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HUMAN RESOURCES

To: Gregg Mandsager, City Administrator
From: Stephanie Romagnoli, Human Resources Manager
Date: September 18, 2018
Re: Drug Testing Policy Update

In a recent audit of our drug testing policy and processes by the Federal Transit Authority (FTA), they directed that the policy for the Transit employees be separated from the drug testing policy for other employees.

Therefore, attached is an updated version of the City's current drug testing policy, which removes references to the transit division. This section is now separated into a policy addendum, formatted and worded as required by the FTA.

There are no substantive changes to the processes in the policy. At this time, it is requested that City Council approve the drug testing policy as amended to ensure compliance with the FTA requirements.

If you have any questions or need additional information, please contact me.

DRUG AND ALCOHOL POLICY

December 1990

Revised April 2001

Revised February 2012

Revised September 2018

Policy Statement

The City of Muscatine has a strong commitment to employees and the public to provide a safe and drug free workplace. Being under the influence of a drug or alcohol poses serious safety and health risks not only to the user, but to all those who work and come in contact with the user. The purpose of this policy is to assist in providing a workplace that is safe and healthy by limiting the effects of drug and alcohol use. The City also declares the responsibility to the public to demonstrate the safe and controlled operation of City work environments by establishment of a Drug and Alcohol Testing Program.

The Medical Review Officer

The Medical Review Officer for the City will be a licensed physician, either a medical doctor (MD) or osteopath (OD), fully licensed to practice in Iowa. The Medical Officer will have the responsibility of interpreting all tests taken under the provisions of the City's drug policy. The Medical Review Officer will determine if there is a violation of the use of restricted drugs and/or alcohol under this policy and report such specific violations directly to the Human Resources Department. That report will be used with other information gathered at the time to determine what, if any, action should be taken with an employee found in violation of the City's Drug and Alcohol Policy.

The City's current Medical Review Officer is: Rick Gerrels M.D., M.R.O.

Testing

Testing – All drug or alcohol testing will be conducted by a laboratory or testing facility that has been approved under the rules of the Department of Public Health of the State of Iowa or U.S. Department of Health and Human Services. When testing for alcohol/drugs, testing will include a urine test. The process for testing will occur in accordance with CFR 49 Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing.

If a test result other than pre-employment indicates the presence of alcohol or an illegal drug, a second test using an alternate method of analysis shall be conducted. If this test is also positive, a portion of the original sample will be made available for the employee to have his/her own test made at his/her own expense.

An employee other than a new employee or potential new employee shall be accorded a reasonable opportunity to rebut or explain the results of a drug test.

An employee who refuses to be tested when so required, as outlined in CFR 40 part 40.191, will be subject to the full range of disciplinary action, including dismissal. No applicant who refuses to be tested shall be extended an offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

Drugs for Which Individuals are Tested –The City may test for the following drugs: marijuana, cocaine, amphetamines, opiates, alcohol, and phencyclidines (PCP), Ecstasy (methylenedioxymethamphetamine or MDMA) or any other drug as approved in advance by the Secretary of the Department of Health and Human Services, or as may be required under State and Federal regulations. For non-DOT employees, the City may test for a specific drug in addition to those listed here.

In conducting those tests designed to identify the presence of chemical substance in the body, the City shall ensure to the extent feasible that the tests only measure, and that the records of the tests only show or make use of information regarding chemical substance in the body which are likely to affect the ability of the employee to perform his/her duties safely while on the job.

Collection of a urine sample for testing of current employees shall be performed so that the specimen is split into two components at the time of collection in the presence of the individual from whom the sample is collected. The second portion of the specimen shall be of sufficient quantity to permit a second, independent confirmatory test. If a confirmed positive test result for drugs or alcohol for a current employee is reported to the employer by the MRO, the City shall notify the employee in writing and inform the employee of the right to request and obtain a confirmatory test of the second sample collected. This second test shall be conducted at an approved laboratory of the employee's choice, with the cost being the employee's responsibility.

Pre-Employment Testing –

The City will require drug testing as part of a pre-employment physical for all employees. *All applicants for City employment must test drug free for employment eligibility. No applicant who refuses to be tested shall be extended an offer of employment.*

Notice of the testing will be a part of any notice or advertisement soliciting applicants for employment, and as part of the employment application. Applicants for employment shall also be personally informed of the requirement for a drug test at the first interview.

The City will check the drug and alcohol testing background of potential new employees for DOT covered positions. This check will include sending a form, with consent from the applicant, to DOT-regulated employers for whom the applicant has worked in the past two years, and asking each applicant, during the first interview, if they have ever failed or refused to take, in the last two (2) years, a DOT pre-employment drug or alcohol test. *A potential employee who has refused to take a DOT pre-employment drug or alcohol test in the past two years will not be eligible for hire.*

A potential new employee who has tested positive for drugs or alcohol in the past two years must provide certification that an evaluation was done by a SAP (Substance Abuse

Professional), and that any recommended treatment was completed in order to be eligible for hire.

Routine Physicals –

The City will require a drug test as part of any regularly scheduled physical for those who undergo such physicals. Employees shall receive notice at least 30 days prior to the date the physical is scheduled and be informed that a drug test will be part of that physical.

Specific physicals, including a drug test, may be required for those employees who have been exposed to toxic or other unhealthy substances during the course of their work. These tests shall be limited to those specific substances.

Employees who have been out of the random testing pool for more than 90 days consecutive day will be subject to a drug screen.

Reasonable Suspicion Situations for Drug and Alcohol Testing –

The City may require a drug test of those employees suspected of using or being under the influence of a drug or alcohol in the workplace where the Department Head/Supervisor:

- has reasonable suspicion that the employee’s faculties are impaired on City jobs, and
- the employee is in a position where such impairment presents a danger to the safety of the employee, another employee, a member of the public, or the property of the City; or when impairment, due to the effects of alcohol/drugs, is a violation of a known work rule of the City.

In instances where reasonable suspicion occurs, the following procedures will be followed:

- 1) Employees suspected of being under the influence of drugs or alcohol shall be transported to a designated laboratory for the purpose of drug testing.
- 2) Reasonable suspicion incidents shall be documented by a supervisor and one other person.
- 3) The City may perform drug testing on employees involved in vehicular accidents if reasonable suspicion is established and in all serious injury accidents.
- 4) In the event an employee is relieved of duties under this section then a “return to duty test” may be required by the employer prior to the employee’s return to work.

Workers Compensation/Post Accident

The City may require drug testing to determine if an employee is ineligible to receive Workers Compensation in accordance with 85.16 Subsection 2 of Iowa Workers Compensation Law. Post-accident testing may occur for employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to others in the overall operation of the City and may be subject to testing in workers comp situation when circumstances involve:

- 1) a death, personal injury requiring hospitalization or immediate medical attention
- 2) an injury compensable under workers' compensation
- 3) damage to the City's or private property in excess of \$1,000 or,
- 4) in which the driver receives a citation under State or local law for a moving violation arising from the accident,
- 5) the accident results in the towing away of a vehicle, or one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle, or if driving the vehicle(s) would cause more damage to the vehicle(s).¹

Testing for alcohol and controlled substances will be conducted as soon as practicable following an accident which meets the criteria of this section. Alcohol tests must be conducted within eight hours following the accident; controlled substances tests must be conducted within 32 hours following the accident. The employee must remain readily available for testing until the tests are administered or for these time periods, whichever comes first.

For employees not employed in the Transit Division, when the accident involves a commercial motor vehicle(s), tests will be conducted on each surviving driver and any other employee who was performing safety-sensitive functions with respect to the vehicle.

If the results of the alcohol and/or drug test(s) are negative, the employee will be returned to his/her regular duties and be paid for any scheduled hours lost between the time the tests are conducted and the time the test results are reported.

If the result of an alcohol test is "non-negative," the employee may not perform safety-sensitive work for 24 hours.

If the results of the alcohol and/or drug test(s) are positive, the employee will be referred to the EAP and disqualified for safety-sensitive work until he/she is released to return to safety-sensitive work.

available; or damage to the headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative. (See 49 CFR 382.107, 390.5, 653.7, and 654.7).

The employee may use paid vacation, compensatory and/or sick leave until such leave is expended, with the following exception. Sick leave may be used for outpatient rehabilitation only when it is not possible for the employee to undergo rehabilitation outside of work hours. If the employee chooses not to use paid leave, or if the paid leave has been expended, the disqualification period will be without pay.

Nothing in this section shall preclude a supervisor from requiring a reasonable suspicion test following an accident.

Random Testing -

The City is required to comply with random drug testing rules as they relate to the Department of Transportation and the Federal Transit Authority. Under these regulations, the City will conduct unannounced drug or alcohol tests of employees who are required to have a Commercial Driver's License (CDL). In addition, sworn peace officers will be randomly tested as well. Tests will be randomly selected from a pool of employees through the Bi-State Regional Commission Drug Testing Consortium. Employees will only be tested at a time they are scheduled to be at work.

Positions which fall under random testing include:

Vehicular Mechanic
Vehicle Maintenance Supervisor
Equipment Operator I, II, and III
Street Maintenance Leadworker
Refuse Truck Driver
Solid Waste Leadworker
Solid Waste Supervisor
Treatment Plant Mechanic I and II
Lift Station Operator
Solids Handling Leadworker
Sworn Peace Officer

Use of Alcohol

The use of, or being under the influence of alcohol by any employee while performing City business, while in a City facility, vehicle, or on equipment is prohibited. Use of alcohol while on duty is prohibited. *An employee who uses alcohol while on the job is subject to disciplinary actions up to and including dismissal, for the first occurrence, when the use is discovered through means other than the administration of an alcohol test*

Employees are prohibited from having a blood alcohol concentration of .040 or greater while on duty. An alcohol test result below .020 is considered negative; a result of .020 or greater but less than .040 is considered "non-negative." *After a result of "non-negative," the employee may not*

perform or continue to perform safety-sensitive work for 24 hours following the test.² (A return to duty test is not necessary after a non-negative alcohol test result.)

Pre-duty Use of Alcohol

Regular Shifts and Scheduled Overtime – Employees are prohibited from drinking alcohol within four hours prior to the start time of a regular shift or a scheduled overtime assignment. *An employee who violates this prohibition is subject to disciplinary actions up to and including dismissal, for the first occurrence.*

Standby – Employees are prohibited from drinking alcohol while on standby. *An employee who violates this prohibition is subject to disciplinary actions up to and including dismissal, for the first occurrence.*

Unscheduled Overtime Assignments – If an employee is offered an unscheduled overtime assignment, he/she is responsible for declining the offer if he/she has used alcohol during the previous four hours. *An employee who begins work in violation of this prohibition is subject to disciplinary actions up to and including dismissal, for the first occurrence.*

Use following a Vehicular Accident – Employees who are involved in an “accident,” as it is defined in this policy, are prohibited from consuming alcohol for eight (8) hours following the accident or until tested for alcohol, whichever comes first. The employee must remain readily available for testing during this eight-hour period. *An employee who violates these prohibitions is subject to disciplinary actions up to and including dismissal, for the first occurrence.*

Refusal to Submit to a Required Test – Employees are prohibited from refusing to submit a required alcohol and/or drug test. *An employee’s refusal to submit to a required drug or alcohol test shall be treated as a positive test. The employee will be referred to the EAP and disqualified from safety-sensitive work until he/she is released to return to safety-sensitive work.*

Legal Drugs

The use of, or being under the influence of any legal drug by any employee while performing City business, while in a City facility, vehicle, or on equipment, is prohibited if the drug impairs the employer’s ability to perform his/her job or assignment.

Employees who use prescription and over-the-counter medications are required to report all usage to their department head when it has been determined by their attending physician that their use of prescription medication may impair their ability to perform their job or when use of prescription medication, following label instructions as outlined by the manufacturer, would present an impairment to the individual in providing for safe and effective operation of

machinery, driving ability, or impaired motor skills. It shall be required of the employee to report such drug usage to the department head. Failure to adhere to restrictions from either an attending physician for prescription medication or from the manufacturer's recommendation for over-the-counter medication may also result in disciplinary action.

Illegal Drugs

The use, sale, purchase, transfer, or possession of an illegal drug by any employee while in a City facility, vehicle, equipment, or while performing City business is prohibited.

Departmental Work Rules

Nothing in these rules and regulations precludes management of any particular City department from establishing work rules that apply to that department. Such work rules cannot be less stringent than this policy.

Employee Assistance and/or Discipline

Employee Assistance – The City shall provide employee assistance under the City of Muscatine Employees Assistant Program (E.A.P.) for drug and alcohol problems. The City shall retain the right to evaluate employees in “reasonable suspicion” situations and, in addition, shall take no disciplinary action against an employee due to the employee's drug involvement the first time the employee's drug test indicates the presence of alcohol/drugs providing the employee undergoes a substance abuse evaluation and if the employee successfully completes a substance abuse treatment as recommended by the evaluation. However, if an employee fails to undergo the substance abuse evaluation when required under the results of a positive drug test or fails to successfully complete the substance abuse treatment when recommended by an evaluation, the employee may be disciplined up to and including discharge. If subsequent violations occur, the City may take disciplinary action as it sees fit.

Nothing in this section shall prohibit an employee from seeking assistance on his/her own through the City of Muscatine Employee Assistance Program (E.A.P.) prior to any detected violation.

Discipline – Discipline under this program will be administered under the City of Muscatine Discipline Policy, which shall include reasonable notice and an opportunity for the employee to explain the results of a drug test.

Required Rehabilitation after a Positive Alcohol and/or Drug Test

During any period of disqualification from safety-sensitive work, the employer may assign the employee to work that is not safety-sensitive. The employee will receive his/her regular pay for work assigned.

An employee who tests positive for alcohol or drugs is obligated to successfully complete any inpatient or outpatient rehabilitation recommended by the EAP. *If the EAP notifies the City that*

the required rehabilitation program is not being satisfactorily completed, disciplinary actions up to and including dismissal may be exercised for the first occurrence.

Consequences of a Repeat Positive Alcohol and/or Drug Test

The City is obligated to conduct its business in an environment that is safe for the workforce and the public. The disciplinary policies relating to the testing program are intended to balance this obligation with the desire to help rehabilitate employees with problems involving alcohol and/or prohibited drugs. However, the obligation to the safety of the workforce and the public must ultimately take precedence over the rehabilitation of employees. *Any employee who fails an alcohol or drug test (other than a progress test taken during the initial treatment period while the employee is disqualified from work) more than once in any ten year period will be dismissed.*

Education and Training

Policy and guidelines will be distributed by the City of Muscatine to each covered employee and provided to a representative of the employee labor organization. Employees will be provided with informative training regarding the effects of alcohol and drug use, company policy, and procedures for identifying alcohol or drug problems in others. Employees who have questions about the City's drug and alcohol testing program should contact the City's Human Resources Coordinator at City Hall. The City's Employee Assistance Program is available by contacting Genesis at 264-2725. The Employee Assistant Counselor assigned to the city is Sheila Funk, LISW, LCSW.

Confidentiality of Test Results

The City shall protect the confidentiality of the results of any alcohol/drug test conducted on an employee. A file separate from the employee's personnel file will be used for medical records and reports of testing.

In order to comply with Section 503(e) of the Drug Free Workplace Act of 1988, the results of a drug test of a City of Muscatine employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be—

- To the agency in which the employee is receiving counseling or treatment, or is otherwise participating;
- To the Medical Review Officer;
- To the Human Resources Manager. The Human Resources Manager may notify the department head/supervisor of the employee's absence from work or work responsibilities.
- Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

Directives

The City of Muscatine establishes this policy in compliance and conformance with the following guidelines:

Executive Order 12564. On September 15, 1986, former President Reagan signed Executive Order 12564, mandating a drug-free federal workplace. The Executive Order calls for random drug testing in certain “sensitive” governmental positions.

Drug-Free Workplace Act of 1988. Effective March 18, 1989, recipients of federal contracts for procurement of property or services valued at \$25,000 or more and federal grants, regardless of amount, are required to take measures to combat drug use in the workplace.

Federal requirements and Final rules.

State of Iowa Regulations.

Employee Compliance

It is a condition of continued employment by the City of Muscatine that each employee complies with the laws on controlled substances. Any known violation of said laws occurring in the workplace must be reported to the employee’s supervisor within five days of occurrence. Any employee convicted of violating any controlled substance law, operating while intoxicated, or public intoxication, must notify his/her supervisor or the conviction within five days of the conviction. Employees are responsible for notifying their supervisor of any use or suspected use of controlled substances or alcohol by any person or employee that may affect work performance.

Cost of Treatment

All costs for treatment will be shared by the City and the employees according to the applicable guidelines of the EAP and the health insurance program.

City of Muscatine

**Drug and Alcohol Policy
Transit Division
Addendum**

Effective as of September 22, 2018

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I. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

Portions of this policy are not FTA-mandated, but reflect City of Muscatine's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All City of Muscatine employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify **Human Resource Manager** no later than five days after such conviction.

2. Covered Employees

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in Part 40. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance. All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

4. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02.

Treatment/Discipline

Per City of Muscatine policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP).

No disciplinary action will be taken against an employee due to the employee's drug involvement the first time the employee's drug test indicates the presence of alcohol/drugs providing the employee undergoes a substance abuse evaluation and if the employee successfully completes a substance abuse treatment as recommended by the evaluation. However, if an employee fails to

undergo the substance abuse evaluation when required under the results of a positive drug test or fails to successfully complete the substance abuse treatment when recommended by an evaluation, the employee may be disciplined up to and including discharge. If subsequent violations occur, the City may take disciplinary action as it sees fit.

Nothing in this section shall prohibit an employee from seeking assistance on his/her own through the City of Muscatine Employee Assistance Program (E.A.P.) prior to any detected violation.

Discipline – Discipline under this program will be administered under the City of Muscatine Discipline Policy, which shall include reasonable notice and an opportunity for the employee to explain the results of a drug test.

All costs for treatment will be shared by the City and the employees according to the applicable guidelines of the EAP and the health insurance program.

5. Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when City of Muscatine has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing 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.

Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Muscatine using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Muscatine using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse 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. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Random Testing – End of Shift

Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least **60 minutes** before the end of the shift.

Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

6. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Dilute Urine Specimen

If a Reasonable Suspicion or Post-Accident test results in a negative dilute test result, City of Muscatine will conduct one additional retest. The result of the second test will be the test of record. **If there is a negative dilute test result and the test type was not a Reasonable Suspicion or Post-Accident test, City of Muscatine will accept the test result and there will be no retest,** unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. City of Muscatine guarantees that the split specimen test will be conducted in a timely fashion.

The second portion of the specimen shall be of sufficient quantity to permit a second, independent confirmatory test. If a confirmed positive test result for drugs or alcohol for a current employee is reported to the employer by the MRO, the City shall notify the employee in writing and inform the employee of the right to request and obtain a confirmatory test of the second sample collected. This second test shall be conducted at an approved laboratory of the employee's choice, with the cost being the employee's responsibility.

Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by City of Muscatine.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or City of Muscatine for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or City of Muscatine's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.

- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

7. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the **Human Resource Manager, who will refer the individual to a substance abuse counselor for evaluation and treatment.**

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

8. Prescription Drug Use

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 that mental functioning, motor skills, or judgment may be adversely affected must be reported to **the employee's supervisor. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.**

9. Contact Person

For questions about City of Muscatine's anti-drug and alcohol misuse program, contact **Stephanie Romagnoli, Human Resource Manager**.

Attachment A: Covered Positions

Positions which fall under random testing include:

Transit Driver
Transit Dispatcher
Transit Supervisor
Vehicular Mechanic
Vehicle Maintenance Supervisor