to report immediately for testing.

D. Reasonable Suspicion Testing



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Covered employees are required to submit to an alcohol or drug test when a trained observer (City supervisor or manager, peace officer, medical practitioner) has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as glazed eyes, slurred speech, or alcohol on the breath. The observer may not rely solely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

The reasonable suspicion alcohol test shall be administered within two (2) hours of the observation. If the test is not administered within that time period, the supervisor or manager must document the reason for not testing. No test may be administered after eight (8) hours following the observation.

E. Return-To-Duty/Follow-Up Testing

A covered employee who has violated this policy will be subject to discipline up to and including termination. If the City, in its discretion, permits an employee to return to work, he/she must submit to a return-to-duty test. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test. In addition, the employee shall be subject to at least six (6) unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

VI. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

A. Alcohol Testing

Alcohol testing shall be conducted by using a breathing device approved by the National Highway Traffic Safety Administration. When a breathing test is conducted, a screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, no further testing is required. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted following the procedures outlined in the Federal regulations.

B. Drug Testing

Drug testing shall consist of three components as set forth in the Federal regulations: 1) the collection, 2) testing at the laboratory, and 3) review by the Medical Review Officer (MRO).

1. The urine sample will be tested for the following:

- Marijuana metabolites/THC;
- Cocaine metabolites;
- Amphetamines (including methamphetamine, MDMA);
- Opiates (including codeine, heroin (6-AM), morphine); and,
- Phencyclidine (PCP).



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2. The urine specimen shall be split into two (2) bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab.
3. If the test is negative, the result will be reported as negative.
4. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has seventy-two (72) hours to request that the split specimen be analyzed by a different certified lab at the employee's expense.
5. If the specimen tests positive, the results will be reported to the MRO as a positive test and a confirmation test will be performed using a different testing methodology and analysis.
6. With all positive drug tests, the testing facility will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the physician determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative".

VII. PRESCRIBED MEDICATIONS AND OVER-THE-COUNTER (OTC) DRUGS

No prescription or over-the-counter drug shall be possessed or used by an employee unless he/she meets the following standards:

- The medicine is prescribed to the employee by a licensed physician;
- The employee provides the physician with a detailed description of the job duties he/she performs;
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties;
- The prescription drug is used only in the manner, combination, and at the dosage prescribed or authorized;
- If being treated by more than one physician, the employee must show that at least one of the treating physicians has been informed of all prescribed and authorized medications and he/she has determined that the use of the medications is consistent with the safe performance of the employee's job duties; and
- Failure to follow these requirements in a timely manner, or failure to inform the supervisor of a known impairment may result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

VIII. REFUSAL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST

No applicant or covered employee shall refuse to submit to any of the required controlled substance and/or alcohol tests, including pre-employment, post-accident, random, reasonable suspicion, or follow-up tests. In addition to direct refusal to submit to the test, refusal also includes inability to give a urine specimen or failure to provide a sufficient amount of urine without reasonable medical explanation, not reporting to the collection site



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in the time allocated by the department, refusing to sign the necessary forms, failing to remain at the testing site until the testing process is complete, failing to permit the observation or monitoring of controlled substance test, if applicable, and failure to cooperate with any part of the testing process. Any of these occurrences will constitute a refusal to take a test.

Refusal to test will be considered a positive test and the employee will be subject to discipline up to and including termination.

IX. CONSEQUENCES FOR COVERED EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 OR GREATER BUT LESS THAN 0.04

A covered employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 shall be removed from his or her safety-sensitive position for at least twenty-four (24) hours. Such an employee may be subject to discipline up to and including termination. Before the employee may be returned to his/her safety-sensitive position, the employee shall be retested and such test must indicate an alcohol concentration below 0.02.

X. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination.

If a covered employee is not terminated, the employee:

- A. Must be removed from performing any safety-sensitive function;
- B. Must submit to an examination by a substance abuse professional (SAP). Upon a determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The City is not required to pay for this treatment.
- C. May not be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test; and
- D. Will be required to adhere to the Return to Duty/Follow-Up Testing requirements as outlined in this policy.

XI. TRAINING

The City will provide employees with training, educational materials outlining drug and alcohol regulatory requirements and a copy of the City's policy for meeting regulation requirements on an annual basis.

To ensure that supervisors and managers are trained to make reasonable suspicion determinations, supervisors and managers who are vested with the authority to demand a reasonable suspicion drug and alcohol test must attend at least one (1) hour of training on



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alcohol misuse and at least one (1) hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

XII. EMPLOYEE ASSISTANCE CONCERNING ALCOHOL AND CONTROLLED SUBSTANCE ABUSE

The City has established an Employee Assistance Program to help employees who need assistance with alcohol and controlled substance abuse. For more information, employees may contact the Risk Management Division.

Applicable Laws: Federal DOT Regulations; FHWA; FMSCA; Drug-Free Workplace Act of 1988; California Drug-Free Workplace Act of 1990