

Department of Public Works and Engineering

Subject:

CDL DRIVERS ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROCEDURES

Departmental Policy
1-23

Effective Date:

I. Purpose

To establish procedures that comply with the Omnibus Transportation Employee Testing Act of 1991 (the Act) and the Department of Transportation (DOT) regulations implementing the Act.

II. Scope

This policy applies to all Department of Public Works and Engineering personnel and supersedes any other former Departmental policy, procedure or directive.

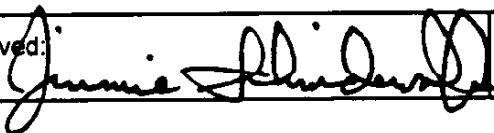
III. Policy

In compliance with **City of Houston Policy 1-32, CDL Drivers Alcohol and Controlled Substances Testing Procedures**, the Department of Public Works and Engineering will adhere to stated guidelines and procedures as outlined in the Mayor's policy.

IV. Compliance

Adherence to the above is mandatory. Any employee who violates this policy may be subject to disciplinary action.

Approved:



Date Approved:

9-13-95

Page 1 of 1

INDEX

1.0	PURPOSE	1
2.0	OBJECTIVES	1
3.0	POLICY	1
4.0	SCOPE	2
5.0	DEFINITIONS	2
6.0	RESPONSIBILITIES	6
7.0	BASIS FOR TESTING	8
8.0	SCREENING/TESTING PROCEDURES	18
9.0	PROHIBITED CONDUCT	23
10.0	CONSEQUENCES OF PROHIBITED CONDUCT	24
11.0	RESIGNATIONS	25
12.0	CONFIDENTIALITY REQUIREMENTS; CONSEQUENCES	25
13.0	RECORDS RETENTION	26
14.0	EMPLOYEE ASSISTANCE PROGRAM	26
15.0	COMPLIANCE WITH LAWS	26



SUBJECT CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32
	Effective Date Upon Approval

1.0 PURPOSE

To establish procedures that comply with the Omnibus Transportation Employee Testing Act of 1991 (the Act) and the Department of Transportation (DOT) regulations implementing the Act.

2.0 OBJECTIVES

To establish guidelines for alcohol and controlled substance testing of City employees subject to DOT testing regulations in the following circumstances:

- pre-employment
- random
- reasonable suspicion
- post accident
- return to duty
- followup

3.0 POLICY

It is the policy of the City of Houston that the manufacture, distribution, dispensation, possession, sale or use of alcohol and controlled substances by CDL drivers while on duty for or in behalf of the City is prohibited. The City's goal is to establish and maintain a work environment that is free from the effects of the abuse of alcohol and misuse of controlled substances. Consequently, CDL drivers are prohibited from being at work or acting in the scope of their employment with the City while impaired by alcohol or with controlled substances present in their systems, on their persons, in City vehicles or on City premises. This policy incorporates any off duty use or misuse of alcohol or controlled substances that result in a positive alcohol or controlled substance test pursuant to these procedures.

Approved <i>Bob Lammie</i>	Date Approved April 7, 1995	page 1
-------------------------------	------------------------------------	--------

4.0 SCOPE

This procedure is applicable to employees in positions that require commercial drivers licenses (CDL) and applicants to such positions who are subject to alcohol and controlled substance testing as mandated by the DOT.

5.0 DEFINITIONS

- 5.1 ACCIDENT means an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, a citation issued to the driver for a moving violation, or a vehicle required to be towed from the scene.
- 5.2 ALCOHOL means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- 5.3 ALCOHOL USE means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- 5.4 APPLICANT FOR CDL DRIVER position means a person applying for any position with the City which requires a valid CDL or the operation of a commercial motor vehicle.
- 5.5 BREATH ALCOHOL TECHNICIAN (BAT) means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
- 5.6 CDL TESTING PROCEDURES is the name given to the CDL Drivers Alcohol and Controlled Substances Testing Procedures of the City of Houston.
- 5.7 CITY PREMISES means all City facilities, worksites, surrounding grounds and parking lots, leased space, and City provided motor driven equipment/vehicles.
- 5.8 COLLECTION SITE means a (1) designated facility that meets federal Department of Health and Human Services programmatic guidelines for collection of urine samples from a driver or applicant; and/or (2) a location where saliva and/or breath are collected by a Breath Alcohol Technician for alcohol screening and testing pursuant to DOT requirements.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No.	1-32	page 2 of 26
		Effective Date	Upon Approval	

- 5.9 COMMERCIAL DRIVERS LICENSE (CDL) means a drivers license required by the state for the operation of a commercial motor vehicle.
- 5.10 COMMERCIAL MOTOR VEHICLE (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle -
- (1) Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - (2) Has a gross vehicle weight rating of 26,001 or more pounds; 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 hazardous materials requiring placards.
- 5.11 CONFIRMATION/CONFIRMATORY TEST for alcohol testing means a second test, following an initial screen with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration. For controlled substance testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen and that uses a different technique and chemical principle from that of the screen in order to ensure reliability and accuracy of the test results.
- 5.12 CONTROLLED SUBSTANCE means amphetamines, cocaine metabolites, opiate metabolites, phencyclidine and marijuana metabolites in at least the minimum amounts specified in the Act.
- 5.13 CONTROLLED SUBSTANCE SCREENING/TESTING means a procedure to screen and/or test urine samples for the purpose of detecting the presence of amphetamines, cocaine metabolites, opiate metabolites, phencyclidine, and marijuana metabolites.
- 5.14 DEPARTMENT DIRECTOR means all Department Directors, the Division Director and the Chief(s) of Staff of the Mayor's Office, and the City Controller. The Mayor Pro Tem is the Department Director for Council Members and their staff.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 3 of 26
		Effective Date Upon Approval	

- 5.15 DRIVER means any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term driver includes an applicant or employee applying for a position that requires driving a commercial motor vehicle.
- 5.16 DRUG means any chemical substance that is defined by statute as a controlled substance or which may produce physical, mental, emotional, or behavioral change(s) in the user.
- 5.17 EVIDENTIAL BREATH TESTING DEVICE (EBT) means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).
- 5.18 GC/MS means a gas chromatography/mass spectrometry test that confirms an initial drug screen.
- 5.19 LABORATORY means a federal Department of Health and Human Services certified laboratory authorized by the City to perform controlled substances screening/testing.
- 5.20 MEDICAL REVIEW OFFICER (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City's controlled substances 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.
- 5.21 PERFORMING (a safety-sensitive function) means any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.
- 5.22 ON DUTY means that time period which constitutes an employee's work day, or that time period when he or she has been recalled to work and/or could possibly be subject to driving a CMV.
- 5.23 REASONABLE SUSPICION means an articulable belief based on specific facts and reasonable inferences drawn from those facts.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 4 of 26
		Effective Date Upon Approval	

- 5.24 RESIGNATION means a voluntary action, initiated by a driver/employee to sever the employee/employer relationship including but not limited to retirement, disability retirement and/or other voluntary separation of employment.
- 5.25 SAFETY-SENSITIVE FUNCTION means any of those on-duty functions listed below:
- (1) All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
 - (2) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), 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.
 - (4) All time, other than driving time, spent on or in a commercial motor vehicle.
 - (5) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
 - (6) All time spent performing the driver requirements associated with an accident.
 - (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- 5.26 SCREEN (also known as initial test) means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his/her system. In controlled substance testing, an immunoassay screen to eliminate "negative" urine specimens from further consideration.
- 5.27 SPLIT SPECIMEN/SAMPLE (urine) means, for DOT controlled substance testing requirements, a collection of urine divided into two containers, for testing and retesting purposes.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 5 of 26
		Effective Date Upon Approval	

5.28 **SUBSTANCE ABUSE PROFESSIONAL (SAP)** means a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

6.0 RESPONSIBILITIES

6.1 The Department Director is responsible for:

- (1) identifying CDL driver positions;
- (2) notifying CDL drivers that they are subject to DOT required alcohol and controlled substance testing including random testing;
- (3) authorizing the alcohol and controlled substance testing of CDL drivers;
- (4) scheduling CDL drivers for random alcohol and controlled substance testing;
- (5) receiving the results of alcohol and controlled substance tests of departmental CDL drivers;
- (6) implementing disciplinary action against CDL drivers who fail to comply with provisions outlined in these procedures;
- (7) forwarding all alcohol and controlled substance test related records for employees to the Director of the Personnel Department for final retention;
- (8) ensuring that the alcohol and controlled substance test, notice, forms and results are kept confidential.

6.2 The Medical Review Officer is responsible for:

- (1) receiving controlled substance test results;
- (2) reviewing and interpreting controlled substance test results;
- (3) examining alternate medical explanations for any positive controlled substance test result;
- (4) evaluating the medical basis for insufficient breath/saliva and/or urine specimens and reporting conclusions to the Director of Personnel;
- (5) notifying CDL applicants and employees of positive controlled substance test results and DOT retest rights;

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page
		Effective Date Upon Approval	

- (6) notifying and consulting with Department Directors or designees of all employee controlled substance test results;
- (7) notifying the Director of Personnel of applicant controlled substance test results;
- (8) coordinating the controlled substance retesting of CDL applicants and employees; and
- (9) appearing, when necessary, to provide medical expertise in any judicial, quasi-judicial or administrative proceeding involving alcohol and/or controlled substance testing or results.

6.3 The Director of Personnel is responsible for:

- (1) providing initial communication and training for departments;
- (2) administering and coordinating the use of Employee Assistance Programs (EAPs);
- (3) developing a training program to assist supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of controlled substance and alcohol use by CDL drivers;
- (4) collecting and maintaining a list of CDL drivers (or positions);
- (5) collecting and maintaining employee alcohol and controlled substance testing records, reports and files from all sources and ensuring that they are kept confidential;
- (6) making available supplies of alcohol and controlled substances testing and notice forms;
- (7) notifying departments of its CDL drivers randomly selected for alcohol and controlled substance testing;
- (8) transmitting Medical Review Officer conclusions regarding sufficiency of CDL testing specimens to department directors or designees;
- (9) coordinating all pre-employment alcohol and controlled substance testing for CDL drivers;
- (10) collecting DOT mandated data and timely submitting required reports to DOT; and
- (11) overseeing the administration of the CDL Testing program.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 7 of 26
		Effective Date Upon Approval	

6.4 Departmental supervisors are responsible for:

- (1) observing whether reasonable suspicion exists to warrant alcohol and/or controlled substance testing; detailing in writing the specific facts, symptoms, or observations which form the basis for the reasonable suspicion;
- (2) submitting the documentation to the Department Director or designee and obtaining authorization for CDL testing; and
- (3) implementing the provisions outlined in these procedures.

6.5 All CDL drivers subject to DOT testing are responsible for:

- (1) reviewing and complying with the CDL Testing Procedures; and
- (2) assisting in maintaining an alcohol and controlled substance free workplace.

7.0 BASIS FOR TESTING

7.1 Pre-Employment Alcohol and Controlled Substance Testing

- 7.1.1 Prior to certification in a position subject to DOT testing requirements, applicants for CDL driver positions shall be required to undergo screening for the presence of alcohol and controlled substances. CDL drivers shall not drive CMVs until the negative results of their CDL testing have been received by the City.
- 7.1.2 The appropriate City official shall complete and provide the applicant with the Alcohol and Controlled Substances Test Notification Form for pre-employment testing. Applicants shall proceed directly to the test site.
- 7.1.3 At the collection site, applicants referred for CDL Testing are required to present their Alcohol and Controlled Substances Test Notification Form and a photo identification.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 8 of 26
		Effective Date Upon Approval	

- 7.1.3.1 All applicants are required to provide their saliva/breath and/or urine sample for screening in accordance with DOT requirements.
 - 7.1.3.2 Applicants shall follow instructions given by and cooperate with collection site personnel.
 - 7.1.3.3 Applicants shall not deliberately tamper with or substitute their samples, or hinder, delay, impede or thwart the collection process.
 - 7.1.3.4 The collection site personnel shall confirm to the designated City official that the applicant reported for the testing and supplied an adequate saliva/breath and/or urine sample. Any efforts by an applicant to hinder, delay, impede or thwart the collection process or tamper with the sample shall also be reported to the appropriate City official.
 - 7.1.3.5 Applicants who fail to timely appear at the designated collection site, tamper with their sample, hinder, delay, impede or thwart the collection process, or who fail to provide their saliva/breath or urine sample shall have their hiring process terminated and their conditional offer of employment shall be withdrawn.
- 7.1.4 All controlled substance test results will be sent to the Medical Review Officer for review. If a positive GC/MS result is verified after review with the applicant, the MRO shall notify the applicant he/she has 72 hours from such notification to request a retest from the split sample. The retest shall be at the applicant's own expense. The MRO shall coordinate the retesting of applicants. The MRO shall also inform the Director of Personnel or designee that the applicant has a positive controlled substance test result.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 9 of 26
		Effective Date Upon Approval	

The Breath Alcohol Technician (BAT) shall immediately inform the authorized City representative of a confirmed positive alcohol test result in accordance with DOT requirements.

7.1.4.1 An applicant who has an alcohol concentration of 0.02 grams/210 liters or above or a positive controlled substance test result shall have his/her hiring process terminated and his/her conditional offer of employment withdrawn.

7.1.4.2 An applicant who has his/her conditional offer of employment withdrawn shall be eligible to reapply for City employment provided, however, that the applicant provides documentation of successful completion or satisfactory participation in a supervised alcohol and/or controlled substance rehabilitation program and provides satisfactory proof of non-use of alcohol or controlled substances subsequent to the positive test.

7.1.5 Alcohol and controlled substances testing procedures for pre-employment testing will be consistent with Section 8.0 of these procedures.

7.2 Random Alcohol and Controlled Substance Testing

7.2.1 The selection of CDL drivers for random alcohol and controlled substance testing shall be made by a random computer selection process. Human intervention in this process shall be limited to the programming of the computer by an individual outside the City.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 10 of 26
		Effective Date Upon Approval	

- 7.2.2 Employees selected for a random test shall be notified by the Department Director or designee to submit to an alcohol and controlled substance test. Employees selected for a random test, but absent due to vacation, sick leave, other leave or on urgent City Business approved by their Department Director, will not be notified to take the alcohol and controlled substance test until the first day they return to work after random selection, even if the first day back occurs in a later month.
- 7.2.3 Random alcohol and controlled substance testing shall be administered at a minimum annual rate of 50 percent of the average number of CDL driver positions, shall be unannounced and spread reasonably throughout the calendar year.
- 7.2.4 Drivers selected for random alcohol and controlled substance testing shall proceed immediately to the collection site upon notification of selection.
- 7.2.5 A driver shall be tested for alcohol only immediately prior to, while performing, or immediately after performing safety-sensitive functions.
- 7.2.6 Alcohol and controlled substance testing procedures for random testing will be consistent with Section 8.0 of these procedures.
- 7.3 Reasonable Suspicion Alcohol and/or Controlled Substance Testing
- 7.3.1 Each supervisor shall be responsible for determining if reasonable suspicion exists to warrant alcohol and/or controlled substance testing, and required to document in writing the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. The documentation shall be forwarded to the Department Director or designee to authorize the alcohol and/or controlled substance test of a driver.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No.	page 11 of 26
		Effective Date	
		1-32 Upon Approval	

- 7.3.2 The Department Director or designee shall require a driver to undergo alcohol and/or controlled substance testing if there is reasonable suspicion that the driver has engaged in conduct prohibited in Section 9.0.

The determination that reasonable suspicion exists to require alcohol and controlled substance testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

- 7.3.3 The supervisor or departmental representative making the determination that reasonable suspicion exists to conduct an alcohol and/or controlled substance test must have received 60 minutes each of training on alcohol misuse and controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

- 7.3.4 Alcohol testing shall be authorized only if the observations are made immediately before, during or immediately after the employee is required to be in compliance with these procedures and performing safety sensitive functions.

- 7.3.5 If a reasonable suspicion alcohol test is not administered within 2 hours following the observations, the supervisor or departmental representative shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within 8 hours of the observation, all attempts to administer the test shall cease, and a record made of the reasons why the test was not administered within 8 hours.

Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 12 of 26
		Effective Date Upon Approval	

- 1) A Pattern of Abnormal or Erratic Behavior: This includes but is not limited to a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the driver or grossly differing from acceptable behavior in the workplace.
- 2) Direct Observation of Alcohol and/or Controlled Substances Use: The first line or another supervisor/manager directly observes a driver using alcohol or a controlled substance while the driver is on duty. Under these circumstances, a request for alcohol and/or a controlled substance test is MANDATORY.
- 3) Presence of the Physical Symptoms of Alcohol and/or Controlled Substance Use: The supervisor observes physical symptoms that could include, but are not limited to glassy or bloodshot eyes, slurred speech, body odor reflecting characteristic alcohol or controlled substance odors, hyperactivity, poor motor coordination, and/or slow or poor reflex responses different from what is usually displayed by the driver or generally associated with common ailments, such as colds, sinus congestion, hayfever, diabetic stupor, etc.

7.3.6

The following could be deemed reasonable suspicion and may provide a sufficient basis for requesting an alcohol and/or controlled substance test at the discretion of the Department Director or designee:

- 1) Violent or Threatening Behavior - First Incident: If a driver engages in unprovoked, unexplained, aggressive, violent and/or threatening behavior against a fellow employee/driver or a citizen, the Department may request that the driver submit to alcohol and/or controlled substance testing.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page
		Effective Date Upon Approval	

- 2) Violent or Threatening Behavior - Subsequent Incident: Whether or not a driver has previously received formal counseling or disciplinary action for unprovoked, unexplained, aggressive, violent or threatening behavior against a fellow employee/driver or a citizen, upon a second or subsequent episode of similar behavior/conduct (within 12 months), the department shall direct that the driver undergo alcohol and/or controlled substance testing.

7.3.7 Alcohol and controlled substance testing procedures for reasonable suspicion testing will be consistent with Section 8.0 of these procedures.

7.4 Post-Accident Alcohol and Controlled Substance Testing

7.4.1 In compliance with the City's Motor Vehicle Policy, a driver is required to immediately report an accident or citation. Additionally, as soon as practicable following an accident involving a commercial motor vehicle, an alcohol and controlled substance test will be required for each surviving City driver. For purposes of these procedures, an accident is defined as an incident involving a commercial motor vehicle in which:

- there is a fatality,
- an injury is treated away from the scene,
- a citation is issued to the driver for a moving violation, or
- a vehicle is required to be towed from the scene.

7.4.2 When a post-accident test is required, in order to meet DOT time requirements, mobile collection at the scene shall be considered on a case by case basis.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 14 of 26
		Effective Date Upon Approval	

- 7.4.3 If the driver has not submitted to an alcohol test within 2 hours of the accident, the supervisor or departmental representative shall promptly prepare and maintain on file a record stating the reason a test was not immediately administered. A copy of such record is to be forwarded to the Director of Personnel for DOT reporting requirements.
- 7.4.4 If an alcohol test has not been administered within 8 hours of the accident, all attempts for such test shall cease. The supervisor or departmental representative shall promptly prepare and maintain on file a record stating the reason a test was not administered within 8 hours. In all such circumstances, a review must be made by the department to determine any corrective measures/actions needed to be taken to ensure that tests are given within 8 hours. A copy of such record is to be forwarded to the Director of Personnel for DOT reporting requirements.
- 7.4.5 If the driver has not submitted to a controlled substance test within 32 hours of the accident, attempts for such test shall cease. The supervisor or departmental representative shall promptly prepare and maintain on file a record stating the reason a test was not administered within 32 hours. In all such circumstances, a review must be made by the department to determine any corrective measures/actions needed to be taken to ensure that tests are given within 32 hours. A copy of such record is to be forwarded to the Director of Personnel for DOT reporting requirements.
- 7.4.6 If a driver is involved in a non-fatality accident, and no citation is issued immediately at the scene, but is issued before 8 hours have elapsed, both alcohol and controlled substance tests must be given so long as the alcohol test can be given before 8 hours have elapsed.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page
		Effective Date Upon Approval	

7.4.6.1 If a citation is issued after 8 hours, and before 32 hours after the accident, only the controlled substance test will be given.

7.4.6.2 If a citation is issued after 32 hours of the accident, no tests will be given. The supervisor or departmental representative shall promptly prepare a record with the date and time the citation was issued and the reason(s) the alcohol and/or controlled substance tests were not given within 8 or 32 hours of the accident, respectively. A copy of this record shall be forwarded to the Director of Personnel for retention as required by DOT.

7.4.7 A driver who is subject to post-accident testing and fails to remain available for such testing shall be considered to have refused to submit to CDL testing. A driver subject to post-accident testing must not consume alcohol for 8 hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

7.4.8 The driver shall be provided with the necessary post-accident information, procedures, and instructions, prior to operating a commercial motor vehicle, so that the driver will be able to comply with the requirements of the post-accident rule.

7.4.9 Alcohol and controlled substance testing procedures for post-accident testing will be consistent with Section 8.0 of these procedures.

7.5 Return-to-duty Alcohol and Controlled Substance Testing

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 16 of 26
		Effective Date Upon Approval	

7.5.1 In the event a driver is returned to employment by a judicial or quasi-judicial body, such driver who returns to duty requiring performance of safety-sensitive functions after engaging in prohibited conduct regarding alcohol misuse shall undergo a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02 grams/210 liters. If a driver fails to pass the test, he/she may not be returned to work until he/she passes the test and complies with the requirements of Section 7.5.3 herein.

7.5.2 In the event a driver is returned to employment by a judicial or quasi-judicial body, such driver who returns to duty requiring performance of safety-sensitive functions after engaging in prohibited conduct regarding controlled substance use shall undergo a return-to-duty controlled substance test with a verified negative result for controlled substance use. If a driver fails to get a negative result on the test, he/she may not be returned to work until he/she passes the test and complies with the requirements of Section 7.5.3 herein.

7.5.3 In the event a return-to-duty test is required, the driver must also be evaluated by a substance abuse professional (SAP) and participate in any assistance program prescribed.

7.5.4 Alcohol and controlled substance testing procedures for return-to-duty testing will be consistent with Section 8.0 of these procedures.

7.6 Follow-up Alcohol and Controlled Substance Testing

7.6.1 Following a determination by a SAP that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, such driver shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the SAP.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page
		Effective Date Upon Approval	

7.6.1.1 The driver shall be subject to a minimum of 6 follow-up controlled substance and/or alcohol tests in the first 12 months.

7.6.1.2 The time period for follow-up CDL testing shall not exceed 60 months from the date of the driver's return to duty.

7.6.1.3 The SAP may terminate follow-up testing any time after the first 6 tests have been administered, if the SAP determines that such testing is no longer necessary. The SAP shall notify the Director of Personnel of such a determination.

7.6.2 Alcohol follow-up testing shall be performed only when the driver is performing safety-sensitive functions, or immediately prior to performing or immediately after performing safety-sensitive functions.

7.6.3 Alcohol and controlled substance testing procedures for follow-up testing will be consistent with Section 8.0 of these procedures.

8.0 SCREENING/TESTING PROCEDURES

8.1 A copy of these procedures shall be given to all drivers subject to CDL Testing Procedures.

8.2 When reasonable suspicion, follow up, return to duty, or post accident testing is authorized by Sections 7.3, 7.4, 7.5, or 7.6 herein, at least one supervisor shall accompany the driver to the collection site. When only one supervisor accompanies the driver, that supervisor shall be of the same sex as the driver to be tested.

8.3 When random testing is authorized by Section 7.2, a supervisor shall not be required, but may accompany a driver to the collection site.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 18 of 26
		Effective Date Upon Approval	

8.4 When testing is required or authorized under the provisions of these procedures, and/or the names of drivers are randomly selected for testing, the appropriate City official shall receive the names of the drivers to be tested. The official shall complete and provide the driver with the completed Alcohol and Controlled Substances Test Notification Form for alcohol and/or controlled substance testing.

8.4.1 The driver will be instructed to proceed immediately to the designated collection site.

8.4.2 All actions a driver takes once he/she has been notified must be toward completion of the collection and testing process.

8.4.3 Once a driver has been notified to take a test, unless hospitalized, no sick or other leave may be authorized until the collection process is completed.

8.5 The collection of breath/saliva and/or split urine samples shall proceed consistent with DOT requirements.

8.6 At the collection site, drivers are required to present their Alcohol and Controlled Substances Test Notification Form and a photo identification.

8.6.1 Street clothes, bags, briefcases, purses, or any other containers shall not be carried into the collection area.

8.6.2 The water in the commode at the collection site may be colored with blue dye to protect against dilution or adulteration of test samples.

8.6.3 All drivers are required to provide their own breath/saliva and/or urine sample for testing purposes.

8.6.4 Drivers shall follow instructions given by and cooperate with collection site personnel.

8.6.5 Drivers shall not deliberately tamper with their samples or hinder, delay, impede or thwart the collection process.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page
		Effective Date Upon Approval	

- 8.6.6 The collection site personnel shall confirm to the designated City official that the driver reported for the testing and supplied an adequate breath/saliva and/or urine sample, administer the breath/saliva test and/or shall collect and process the urine sample received from the driver. The collector shall forward the completed copy of the Alcohol and Controlled Substances Test Notification Form to the laboratory along with the sample and/or record the breath/saliva test results and forward them to the appropriate City official. Inadequate samples as well as any efforts by a driver to hinder, delay, impede or thwart the collection process or tamper with the sample shall also be reported to the appropriate City official.
- 8.7 Drivers who fail to proceed immediately and timely appear at the designated collection site, tamper with or substitute their sample, or deliberately fail to provide their breath/saliva and/or urine sample, or hinder, impede, thwart or delay the collection process, shall be considered as refusing to test.
- 8.8 An alcohol test shall be administered first when both alcohol and controlled substance tests are required or authorized by these procedures.
- 8.9 When alcohol testing is required or authorized by these procedures, a saliva or breath test shall be administered by the collector also known as a Breath Alcohol Technician (BAT) to detect the presence of alcohol.
- 8.10 In accordance with DOT regulations, initial and confirmatory tests may only be administered with devices meeting the requirements of the National Highway Traffic Safety Administration's (NHTSA's) Model specifications for Alcohol Screening Devices.
- 8.11 An alcohol screen with a result of 0.02 grams/210 liters or greater shall be followed by a confirmation test that provides quantitative data of alcohol concentration.
- 8.12 Drivers shall follow the instructions of the BAT and shall not eat, drink, put any object or substance into their mouth, and, to the extent possible, not belch in the waiting period before the confirmation test.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 20 of 26
		Effective Date Upon Approval	

8.13 A confirmatory alcohol test shall not be conducted in less than 15 nor more than 20 minutes from an alcohol screen with a result of 0.02 grams/210 liters or greater.

8.13.1 If the driver is unable to provide a sufficient amount of breath after reasonable attempts to do so, testing shall be discontinued, and the appropriate City official notified.

8.13.1.1 The driver shall be directed to obtain, as soon as practicable, after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the department concerning the driver's medical ability to provide an adequate amount of breath.

8.13.1.2 If the physician determines, in his/her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have precluded the driver from providing an adequate amount of breath, the driver's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide a written notification to the department of the basis for his/her conclusion.

8.14 When a controlled substance test is required or authorized under the provisions of these procedures, a urinalysis test will be given to detect the presence of amphetamines, cocaine metabolites, opiate metabolites, phencyclidine, and marijuana metabolites.

8.15 The initial controlled substance screening shall be by enzyme immunoassay techniques test (EMIT) which shall be administered at a City approved laboratory and at City expense. If an initial controlled substance screen yields a positive result, a GC/MS will be conducted at City expense on a portion of the original split urine sample provided by the applicant or driver.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 21 of 26
		Effective Date Upon Approval	

8.16 The minimum levels for positive controlled substance test results are:

<u>DRUG GROUP</u>	<u>Initial EMIT Screen (ng/ml)</u>	<u>Confirmatory GC/MS Test (ng/ml)</u>
a. Amphetamines	1000	
Amphetamine		500
Methamphetamine		500
b. Cocaine Metabolites	300	150*
c. Opiate Metabolites	300	
Morphine		300
Codeine		300
d. Phencyclidine	25	25
e. Marijuana Metabolites	50	15**

*Benzoylecgonine

**Delta 9 tetrahydrocannabinol - 9 - carboxylic acid

8.17 If the driver is unable to provide a sufficient amount of urine, the original insufficient sample shall be discarded. The driver shall drink up to 24 ounces of fluids and within 2 hours shall again attempt to provide a complete sample. If the driver is still unable to provide an adequate sample, testing shall be discontinued, and the appropriate City official notified.

8.17.1 The MRO shall immediately refer the driver for a medical evaluation to develop pertinent information concerning whether the driver's ability to provide a specimen is genuine or constitutes a refusal to test.

8.17.2 Upon completion of the examination, the MRO shall report his/her written conclusions to the Director of Personnel who shall notify the department head of the findings. A determination by the MRO that a driver is able to provide a sufficient sample shall be considered a refusal to test.

8.18 The results of a positive EMIT controlled substance test shall be confirmed by GC/MS testing and sent to the Medical Review Officer for review.

8.18.1 If the MRO verifies the positive result after review with the driver, the MRO shall notify the driver he/she has 72 hours from such notification to request a retest from the split sample at another laboratory certified by the federal Department of Health and Human Services.

8.18.2 The retest shall be at the driver's own expense. The MRO shall coordinate the retesting of drivers.

8.19 All controlled substance test results shall be sealed in a confidential envelope and hand delivered to the Department Director or designee.

9.0 PROHIBITED CONDUCT

9.1 No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 grams/210 liters or greater.

9.2 No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. Possession can include an employee's person or personal property if on City premises, a City motor vehicle/equipment under the employee's control or City provided property under an employee's control including, but not limited to lockers, desks, files, etc.

9.3 No driver shall use alcohol while performing safety-sensitive functions.

9.4 No driver shall perform safety-sensitive functions within four hours after using alcohol. This prohibition shall include lunch and break periods.

9.5 No driver required to take a post-accident alcohol test pursuant to these procedures shall use alcohol for 8 hours following the accident or until he/she undergoes a post-accident test, whichever occurs first.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 23 of 26
		Effective Date Upon Approval	

- 9.6 No driver shall refuse to submit to a post accident, random, reasonable suspicion, return to duty, or a follow-up alcohol or controlled substances test required pursuant to these procedures.
- 9.7 No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- 9.8 No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
- 9.9 No supervisor or departmental representative having actual knowledge that a driver has violated any of Sections 9.1. through 9.8. shall permit the driver to perform or continue to perform safety-sensitive functions.

10.0 CONSEQUENCES OF PROHIBITED CONDUCT

- 10.1 A driver that violates Section 9.1 with a confirmed alcohol test of 0.04 or more grams/210 liters shall be indefinitely suspended/terminated.
- 10.2 On the first instance a driver violates Section 9.1 with a confirmed alcohol test of 0.02 to 0.039 grams/210 liters, he/she shall be, at minimum, temporarily suspended without pay for 40 working hours.
- 10.2.1 The driver shall also be prohibited from performing safety-sensitive functions until the his/her next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- 10.2.2 The driver shall be relieved of duty with pay for the period described in Section 10.2.1 above.
- 10.3 On the second instance a driver violates Section 9.1 with a confirmed alcohol test of 0.02 to 0.039 grams/210 liters, he/she shall be indefinitely suspended/terminated.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 24 of 26
		Effective Date Upon Approval	

10.4 A driver that violates Sections 9.2 through 9.8 shall be indefinitely suspended/terminated.

10.5 A supervisor or departmental representative that engages in prohibited conduct described in Section 9.9 shall be subject to disciplinary action up to and including indefinite suspension/termination.

10.6 An employee disciplined pursuant to these procedures shall have the same rights of appeal as set forth in Section 14-182 of the City Code of Ordinances.

11.0 RESIGNATIONS

A resignation tendered by a driver/employee subsequent to a violation of these procedures for which an indefinite suspension would result may be accepted by the department head. A driver/employee tendering a resignation at such time shall never be eligible for re-employment with the City of Houston in any department.

12.0 CONFIDENTIALITY REQUIREMENTS; CONSEQUENCES

12.1 The records of all alcohol and/or controlled substance tests and their results shall be handled in accordance with all applicable federal, state and local laws and regulations. These laws include but are not limited to Americans with Disabilities Act, Family Medical Leave Act, and the Drug Free Workplace Act.

12.2 All records relating to the taking of an alcohol and/or controlled substance test or to an order to take an alcohol and/or controlled substance test shall be deemed confidential for all intents and purposes.

12.2.1 Each Department Director shall implement procedures to prevent the unauthorized disclosure or distribution of the results and/or the request or order to take an alcohol and/or controlled substance test.

12.2.2 Only those with a need to know are to be informed of the test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the applicant or driver or otherwise authorized by law.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No.	page
		1-32	
		Effective Date	
		Upon Approval	25 of 26

12.3 If a driver appeals to the Civil Service Commission or some other judicial or quasi-judicial proceeding, he/she waives the confidentiality required herein with regard to such records. Such waiver does not extend to any other employee's records unless written authorization is received from the driver whose alcohol and/or controlled substance test documents are requested.

12.4 Any employee who violates this confidentiality requirement shall be subject to disciplinary action up to and including indefinite suspension/termination.

13.0 RECORDS RETENTION

The Director of Personnel shall be the central repository for all documents related to testing under these procedures and shall provide all reports required by the DOT.

14.0 EMPLOYEE ASSISTANCE PROGRAM

14.1 An employee may request a referral to the Employee Assistance Program for assessment, counseling and rehabilitation at any time. Participation in the Employee Assistance Program is voluntary and encouraged.

14.2 Employees shall remain alcohol and/or controlled substance free while seeking and/or undergoing alcohol and/or controlled substance rehabilitation or employee assistance counseling.

14.2.1 Disciplinary action based on a violation of these procedures is not suspended by an employee's participation in the Employee Assistance Program.

14.2.2 Any positive alcohol or controlled substance test result pursuant to DOT testing will be handled according to Section 10.0 herein with appropriate discipline imposed by the Department Director.

15.0 COMPLIANCE WITH LAWS

The City will comply with all federal, state and local laws or regulations regarding the alcohol and/or controlled substances testing of CDL drivers. In the event of a conflict between these procedures and a law, the federal, state or local law shall prevail.

SUBJECT	CDL Drivers Alcohol and Controlled Substances Testing Procedures	E. O. No. 1-32	page 26 of 26
		Effective Date Upon Approval	

INDEX

1.0	PURPOSE	1
2.0	OBJECTIVES	1
3.0	POLICY	1
4.0	SCOPE	2
5.0	DEFINITIONS	2
6.0	RESPONSIBILITIES	6
7.0	BASIS FOR TESTING	8
8.0	SCREENING/TESTING PROCEDURES	18
9.0	PROHIBITED CONDUCT	23
10.0	CONSEQUENCES OF PROHIBITED CONDUCT	24
11.0	RESIGNATIONS	25
12.0	CONFIDENTIALITY REQUIREMENTS; CONSEQUENCES	25
13.0	RECORDS RETENTION	26
14.0	EMPLOYEE ASSISTANCE PROGRAM	26
15.0	COMPLIANCE WITH LAWS	26