

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**ORDER #96-17/18 – Amending the Drug and Alcohol Testing Policy for Safety Sensitive Positions. Passage requires majority vote.**

***Position:***

The City's Drug and Alcohol Testing Policy for Safety Sensitive Positions was last revised in July 2016. The policy applies to City employees working in safety sensitive positions including, but not limited to, transit bus operators, mechanics, truck drivers, snow plow operators, sewer maintenance workers, and other employees required to hold a valid Commercial Driver's License (CDL) as a condition of their employment. The policy, as amended, maintains compliance with both the Federal Motor Carrier Safety Administration (FMCSA) and Federal Transit Administration (FTA) regulations.

Human Resources Director Don Brewer will be present to answer any questions.

***Requested Action:***

Council passage of ORDER #96-17/18.



City Manager



CITY OF SOUTH PORTLAND

LINDA C. COHEN  
Mayor

SCOTT T. MORELLI  
City Manager

EMILY F. SCULLY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL  
ORDER #96-17/18**

**ORDERED**, that the Drug and Alcohol Testing Policy for Safety Sensitive Positions be and hereby is amended in compliance with Federal Motor Carrier Safety Administration (FMCSA) and Federal Transit Administration (FTA) regulations.

Fiscal Note: Less than \$1,000

Date: December 6, 2017

District One  
CLAUDE V. Z. MORGAN

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District Two  
KATHERINE W. LEWIS

\_\_\_\_\_

District Three  
EBEN C. ROSE

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District Four  
LINDA C. COHEN

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District Five  
ADRIAN T. DOWLING

\_\_\_\_\_

At Large  
MAXINE R. BEECHER

\_\_\_\_\_

At Large  
SUSAN J. HENDERSON



# **Drug and Alcohol Testing Program For Safety Sensitive Positions**



**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
(FMCSA)**

**&**

**FEDERAL TRANSIT ADMINISTRATION  
(FTA)**

Adopted by the South Portland City Council on ~~July 18~~ December 6, 2016



# **City of South Portland**

## **Substance Abuse Policy**

### **FMCSA / FTA**

#### **POLICY**

The City of South Portland is dedicated to providing safe, dependable and economical transportation services to our transit system passengers, and assuring that our Public Works, Parks and Water Resource Protection workers operate commercial vehicles in a safe manner.

The safety and well-being of our drivers, employees, and the general public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A driver who uses or abuses alcohol and/or drugs is a hazard to the City, the general public, other employees, and him/herself.

In order to ensure safe transportation, and provide for an efficient and drug-free workplace, while complying with the Federal Motor Carrier & Federal Transit Administration Safety Regulations, the City of South Portland has adopted this policy.

Adherence to this policy is a condition of employment, although it should not be considered an offer of employment.

#### **APPLICABILITY**

This policy applies to all full-time, safety sensitive employees, drivers and mechanics employed by the City of South Portland; paid part-time, safety sensitive employees; paid, on-call safety sensitive employees, contract employees and contractors when performing any transit-related safety-sensitive duties, or when they are on municipal property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contract employees are governed by this policy while on municipal property and will not be permitted to conduct municipal business if found to be in violation of this policy. This policy is for all municipal employees in Safety Sensitive positions, including those not covered by FTA rules.

A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (in or out of revenue service), controlling movement, dispatch and maintenance of a revenue service vehicle, security personnel who carry firearms, and any other employee or volunteer who operates a non-revenue vehicle or performs duties requiring a CDL and/or performs a safety sensitive function.

**Safety-Sensitive Function** means all time from the time the driver begins to work, or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work.

Safety-sensitive functions shall include:

- 1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty from employer;
- 2) All time inspecting equipment as required by Sect. 392.7 and 392.8 of 49 C.F.R.; otherwise—inspecting, servicing, or conditioning commercial motor vehicles at any time;
- 3) All time spent at the driving controls of a commercial motor vehicle in operation;
- 4) All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth conforming to the requirements of section 393.76 of 49 C.F.R.
- 5) All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts of shipments loaded or unloaded;
- 6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Supervisors performing any of the above-described functions are considered to be safety-sensitive employees. Participation in the City's Substance Abuse Program as stated in this policy is a condition of employment.

All positions of the City were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Any new positions created in the future will be reviewed for safety-sensitive duties.

**The following positions were determined to be safety-sensitive:**

Transportation Operations Supervisor  
Director of Transportation  
Equipment Operator I & II  
Maintenance Mechanic WRP  
Mechanic (Parks, PW & Bus I & II)  
Mechanics Helper

Parks Foreman  
Park Maintainer  
Public Works Foreman  
Salt Truck Driver  
Sewer Maintenance Worker I & II  
Transfer Station Equipment Operator  
Transit Bus Mechanic  
Transit Bus Operator  
Treatment Plant Operator I & II  
Vehicle Maintenance Mechanic WRP

### **PROHIBITED SUBSTANCES TESTED FOR:**

The following prohibited substances will be tested for to determine their presence:

1. Alcohol
2. Marijuana (THC)
3. Cocaine
4. Amphetamines
  - a. Amphetamine
  - b. Methamphetamines
  - c. MDMA (Ecstasy)
  - d. MDA
  - e. MDEA
5. Phencyclidine (PCP)
6. Opiates
  - a. Codeine
  - b. Morphine
  - c. 6- Acetylmorphine (Heroin)
  - d. Hydrocodone
  - e. Hydromorphone
  - f. Oxymorphone
  - g. Oxycodone

### **Illegally Used Controlled Substances or Drug**

Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

## **Legal Drugs**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related safety sensitive duties.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing a safety sensitive position is prohibited.

## **Alcohol**

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing a safety sensitive, commercial driver's license position is prohibited.

## **NOTIFICATION OF CRIMINAL DRUG CONVICTION**

All employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

## **PROHIBITED CONDUCT**

During the time that drivers are performing safety-sensitive functions, they shall not:

1. Use of illegal drugs prohibited at all times;
2. Report to and/or remain on duty with an alcohol concentration of 0.02 or greater;
3. Performing a safety sensitive function with an alcohol concentration of 0.04 or greater.
4. Possess any alcohol;
5. Use any alcohol;
6. Use any alcohol within four hours prior to performing safety-sensitive functions, while on call, and while performing safety-sensitive functions;
7. Use any alcohol for eight hours after accident which will require the driver to be tested for alcohol or until post-accident tested;
8. Refuse to submit to a required alcohol and/or controlled substances test;
9. Report to or remain on duty when using any controlled substance, except when under a physician's orders, **AND** the physician has informed the driver that the use will not affect the safe operations of a commercial vehicle;

10. Report to or remain on duty if he/she has tested positive for controlled substance.

### **Manufacture, Trafficking, Possession, and Use**

Municipal employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on municipal property, in municipal vehicles, in uniform, or while performing municipal business. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

### **Intoxication / Under the Influence**

Any safety sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees who fail to pass a drug or alcohol test shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) and subject to disciplinary action, up to and including termination. A drug or alcohol (above 0.04) test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

## **COMPLIANCE WITH TESTING REQUIREMENTS**

All safety-sensitive employees will be subject to urine drug testing any time while on duty (random) and alcohol testing just before, during and immediately after the performance of safety-sensitive duties (random and reasonable suspicion only). The alcohol testing may be done using breath for the screening test. All confirmation tests for alcohol must be done using an Evidential Breath Testing Device. Any safety sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a SAP. Any safety sensitive employee who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection.

### **FTA REQUIREMENT TO SUBMIT – DRUG TESTING**

[FTA] – **Section 655.49 (a):** Each employer shall require a covered employee to submit to a post-accident drug and alcohol test required under Section 655.44, a random drug and alcohol test required under Section 655.45, a reasonable suspicion drug and alcohol test required under Section 655.43, or a follow-up drug and alcohol test required under Section 655.47. No employer shall permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

## **TYPES OF DRUG & ALCOHOL TESTING EVENTS**

## **Pre-Employment Drug Testing**

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment or before transferring into a safety-sensitive position. Receipt by the City of a negative drug test result is required prior to performing 1st safety-sensitive duties.

If the test is cancelled the applicant must make up and pass a drug test before performing 1st safety-sensitive duties.

If a FTA safety-sensitive employee returns to safety sensitive duties that has been off for 90 days or more, and has not remained in the random pool, must pass a Pre-Employment test before resuming duties.

If a FMCSA safety-sensitive employee returns to safety sensitive duties that has been off for more than 30 days, and has not remained in the random pool, must pass a Pre-Employment test before resuming duties.

When a covered employee or applicant has previously failed a pre-employment drug test, the employee must present to the employer proof of successfully having completed a SAP referral, evaluation and treatment plan.

**[FTA] - Section 655.41(a)(2):** When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62.

If otherwise qualified, an individual with permanent or long term disabilities that directly render them unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite their inability to provide urine during a pre-employment test. The MRO will determine long-term inability to provide urine by medical examination and consultation with the employee's physician.

Alcohol pre-employment test shall be in accordance with 49 CFR Part 40.

## **Reasonable Suspicion Testing**

All safety-sensitive employees may be subject to fitness for duty evaluation, and urine and breath testing, when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral must be made by a supervisor, trained in the signs and symptoms of drug and alcohol use, who has personally observed and documented objective facts and circumstances which are consistent with the short-term effects of substance abuse. The criteria for a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, physical behavior, performance, speech or body odor of the safety-sensitive employee. A supervisor making the decision to reasonable suspicion test may not act as the STT or BAT for that test.

**[FTA] – Section 655.43(c)** – Alcohol testing is authorized under this section only if the observations required by paragraph (b) of this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

If no alcohol test within two hours, create a note/document; if no alcohol test within 8 hours, update the note/documentation and cease attempts.

Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another employee.

### **Post Accident Testing**

Post accident testing of safety-sensitive employees involved in an accident/incident with a City's vehicle is mandatory for accidents where there is loss of life and for nonfatal accidents if, 1) an individual involved in the accident immediately receives medical treatment away from the scene of the accident and is issued a citation (**FMCSA only**), or 2) one or more vehicles involved in the accident incurs disabling damage (damage which precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair) requiring transportation from the scene by tow truck or other vehicle and a citation is issued (**FMCSA only**); or if the mass transit vehicle is removed from service.

**[FTA] - Section 655.44(a)(2)(i):** As soon as practicable following an accident that results in medical treatment away from the scene or disabling damage in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

When there is a fatality, each surviving safety-sensitive employee on duty in the vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g. maintenance personnel), whose performance could have contributed to the accident (as determined by the City using the best information available at the time of the accident) must be tested.

Safety-sensitive employees on duty in the mass transit vehicle at the time of a nonfatal accident (fitting the criteria above) must be tested unless their behavior can be completely discounted as a contributing factor in the accident. Other safety-sensitive employees whose performance could

have contributed to the accident, as determined by the City using the best information available at the time of the accident shall also be tested after a non-fatal accident.

Following an accident, safety-sensitive employees will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing should be documented in a report and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be updated on the written report. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following an accident or until they undergo a post-accident alcohol test.

The results of a blood, urine, or breath test conducted by Federal, State, or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results can be obtained by the employer

The requirements to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means the City knows the location of the safety-sensitive employee. Any safety-sensitive employee who leaves the scene of the accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test and shall face disciplinary action up to and including termination.

### **Random Testing**

All safety-sensitive employees shall be subject to random, unannounced and immediate testing. The percentage of the number of employees the Federal Transit Authority (FTA) currently requires to be randomly tested for drugs is 25% of the total number of covered employees annually. The percentage of the number of employees the FTA requires to be randomly tested for alcohol is 10% of the number of all covered employees annually. These percentages are subject to annual review by the FTA. The current rates for Federal Motor Carrier Safety Administration are 50% for drugs and 10% for alcohol. The selection of safety-sensitive employees for random drug and alcohol testing shall be made using a scientifically valid method such as a random number table or a computer-based random number generator that ensures each safety-sensitive employee that they will have an equal chance of being selected each time selections are made. Random tests will be unannounced and conducted on all days and all hours of all shifts the City is in operation during the year. Employees are to proceed to the testing site immediately upon notification of a random test.

There is no discretion on the part of management or operations in the selection and notification of individuals for testing.

## **TESTING PROCEDURES**

Testing procedures are in accordance with 49 CFR Part 40.

Once a driver has been directed to submit to an alcohol and/or controlled substance test, he/she will proceed immediately to the testing area directed by the program administrator named in this policy. Drivers must comply with the lawful requests of the technician doing the alcohol and/or controlled substance test.

The selected driver will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample for analysis of alcohol concentration.

The driver will be required to provide photo identification prior to testing. Privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured and both samples will be sent to the lab.

Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected driver. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review office (MRO).

The MRO is a licensed physician that reviews all test results prior to reporting to the company. Should the specimen test positive, the MRO will contact the driver to discuss the test findings and afford the driver an opportunity to discuss his/her test results and any factors that could have attributed to the positive test. Should the driver question the test findings, the driver can request that the split sample be forwarded to another certified laboratory for re-analysis.

All test results are treated confidentially and no results will be released to outside parties without the drivers express consent or when required by law, rule or regulation or expressly authorized.

All testing for alcohol use or misuse will be conducted only by devices which have been approved by the National Highway Traffic Administration and conducted by trained Breath Alcohol Technicians (BATs) or trained Screening Test Technicians.

BAT may not act as a collector if they are a direct supervisor of the employee.

## **Refusal to Test**

Refusal to comply with Federal drug and alcohol testing requirements can include:

- Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the employer;

- Failure to remain at the testing site until the testing process is complete (for a pre-employment test and employee who leaves the testing site before the testing process commences is not deemed to have refused to test);
- Failure to provide a urine specimen for any required drug test or an adequate amount of saliva or breath for an alcohol test;
- Failure to permit the observation or monitoring of the specimen collection when required to do so;
- Failure to provide a sufficient amount of urine or breath specimen when directed, without adequate medical explanation for the failure;
- Failure or decline to take an additional drug test when directed to do so by the employer or collector (drug only);
- Failure to undergo a medical examination or evaluation when directed to do so by the MRO or employer (for a pre-employment drug test, refusal to test only if the pre-employment test is conducted following a contingent offer of employment);
- Fail to sign the Step 2 of the alcohol test form (alcohol only):
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- Failure to follow the observer's instructions to permit the observation or monitoring of the provision of a specimen (drug only) during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process; and
- Admit to the collector or MRO that you adulterated or substituted the specimen. Physical absence includes not reporting at all for testing when directed by the employer, reporting for testing more than a half an hour late for a scheduled appointment (pre-employment exception) or leaving the collection site prior to finishing the collection process.
- **[FTA] – Section 40.191(b):** As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- **[FTA] – Section 40.261(a)(6):** As an employee, you are considered to have refused to take an alcohol test if you: Fail to sign the certification at Step 2 of the ATF (see Sections 40.241(g) and 40.251(d)).

Refusal to test is considered a DOT rules violation and results in referral to a SAP for evaluation.

### **Testing Information & Consequences**

Any safety-sensitive employee that has a confirmed positive drug or alcohol test (0.04 or higher), or a test refusal, will be immediately removed from safety-sensitive duties, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for an evaluation and assessment.

If an alcohol test result of 0.02-0.039 is received, you will be temporarily removed from performing safety-sensitive duties.

### **Dilute Negative Drug Test Result**

If an employee drug test result is a dilute negative, the employee will be sent back for a second test. If the second test result is also dilute negative then no further testing will be done (unless required by the MRO) and it will be considered a negative result.

### **Employee Requested Testing**

Any safety-sensitive employee who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The City will ensure that the costs for the split specimen are covered in order to complete a timely analysis, however, the City will seek reimbursement for the split analysis from the employee. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for split sample testing must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. The MRO must direct the laboratory in writing to send the split sample with appropriate copies of the chain of custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

### **Second Chance Policy**

If an employee's positive test result has been confirmed, the City will remove the employee from the Safety Sensitive position and refer the employee to the City's Employee Assistance Program (EAP). The EAP will provide the employee with counseling and a referral to the Substance Abuse Professional (SAP). The SAP will follow the protocols defined in 49 CFR 40, as amended. No disciplinary action may be taken against an employee who voluntarily participates in a rehabilitation program. Thereafter, the employee must refrain from violating the City's drug and alcohol abuse policy. Disciplinary action based on a violation of the City's drug and alcohol policy for a second time is not automatically waived by an employee's participation in a rehabilitation program and a second positive test result shall be considered cause for termination of employment.

### **Return To Duty Testing**

Conducted in accordance with Part 40, subpart O

Before any safety-sensitive employee is allowed to return to duty performing safety-sensitive duties following a verified positive drug or alcohol test they must be evaluated by a SAP, complete any recommended treatment and provide a negative return to duty test. Return to duty

testing is done at the recommendation of the SAP and may be for drugs and/or alcohol. Drug test will be observed.

### **Follow-up Testing**

Conducted in accordance with Part 40, subpart O

Once a safety-sensitive employee is allowed to return to duty, they shall be subjected to unannounced random follow-up testing for at least 12 months, but not more than 60 months with a minimum of 6 tests being done during the first 12 months. Drug test will be observed. The SAP will determine the frequency and duration of the follow-up testing. Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing must also remain in the standard random pool and must be tested whenever their name comes up for random testing, even if this means being tested twice in the same day, week, or month.

### **Re-Entry Contract**

Employees who re-enter the workforce must agree to a re-entry contract. The contract may include (but is not limited to):

- A release to work statement from the Substance Abuse Professional.
- A negative test for drugs and/or alcohol.
- An arrangement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
- A statement of expected work-related behaviors.

An agreement to follow specified after-care requirements with the understanding that violation of the re-entry contract is grounds for discharge.

## **TRAINING FOR SAFETY-SENSITIVE EMPLOYEES & SUPERVISORS**

All safety-sensitive employees shall receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and indicators of prohibited drug use.

Supervisors responsible for making the decision to reasonable suspicion test must receive a minimum of 60 minutes of training on drug and 60 minutes of training on alcohol information regarding the physical, behavioral, speech and performance indicators of probable drug and alcohol use.

## **DRUG TESTING PROCEDURES**

## **URINE SPECIMEN COLLECTION PROCEDURES**

Urine collections will be performed to the standards set in 49 CFR part 40 as amended. An overview of the procedures is available in Attachment A to this policy

### **ALCOHOL TESTING PROCEDURES**

All alcohol testing procedures will be done according to the standards set forth in 49 CFR part 40 as amended.

### **MEDICAL REVIEW OFFICER**

The laboratory results must be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results. The laboratory shall report all results to the MRO in a confidential manner.

A qualified MRO is a licensed physician 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.

The MRO shall follow all procedures set forth in 49 CFR part 40 as amended.

### **SUBSTANCE ABUSE PROFESSIONAL (SAP)**

Any individual who has a verified positive drug or alcohol test shall be removed from safety-sensitive duties immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. The specific requirements for a SAP can be found in 49 CFR part 40.

The responsibilities of the SAP include:

- Must recommend assistance, education or treatment for the employee who has tested positive or refused to test.
- Evaluating whether a safety-sensitive employee who has a verified positive drug or alcohol test result has complied with the SAP's recommendations.
- Determine when return-to-duty testing is appropriate and whether it should be for drugs and/or alcohol.
- Recommend the number of months the returning safety-sensitive employee will be subject to follow-up testing (after the minimum six tests during the first 12 months) and whether it will be for drugs and/or alcohol.

The SAP who determines that a covered employee requires assistance in resolving problems with substance abuse may not refer the employee to the SAP's private practice from which the SAP receives remuneration or to a person or organization in which the SAP has a financial interest.

The SAP must follow the procedures and responsibilities set forth in 49 CFR part 40 as amended.

### **Employee Access to Records**

Drug testing records must be kept in a secure location with controlled access. Drug and alcohol test results may be released only under the following circumstances:

- Employer shall release information or copies of records regarding an employee's test results to a third party only as directed by specific, written instruction of the employee.
- Employer may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
- Upon written request, employer must promptly provide any employee with any records relating to his/her test, including calibration records and laboratory certification records.
- Employer must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under NTSB investigation.
- Employer shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its employees.

## **SYSTEM CONTACTS**

### **Primary Program Manager (DER Designated Employer Representative):**

**Name:** Donald I. Brewer  
**Title:** Director of Human Resources, City of South Portland  
**Address:** 25 Cottage Road, South Portland, Maine 04106  
**Telephone:** (207) 767-7667 (office); (207) 233-3197 (mobile)

### **Primary Program Manager (DER – Designated Employer Representative)**

**Name:** Amy Jennings  
**Title:** Employee Relations Manager, City of South Portland  
**Address:** 25 Cottage Road, South Portland, Maine 04106  
**Telephone:** (207) 347-4109 (office); (207) 807-1309 (mobile)

### **Secondary Program Manager (DER – Assistant Designated Employer Representative)**

**Name:** Louis Cavallaro  
**Title:** Safety Coordinator, City of South Portland  
**Address:** 25 Cottage Road, South Portland, Maine 04106  
**Telephone:** (207) 767-4127 (office); (207) 272-0654 (mobile)

### **Secondary Program Manager (Assistant DER Designated Employer Representative):**

**Name:** Karla Giglio  
**Title:** Human Resources Specialist, City of South Portland  
**Address:** 25 Cottage Road, South Portland, Maine 04106  
**Telephone:** (207) 767-7682 (office)

### **Medical Review Officer (MRO) Services Will Be Provided by:**

**Name:** Stephen Kracht, DO - MRO  
**Organization:** Escreen  
**Address:** 7500 W, 110<sup>th</sup> St, STE 400A Overland park, KS 66210  
**Telephone:** 1-888-382-2281

### **Substance Abuse Professional (SAP):**

**Name:** Sheila Thibodeau, and Dennis Noonan  
**Organization:** Workforce Performance Solutions  
**Address:** 470 Forest Avenue, Portland, Maine 04101  
**Telephone:** (207) 773-6536

### **DHHS Certified Laboratory:**

**Name:** Laboratory Corporation of America (LabCorp)  
**Address:** 1904 Alexander Drive, Research Triangle Park, NC 27709  
**Telephone:** (1-800-833-3984)

**Collection Site;**

**Organization:** Concentra  
**Address:** 85 Western Avenue, South Portland, ME 04106  
**Telephone:** 207-774-7751

Please Post

**Drug Testing Employee Assistance  
for FTA/FMCSA**

Federal Substance Abuse

Hot Line Assistance is:

1-800-662-HELP (4357)

Medical Review Officer (MRO) Services Will Be Provided by:

Name: Stephen Kracht, DO-MRO  
Organization: Escreen  
Address: 7500 W. 110<sup>th</sup> St, STE 400A  
Overland Park, KS 66210  
Telephone: 1-888-382-228

Substance Abuse Professional (SAP):

Name: Sheila Thibodeau; Dennis Noonan  
Organization: Workforce Performance Solutions  
Address: 470 Forest Avenue, Portland  
Telephone: (207) 773-6536

**EMPLOYEE RECEIPT OF THE CITY OF SOUTH PORTLAND**

**DRUG AND ALCOHOL TESTING POLICY**

**Return this completed form to your immediate supervisor**

Print Employee Name: \_\_\_\_\_

I have received and will read the City's Drug and Alcohol Abuse Testing Policy for Safety Sensitive Positions. I understand that I will be held responsible for the content of the policy and I agree to abide by drug and alcohol testing policy. If I need any clarification or if I have any questions regarding the substance of the policy, I will address them with the City's program administrator.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

Employee Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_