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# City Policies

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**SUBJECT: Gas Department's Anti-Drug and Alcohol Misuse Prevention Program**

**POLICY NO: 15.3**

DATE: January 31, 1990  
REVISED: January 1, 1995  
REVISED: March 8, 2004  
REVISED: December 10, 2004  
REVISED: January 22, 2016.

Ronald L. Olson, City Manager  
Date 1 Feb 2016

## **I PURPOSE AND SCOPE:**

The City of Corpus Christi has a responsibility to provide and maintain a drug-free work place for its employees. In compliance with the Department of Transportation (DOT) / Pipeline Hazardous Materials Safety Administration (PHMSA) regulations 49 CFR Part 199 and Part 40, as amended, covering pipeline safety standards, the City of Corpus Christi began implementing an anti-drug policy for covered employees in the Gas Department effective April 20, 1990. Effective January 1, 1995, and revised March 8, 2004, it was implemented by initiating an Alcohol Misuse Prevention Program in compliance with these regulations. **This policy covers DOT regulations which specifically apply to positions covered under Part 199, which are listed in Appendix I, positions which are covered by the City's DOT Policy and Appendix II, positions which are not covered by the City's DOT Policy. Questions regarding this Policy may be directed to the Assistant Director of Gas Operations or the Director of Human Resources.**

Employees who perform duties which involve gas operations, maintenance and emergency-response functions are "covered employees" under this policy. This policy also applies to part-time, temporary or the City's contractor's employees working in these functions.

Employees covered under this Policy must also comply with the Citywide Alcohol and Drug Policy, H.R. 15.0, and any other federally mandated testing program which applies. Employees not covered under this Policy must comply with the Citywide Alcohol and Drug Policy, H.R. 15.0, and other federally mandated testing programs which apply. (See Appendixes I and II).

**DOT Compliance:** The City is aware that it is ultimately responsible for meeting the requirements of Parts 40 and Part 199. The DOT authorizes operators to use a service agent(s) to perform tasks necessary to comply with the Plan. The City understands that, under the DOT regulations, it is responsible for the actions of its service agents. The City is responsible for developing and implementing a successful and comprehensive DOT workplace drug and alcohol program. Components of the City’s program include clear policies, provisions for education and training, drug and alcohol testing, and when needed, referral for evaluation, education, and treatment. The City shall ensure that all covered employees are aware of the provisions and coverage of the Plan.

Stand-down Waivers: DOT “stand-down is not in effect for the City. The City does not hold a stand-down waiver under Part 40 and has not applied for one. Should this status change, the City will notify covered employees and City officials in accordance with Part 40 requirements.

In accordance with applicable requirements of Part 40 Public Interest Exclusions (PIEs), the City shall stop using the services of the service agent no later than 90 days after the Department has published the decision in the federal register or posted on its website. The City may apply to the ODAPC Director for an extension of 30 days if it is demonstrated that a substitute service agent cannot be found within 90 days.

## **II. DEFINITIONS OF TERMS IN THIS POLICY**

1. Accident: “Accident” means any of the following events:

(1) An event that involves a release of gas from a pipeline or of liquefied natural gas (LNG) or gas from an LNG facility and results in one or more of the following;

(i) A death, or personal injury necessitating inpatient hospitalization;

(ii) Estimated property damage, excluding cost of gas lost, of the operator or others, or both, of \$50,000 or more.

(iii) Unintentional estimated gas loss of three million cubic feet or more.

(2) An event that results in an emergency shutdown of an LNG facility.

(3) An event that is significant, in the judgment of the operator, even though it did not meet the above criteria of 49 CFR Part 40.

2. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

3. Alcohol Concentration (or content): The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under Part 199, Subpart B, Alcohol Misuse Prevention Program.

4. Alcohol Confirmation Test: A second test, following a screening test, with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

5. Alcohol Screening Test: An analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his/her system.

6. Alcohol Use: The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

7. Certified Drug Testing Laboratory: Quest Diagnostic, 4770 Regent Boulevard, Irving, Texas 75063.

8. Chain of Custody: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

9. City Premises or Work sites: "City premises or work sites" include all property, buildings, structures, job sites (where an employee is working), parking lots, and means of transportation owned, leased, or otherwise used for City business including motor vehicles, equipment, or machinery.

10. Covered Employees: "Employee" means a person who performs covered functions (safety-sensitive functions) on a pipeline involving operations, maintenance, or emergency-response functions regulated by Parts 192, 193, or 195 of the DOT regulations that is performed on a pipeline or on a LNG facility. It does not include clerical, truck driving accounting, gas custodial positions or other functions not subject to these parts of the DOT regulations. Those employees are covered under the Citywide Policy, H.R. 15.0. This includes employees of contractors or subcontractors hired by the City to work in these three designated

functional areas. Attached as Appendix I is a list of specific job assignments covered under both the Anti-drug and Alcohol Misuse Prevention Program Policy and the City wide policy. Appendix II lists positions in the Gas Department which are not covered by the Gas Department DOT Policy.

11. Designated employer representative (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer consistent with the requirements of Part 40. Service agents cannot act as DERs.

12. Drug Confirmatory Test: A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

13. Drug Initial (Screening) Test: An immunoassay screen to eliminate “negative” urine specimens from further consideration.

14. Failing a Drug Test: “Failing a drug test” means confirmation of test results under DOT procedures which show positive evidence of the presence of a prohibited drug in an employee’s system.

15. Medical Review Officer: Keith Rose, M.D., Calallen Minor Emergency Center, (241-1116), 11559 Leopard Street, CCTX 78410, and The Doctors’ Center, (852-6824), 4637 S.P.I.D., CCTX 78411.

16. Passing a Drug Test: “Passing a drug test” means initial testing or confirmation testing under DOT procedures which do not show evidence of the presence of a prohibited drug in a person’s system.

17. Performing a covered function: Any time period in which ‘a covered employee is actually performing, ready to perform, or immediately available to perform a covered function (construction, maintenance, or emergency response).

18. Prohibited Drug: “Prohibited drug” means any of the following substances specified in Schedule I or Schedule II of the Federal Controlled Substances Act, (21

U.S.C. 801.812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). In addition, if the City receives approval from an appropriate DOT agency to test for other substances covered by Schedules I and 11, those substances shall be included as “prohibited drugs”.

19. Refusal to Submit to Alcohol Testing: When a covered employee fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with this Policy, or engages in conduct which clearly obstructs the testing process, he/she has refused to submit.

20. Refusal to Submit to Drug Testing: When a covered employee fails to provide a urine specimen as required by Part 40 without a valid medical explanation, after he or she has received notice of the requirement to be tested in accordance with these provisions, or engages in conduct which clearly obstructs the testing process, he/she has refused to submit.

21. Rehabilitation Committee: The “Rehabilitation Committee” is composed of individuals who develop and determine an employee’s rehabilitation plan and a schedule for an employee’s return to duty upon the employee having sought help through the Assistant Director of Gas Operations, or designee, for a prohibited drug or alcohol related problems or addiction before it was discovered through poor performance or drug testing authorized under this policy. The Rehabilitation Committee consists of the Gas Superintendent, or designee, the Medical Review Officer (MRO) for drug related problem, (City’s designated physician for positive drug tests; or the Substance Abuse Professional (SAP) supervising the employee’s rehabilitation for alcohol misuse under this Policy, or both the MRO and the SAP if drugs and alcohol are involved.

22. Specimen Collection and Alcohol Testing Service Provider: 8:00 a.m. - 9:00 p.m., Monday through Friday: On-Call After Hours Testing (after 9:00 p.m., Monday through Friday, and after 6:00 p.m. on Holidays, and Weekends) On-Call Number: 361-726-

The Doctor’s Center  
4637 S. Padre Island Drive  
Corpus Christi, Texas 78411  
(361) 852-6824

Calallen Minor Emergency Center  
11559 Leopard Street

23. Service agent: Any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth Part 40. Service agents are not employers of the City.

24. Split Sample Urine Specimen Collection: The covered employee shall urinate into a collection container or specimen bottle capable of holding a least 60 ml. per Part 40, Section 40.25 or which 30 ml. of urine is in one bottle to be used as the “primary specimen”, and at least 15 ml. is in a second bottle, to be used as the “split specimen” portion.

25. Stand-down: The practice of temporality removing an employee from the performance of safety sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the rest result.

26. Substance Abuse Professional (SAP): 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 a knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. Services are provided by Family Counseling Service, 3833 S. Staples Street, S-2013, Corpus Christi, Texas 78411, 361-852-7415, 1-800-646-0027.

### **III. DRUG AND ALCOHOL TESTING REQUIREMENTS**

As required by Part 199, PHMSA regulations, the following drug and alcohol tests will be conducted in accordance with drug and alcohol testing procedures in Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. Prior to performing a test, a covered employee shall be notified that the test is required by Part 199.

## **A. Pre-Employment Testing**

### **(1) Drugs:**

Any applicant who is offered any position (identified in Appendix I), must pass a drug test as a condition of employment. **Under this Policy, no initial hiring, promotion, demotion, or transfer (from another department, or within the Gas Department), to a position requiring drug testing under Part 199, will occur until the applicant or employee has passed a drug test.** During pre-employment screening, applicants will be advised that they are subject to drug testing. Applicants are required to sign a consent form acknowledging this policy as a condition of employment and granting consent for such testing.

### **(2) Alcohol:**

City chooses not to conduct pre-employment alcohol testing.

## **B. Post-Accident Testing**

### **(1) Drugs: Testing shall be done as soon as possible after the accident, but in no case, more than 32 hours post-accident.**

a. Within 32 hours after an accident, as defined in Section II, 1, (1) through (3) of this Policy, the City shall drug test each covered employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. Exceptions to this directive must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of elapsed time between that performance and the accident, the test would be useless in determining if such performance was affected by drug use.

### **(2) Alcohol: Testing shall be done as soon as possible following an accident, as defined in this Policy, preferably within two hours of the accident but no more than 8 hours afterwards.**

a. Each surviving covered employee will be tested for alcohol if that employee either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision to not administer a test under this section shall be based on the Assistant Director of Gas Operations or designee's determination, using the best available information at the time of the determination that the covered employee's performance could not have contributed to the accident.

b. (i) If an alcohol test is not administered within two hours following an accident, the Assistant Director of Gas Operations, or designee, shall prepare and maintain on file a record stating the reasons why the test was not promptly administered;

(ii) If a post-accident test under Part 199 is not administered within eight hours following the accident, the Assistant Director of Gas Operations, or designee, shall state in the record the reasons for not administering the test.

(3) The employee shall not leave the accident site without prior approval of the Assistant Director of Gas Operations, or designee, except as necessary to report the accident or seek medical treatment. A covered employee who is subject to post-accident drug and alcohol testing and who fails to remain readily available for such testing may be deemed by the Assistant Director of Gas Operations, or designee, to have refused to submit to testing.

(4) Necessary medical attention for injured employees following an accident will not be delayed by the requirements of this Policy. The necessity of a covered employee to leave the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care is not a violation of this Policy.

### **C. Random Testing**

#### **(1) Drugs:**

a. Employees covered by this policy will be subject to random drug testing. The number of covered employees to be tested each calendar year will correspond with DOT's annual requirements. The required random testing rate will be published in the Federal Register and will be applicable beginning January 1st of the calendar year following publication. A minimum of 50 percent of covered employees will be drug tested.

b. Employees to be tested will be selected by a computer-based random number generator that is matched with an employee's social security number. Each covered employee shall have an equal chance of being tested each time a random drug testing list is generated. Random test will be unannounced and the dates for administering random tests will be spread reasonably throughout the calendar year.

c. City-employees who are covered under more than one DOT agency's random drug testing regulations will be included in separate DOT pools for each regulation for random selection, with each pool containing the names of covered employees who are subject to testing at the specific percentage drug testing rate as set annually by DOT and required for each specific pool.



**(2) Alcohol:**

Random testing for alcohol is not authorized by Part 199 regulations or this Policy.

**D. Reasonable Cause (Drugs) and Reasonable Suspicion (Alcohol) Testing**

**(1) Drugs:**

a. Employees covered by this policy will be tested for drugs when there is reasonable cause to believe the employee is using a prohibited drug. Decisions to test must be based on specific physical, behavioral, or performance indicators of probable drug use. The decision to test shall be substantiated and concurred with by at least two of the employee's supervisors, one of whom must be trained in the detection of the possible symptoms of drug use.

**(2) Alcohol:**

a. An employee performing covered functions shall submit to an alcohol test when the Assistant Director of Gas Operations, or designee, has reasonable suspicion to believe that the employee is in violation of the prohibitions of this Policy. At least one supervisor who is trained in detecting the symptoms of alcohol misuse must make specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee and must determine that reasonable suspicion exists to alcohol test the covered employee if the observations are made during, just preceding, or just after the period of the work day that the employee is required to perform a covered function.

b. (i) If a test under this section is not administered within two hours following the determination of sufficient reasonable suspicion, the Assistant Director of Gas Operations, or designee, shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (ii) If a reasonable suspicion test is not performed within eight hours following the determination to test, the Assistant Director of Gas Operations, or designee, shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test and shall submit such records to the PHMSA.

c. No covered employee shall be permitted to report for duty or remain on duty which required the performance of covered functions while the employee is under the influence of, or impaired by, alcohol as shown by the behavioral, speech, or performance indicators of alcohol misuse. A covered employee under the influence of, or impaired by,

alcohol shall not be permitted to perform or continue to perform covered functions until the following occurs.

(1) an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

(2) the start of the employee's next regularly scheduled duty period, but not less than eight hours following the determination under this Policy that there is reasonable suspicion to believe that the employee has violated the prohibitions of Part 199, and this Policy.

d. No disciplinary action shall be taken against an employee based solely on the employee's behavior and appearance unless a positive alcohol test result is obtained. The Assistant Director of Gas Operations, or designee, may take disciplinary action under his/her authority independent of this Policy at his discretion with concurrence of the Director of Human Resources.

#### **E. Return-to-Duty Testing**

##### **(1) Alcohol:**

Before a covered employee returns to duty requiring the performance of a covered function after engaging in prohibitive conduct as stated in Section IV-B of this Policy, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. The employee who undergoes rehabilitation must pass a return-to-duty alcohol test with a result indicating an alcohol concentration of 0.00, take a drug test with a negative result, and be subject to decisions made by the Substance Abuse Professional (SAP) regarding testing after rehabilitation.

#### **F. Testing After Rehabilitation**

##### **(1) Drugs:**

In addition to other drug testing required by this policy, upon returning to duty from drug rehabilitation treatment which was entered into as a result of an employee's self-disclosure of a prohibited drug-related problem or addiction, an employee will be subject to follow-up drug testing without prior notice for up to sixty (60) months from the date of return.

The employee shall be subject to unannounced follow-up drug testing with the number and frequency of such follow-up testing to be determined by a Substance Abuse Professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty.

**(2) Alcohol:**

- a. Following a determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, the employee shall be subject to unannounced follow-up alcohol testing with the number and frequency of such follow-up testing to be determined by a Substance Abuse Professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty.
- b. Follow-up testing may include testing for drugs, as directed by the Substance Abuse Professional, to be performed in accordance with Part 40.
- c. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the Substance Abuse Professional determines that such testing is no longer necessary.
- d. Follow-up testing is to be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.
- e. Covered employees who are tested and have an alcohol concentration of 0.02 or greater but less than 0.04 must be retested and cannot be allowed to perform or continue to perform covered functions until the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under Part 199, or until the start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test, or at the discretion of the Gas Superintendent, or designee, the covered employee may resume performing a covered function within eight hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04, if a retest is performed and, if the test result is an alcohol concentration of 0.02 or less.

#### **IV. PROHIBITED ACTIVITIES AND VIOLATIONS**

##### **A. PROHIBITED ACTIVITIES AND VIOLATIONS -DRUGS**

**An employee violates this anti-drug policy by:**

1. Failing any drug test required under this policy.
2. Refusing to take any drug test required by this policy. Consent is indicated by signing the Federal Drug Custody and Control Form (CCF) required by Part 40.

##### **B. PROHIBITED ACTIVITIES AND VIOLATIONS - ALCOHOL**

**An employee violates this alcohol policy by:**

1. Reporting for duty or remaining on duty to perform covered functions while having an alcohol concentration of 0.04 or greater.
2. Consuming alcohol in any form including medications, while performing covered functions.
3. Consuming alcohol in any form including medications within four hours prior to performing covered functions, or consuming alcohol in any form after being notified to report for unscheduled duty.
4. Consuming alcohol for eight (8) hours following an accident as defined in this Policy, when the employee has actual knowledge of an accident and his/her performance may have contributed to the accident, unless he/she has taken a post-accident test under this Policy, or the Assistant Director of Gas Operations, or designee, has determined that the employee's performance could not have contributed to the accident.

5. Refusing to submit to a post-accident, reasonable cause, reasonable suspicion, or follow-up alcohol test required under Part 199 as directed by the Assistant Director of Gas Operations, or designee.

## V. CONSEQUENCES FOR VIOLATION OF THIS POLICY

- A. The following violations of this Policy will result in automatic and mandatory termination upon the first offense:

- (1) Failing a drug test under Article III section B. (1), Article III section C. (1), Article III section D. (1), Article III section F.(1), or

- (2) An employee who is tested for alcohol under Part 199, and is found to have an alcohol concentration of 0.04 or greater; or

- (3) An employee who refuses to take an alcohol test or a drug test required by this Policy; or

- (4) An employee who has returned to duty following rehabilitation and who is subsequently tested pursuant to this policy and found to have an alcohol concentration of 0.02 or greater; or

- (5) An employee who fails to comply with a Disciplinary Agreement entered into for a violation of this policy. A Disciplinary Agreement shall require at a minimum that the employee: (a) seek counseling from a Substance Abuse Professional through the City's Employee Assistance Program (b) abide by the recommended rehabilitation and aftercare program, if any, and (c) pass a return-to-duty alcohol test with an alcohol concentration of less than 0.02.

- B. The following violations of this Policy will result in disciplinary action up to and including termination:

- (1) An employee who is tested under Part 199, and is found to have an alcohol concentration of 0.02 but less than 0.04, and

has one prior alcohol test result showing an alcohol concentration of 0.02 but less than 0.04; or

(2) Other violations of this Policy, except that an employee who is tested and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall be removed from the performance of covered functions; and, on the first occurrence, a letter of reprimand shall be placed in the employee's official personnel file, and he/she shall be directed to seek counseling from the Employee Assistance Program Substance Abuse Professional. The covered employee shall be restricted from performing covered functions until (a) the employee's alcohol concentration measures less than 0.02; (b) or the start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

C. At the discretion of the Assistant Director of Gas Operations, or designee, a retest may be performed to allow the covered employee to resume performing covered functions within 8 hours following the administration of the test which indicated an alcohol concentration of 0.02 or greater but less than 0.04 if the results of the retest indicate that the employee's alcohol concentration measures less than 0.02.

## **VI. REQUIRED EVALUATION AND TESTING**

A. A covered employee who has engaged in prohibited conduct as stated in Subsections 1 through 5 of Section IV-B will not be permitted to perform covered functions unless the employee has been evaluated by a Substance Abuse Professional (SAP) through the Employee Assistance Program (EAP) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.

B. Employees who seek help through the Assistant Director of Gas Operations, or designee, for an alcohol related problem or addiction before it is discovered through poor performance or notification of alcohol testing authorized under this policy, shall be allowed to participate in a rehabilitation program as recommended by the Employee Assistance Program counselor and as documented in a written agreement between the employee and the City of Corpus Christi. However, the employee must pass a return-to-duty alcohol

test. An employee whose test result indicates an alcohol concentration of less than 0.02 shall be subject to follow-up testing and be subject to decisions made by the Rehabilitation committee and follow-up rehabilitation testing as set out in Section III-F, Alcohol, Subsections a through e.

## **VII. USE OF EMPLOYEE WHO FAILS OR REFUSES DRUG OR ALCOHOL TEST**

The City of Corpus Christi will not permit an employee to report to work who (1) fails a drug test required by DOT regulations; (2) refuses to take a drug or alcohol test required by these regulations, or (3) has engaged in any prohibited conduct as stated in Section IV - B, Subsections 1 through 1 4, for misuse of alcohol until (a) after the Substance Abuse Professional (SAP) has released the employee to return to duty and until (b) the employee has taken an alcohol test with a resulting alcohol concentration of less than 0.02 and (c) until the employee has otherwise complied with any recommended rehabilitation based on the SAP's assessment or the provisions of any disciplinary agreement between the Department Head and employee regarding rehabilitation.

## **VIII. TESTING PROCEDURES**

### **A. DRUG TESTING**

#### **(1) DRUG SPECIMEN COLLECTION AND DRUG TESTING LABORATORY**

The City's designated specimen collection services provider, The Doctors' Center, Corpus Christi will follow split-specimen collection and CCF procedures for drug testing mandated by Part 199, which meet the requirements of Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. The City will direct that collections be made under direct observation and with no advance notice to the employee when required under Part 40.67 (a) and (b).

The City of Corpus Christi will use drug testing laboratories certified by the Federal Substance Abuse. & Mental Health Services Administration, Department of Health and Human Services, under the DOT procedures. The selected certified laboratory must submit to inspections by the City of Corpus Christi and to unannounced inspections including examinations of records at any time by the City of Corpus Christi and the PHMSA Administrator. Laboratories used

will follow DOT procedures outlined in Part 40 on procedures for Transportation Workplace Drug & Alcohol Testing Programs.

**(2) REVIEW OF DRUG TESTING RESULTS**

The Medical Review Officer (MRO) for the City of Corpus Christi will be the City's designated Physician for that purpose who is a licensed physician with knowledge of drug abuse disorders.

The MRO will (1) review the results of the drug testing before they are reported to the Director of Human Resources; (2) review and interpret confirmed positive test results to determine if there is an alternative medical history and any relevant biomedical factors; (c) a review of all medical records provided by the employee to determine if a confirmed positive test resulted from legally prescribed medication; (d) if necessary, have the original specimen reanalyzed to verify accuracy of the reported test result; and (e) verify that the laboratory report and assessment are correct.

**(3) MEDICAL REVIEW OFFICER'S DETERMINATION**

Procedures to be followed by the City's Medical Review Officer are provided in Attachment II to this Policy.

If the MRO's review indicates a legitimate medical explanation for the confirmed positive test result, no further action will be taken against the employee, the test result will be reported as a negative to the Director of Human Resources, and the applicant will be eligible for hire.

If the MRO's review determines there is no legitimate medical explanation for the confirmed positive test result, the test result will be reported to the Director of Human Resources as a positive, and the employee will be subject to automatic and mandatory termination, without rehabilitation, upon the first offense.

If the MRO's review of laboratory inspection reports, quality assurance and control data and other test results show that a test is scientifically insufficient for further action, the test will be determined



negative for the presence of a prohibited drug or metabolite in the employee's or applicant's system and no further action will be taken.

**(4) RETENTION OF SAMPLES AND RETESTING**

- A. As provided in Part 40, if the test result of the primary specimen is positive, the applicant or employee may request that the MRO direct that the split sample be tested in a different HHS- certified laboratory for presence of the drug(s) for which a positive result primary specimen. The MRO shall honor such a request if it is made within 72 hours of the employee positive test result. Upon receipt of the result of the test of the split specimen which reaffirms the specimen, the employee and the Director shall be notified within one work day. Upon receipt of the result of the test of a split specimen which fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the City, and the employee.
  
- B. The fee for transferring and retesting a split specimen by another HHS certified laboratory, upon timely request to MRO by a City applicant or employee, is to be prepaid by cash, cashier's check, or money order by the requesting applicant or employee directly to the HHS certified laboratory performing the testing. Under this Policy, employees shall use MEDTOX Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112 at \$75 per retest, which fee may change without prior notice.
  
- C. Specimens which yield confirmed positive results will be retained by the laboratory in secured, frozen storage for a minimum of 365 days and may be extended for an additional time period upon notification of the laboratory.
  
- D. On retested samples from storage, deterioration may occur resulting in a detected level of drug less than noted in the DOT procedures or the prior tests. Results equal to or greater than the established sensitivity of the assay will be considered corroborative of the original positive results.

**B. ALCOHOL TESTING PROCEDURES**

The City's designated specimen collection services provider, The Doctors' Centers, Corpus Christi, will follow alcohol testing guidelines mandated by Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

## **IX. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

- A. It is recognized that drug and alcohol addiction is a medical disorder which can be treated. The City of Corpus Christi believes it has a responsibility to provide assistance to our employees through the Employee Assistance Program, (EAP) but that the initiative in seeking such help is the responsibility of the employee. Employees who seek help through the Assistant Director of Gas Operations, or designee, for a prohibited drug and/or alcohol related problem or addiction before it is discovered through poor performance or the employee is notified of testing authorized under this policy, shall be allowed to participate in a rehabilitation program as recommended by the Employee Assistance Program's Substance Abuse Professional and the Rehabilitation Committee.
  
- B. The Rehabilitation Committee, as defined in Section II of this Policy, will determine whether and when an employee involved in self-referral to a drug rehabilitation program may be returned to duty. In addition, the Rehabilitation Committee ensures an employee, upon completing rehabilitation to confirm his/her drug free status. This provision applies only to employees who seek help for a prohibited drug-related problem or addiction prior to being identified through a positive drug test administered under this Policy.
  
- C. While medical costs of rehabilitation are the sole responsibility of the employee, medical plan insurance may be used to the extent provided under the individual's health insurance coverage. Existing leave policies (sick leave, personal leave, vacation, or special leave requests without pay) may be requested for use during rehabilitation periods.
  
- D. The City's Employee Assistance Program services are provided by Family Counseling Service, 3833 S. Staples Street, S-2013, Corpus Christi, Texas 78411, 361-852-7415, 1-800-646-0027.

E. The City's EAP will provide a total of 120 minutes of training programs for supervisors who will determine the existence of reasonable cause and reasonable suspicion, how to assess contemporaneous physical, behavioral, and performance indicators of probable drug and/or alcohol misuse with 60 minutes on drug use in the workplace and 60 minutes on alcohol in the workplace. The training curriculum for City employees includes the following areas: (1) display and distribution of informational materials, (2) hot-line telephone number for assistance, and (3) distribution and explanation of the City's alcohol and drug policy. All positions to receive this training are noted in Appendix I.

**X. CONTRACTORS AND SUBCONTRACTORS HIRED BY THE CITY OF CORPUS CHRISTI**

Contractors and their subcontractors, as part of contractual agreements with the City, will be required to provide drug and alcohol testing, education and training for their employees in compliance with PHMSA / DOT regulations Parts 199 and 40. The City remains responsible for ensuring that the requirements of Parts 199 and 40 are complied with. The City Gas Department's contractors and subcontractors shall provide access to related property and records to the Assistant Director of Gas Operations, or designee, and PHMSA Administrator or State Agency for the purpose of monitoring the City's compliance with Part 199.115(b).

**XI. RECORDS**

**A. Retention Schedule**

The Director of Human Resources, Assistant Director of Gas Operations, the City's designated Medical Review Officer, the Breath Analyzer Service Provider, and the Employee Assistance Program Administrator shall be jointly responsible for coordinating recordkeeping requirements under the PHMSA / DOT regulations with records maintained in secure locations with controlled access.

**Drug Record retention Schedule To Be Maintained By MRO:**

	Minimum
(1) Collection process drug records	3 years
(2) Employees' failed drug tests, types of tests (e.g. post-accident and rehabilitation records) Specific information retained on employees who have failed tests (No. 2 above) will include: (1) functions performed by each employee; (2) the prohibited drug used; (3) disposition of employees (e.g. termination, rehabilitation, leave without pay); (4) and the age of each employee.	5 years
(3) Employees' negative drug tests	1 year
(4) Record of number of employees tested by type of test	5 years
(5) Records of training sessions attended by supervisors and employees; copies of training materials provided; and rosters of attendance.	3 years

**B. Alcohol Records**

(1) Test Results with 0.02 or greater alcohol concentration	5 years
(2) Documentation of refusal to test	5 years
(3) Calibration documentation	5 years
(4) Employee evaluation & referrals	5 years
(5) M18 Annual Report Data	5 years
(6) Records related to collection process (except calibration of EBT'S)	2 years
(7) Training provided per year	2 years
(8) Test results below 0.02	1 year

**The following specific records shall be maintained related to alcohol testing records:**

**Records Related to the Collection Process:**

- (1) collection log books, if used;
- (2) calibration documentation for EBT devices;
- (3) documentation of breath alcohol technician training;
- (4) documents generated in connection with decisions to administer reasonable suspicion alcohol tests;
- (5) documents generated in connection with decisions on post-accident tests;
- (6) documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing;
- (7) records related to test results; the City's copy of the alcohol test form, including the results of the test;
- (8) documents related to the refusal of any covered employee to submit to an alcohol test;
- (9) documents presented by a covered employee to dispute the result of an alcohol test;

**Records related to compliance with Part 199 and 40:**

- (1) records related to evaluation by a substance abuse professional concerning a covered employee's need for assistance;
- (2) records concerning a covered employee's compliance with the recommendations of the substance abuse professional;
- (3) records related to the City's MIS annual testing data;
- (4) records related to education and training including materials on alcohol misuse awareness, a copy of the City's policy on alcohol misuses;
- (5) documentation of compliance with requirements of access to facilities and records;

- (6) documentation of training provided to supervisors for the purpose of qualifying them to make a determination concerning the need for alcohol testing based on reasonable cause (drugs) and reasonable suspicion (alcohol);
- (7) certification that any training conducted under 49 CFR, 199, complies with the requirements for such training. §40.399(b).

### **C. Reporting of Alcohol Testing Results**

An annual management information system (MIS) report will be submitted by the Director of Human Resources to PHMSA on alcohol testing results in the form and manner prescribed by the Administrator by March 15 of each year for the previous calendar year (January 1 through December 31).

**Since the City is subject to more than one DOT agency alcohol rule, City employees will be counted and reported to PHMSA which were tested under PHMSA DOT Agency rules Part 199. Alcohol-related testing records to be kept include:**

- (1) number of covered employees;
- (2) number of covered employees subject to alcohol misuse rule of another operating DOT agency;
- (3) number of screening tests by type of test;
- (4) number of confirmation tests by type of test;
- (5) number of confirmation tests indicating an alcohol concentration of 0.02 or greater but less than 0.04 by type of test;
- (6) number of confirmation tests indicating an alcohol concentration of 0.04 or greater, by type of test;
- (7) number of covered employees with a confirmation test indicating an alcohol concentration of 0.04 or greater or who have violations of other alcohol misuse provisions who were returned to duty in covered

positions after having complied with the recommendations of a Substance Abuse Professional;

- (8) number of covered employees who were administered alcohol and drug tests at the same time, with both a positive drug test and an alcohol test indicating an alcohol concentrations of 0.04 or greater.
- (9) number of covered employees who were found to have violated other prohibitions of Part 199, and any action taken in response to the violation;
- (10) number of covered employees who refused to submit to an alcohol test required and the action taken in response to the refusal;
- (11) number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.

#### **D. Release of Information**

- A. Requests for employment verification or references for an individual terminated under this policy shall be forwarded to the Human Resources Department for response. For Texas Employment Commission hearings on granting unemployment insurance, the City will cite a rules violation as the reason for termination and will supply a copy of the termination which states specific reasons. Where there is doubt about the release of information, the Legal Department shall be consulted for guidance.
- B. The City may disclose information required to be maintained by Part 199, pertaining to a covered employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol test administered under Part 199, including, but not limited to, worker's compensation, unemployment compensation, or other proceeding related to a benefit sought by the employee.

- C. Information regarding an individual's drug testing and/or alcohol testing or rehabilitation may be released only upon the written consent of that individual except when used in administrative or disciplinary proceedings. No drug or alcohol testing reports are to be placed in the employee's personnel file. Such reports shall be maintained in a locked area with restricted access. Such information must be released to the DOT Administrator, regardless of individual's consent, when requested as part of an accident investigation. Statistical data related to drug testing and rehabilitation (that is not name specific) and training records must be made available to the DOT Administrator upon request.
  
- D. Except as required by law or expressly authorized or required in Part 199, the City of Corpus Christi shall not release covered employee information that is contained in records required to be maintained by 199.227 retention of records.
  
- E. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his/her alcohol tests. The City shall promptly provide records requested by the employee. Access of an employee to his/her own records shall not be contingent upon payment for records other than those specifically requested.
  
- F. The City will permit access and provide copies of name-specific alcohol test results, records, and reports to the Secretary of Transportation, and DOT agency, or a representative of a state agency with regulatory authority over the City. Information will be provided by the City when requested by the National Transportation Safety Board as part of an accident investigation, related to the City's administration of any post-accident alcohol tests administered following the accident under investigation.
  
- G. The City shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.
  
- H. The City shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release



of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

## **XII. EMPLOYEE ACKNOWLEDGEMENT FORM**

Compliance with the City of Corpus Christi Gas Department Anti-drug and Alcohol Misuse Prevention Program Policy is a condition of employment for all covered employees hired prior to and after the effective date of this policy. Current employees will be required to sign an acknowledgement of understanding which will become part of each employee's personnel file and will read as follows:

**CITY OF CORPUS CHRISTI GAS DEPARTMENT'S  
ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAM  
EMPLOYEE ACKNOWLEDGEMENT FORM**

I have received a copy of the City of Corpus Christi Gas Department's Anti-drug and Alcohol Misuse Prevention Program Policy HR 15.3, effective January 31, 1990, and revised December 10, 2004, January 22, 2016.

I have carefully heard and/or read this policy and understand its content. I have been given an opportunity to ask questions about the Policy and receive explanations in English and Spanish. I agree to comply with this policy.

I understand that failure to do so will result in my being in violation for this policy and will subject me to disciplinary action up to and including termination on the first offense.

I understand that this policy became effective January 1, 1995, and was revised on December 10, 2004, and January 22, 2016.

(PRINT) Employee's Name	Employee's Signature      Date

Employee's Social Security	Employee's Job Title

\_\_\_\_\_  
Department Name Activity No.

## APPENDIX I

### GAS DEPARTMENT'S ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAM POLICY, H.R. 15.3

The following designated positions held by one or more incumbents will be subject to regulations contained in the Gas Department's Anti-Drug and Alcohol Misuse Prevention Program Policy, H.R. 15.3, and the Citywide Alcohol and Drug Policy, H.R. 15.0. In addition, employees and applicants who are required to have Commercial Driver's License (CDL) to perform the essential functions of their positions will be covered by the City's-DOT Policy.

#### **Activity 34000 - Gas Office:**

Assistant Director of Gas Operations

#### **Activity 34110 – Maintenance and Operations**

Gas Maintenance & Operations Superintendent

Work Coordinator

General Foreman

Utility Tech II

Utility Tech III

Utility Tech IV

Utility Tech V

Utility Dispatcher

#### **Activity 34120 - Pressure and Measurement**

Gas Operations & Measurement Superintendent

Work Coordinator

Utility Tech II

Utility Tech III

Utility Tech IV

Utility Tech V

**Activity 34130 - Construction**

Construction Operations Superintendent

General Foreman

Work Coordinator

Utility Tech II

Utility Tech III

Utility Tech IV

Utility Tech V

**Activity 34190 - Oil & Gas Well Division**

Petroleum Superintendent

Work Coordinator

Inspector Coordinator

Utility Tech III

Utility Tech V

**Activity 34190 – Engineering Design**

Sr. Application Specialist

Engineer's Assistant I

Engineer's Assistant II

Survey Tech

Utility Tech II

Utility Tech IV

Utility Tech V

## **APPENDIX II**

### **GAS DEPARTMENT ANTI-DRUG AND ALCOHOL MISUSE PREVENTION**

#### **PROGRAM POLICY, H.R. 15.3**

The following designated position held by one or more incumbents are not covered by 49 CFR, Part199, and are not subject to the Gas Department Anti-Drug and Alcohol Misuse Prevention Program Policy, but will be subject to the Citywide Alcohol and Drug Policy, H.R. 15.0, and if the performance of their essential functions require a Commercial Driver's License, will be subject to the City's CDL-DOT Policy:

#### **Activity 34000 - Gas Office**

Finance & Resource Superintendent

Management Assistant

Management Aide

Administrative Manager

Custodial Worker

#### **Activity 34160 Gas Marketing**

Energy and Marketing Representative