

SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

POLICIES & PROCEDURES MANUAL

POLICY 45.020 - DRUG AND ALCOHOL POLICY FOR EMPLOYEES WHO DRIVE COMMERCIAL MOTOR VEHICLES

Effective Date: August 24, 2021
Revision No.: 2
Supersedes: April 24, 2018
First Adopted: April 21, 1998

PURPOSE

The City of San Bernardino Municipal Water Department (the Department) recognizes that its employees are its most important resource. The purpose of this document is to outline the Department's policy regarding drug and alcohol use and testing for employees who are required to have commercial drivers' licenses ("CDL"), to accomplish the following goals:

1. To provide a safe working environment for Department drivers;
2. To protect the safety of persons and property;
3. To provide the highest quality of public service;
4. To promote efficiency and productivity;
5. To prevent loss of public confidence and damage to the Department's reputation;
6. To encourage drivers who are concerned about their alcohol and/or drug use to voluntarily seek assistance;
7. To provide reasonable accommodation to those drivers whose drug and/or alcohol problem classifies them as disabled under federal and/or state law;
8. To comply with the Federal Omnibus Transportation Employee Testing Act of 1991.

DEFINITIONS

Pursuant to the maintenance of a safe and drug-free workplace, the following definitions shall apply in support of enforcing this policy:

Alcohol - Any beverage containing alcohol. The possession, consumption, transportation, distribution, receipt, sale, purchase or arranging for the sale, purchase or distribution of alcohol, including medicines containing alcohol (prescription or over-the-counter), is prohibited while on duty, unless, with respect to medicines, the packaging seal is unbroken.

Commercial Drivers' License (CDL) - Refers to Class A or Class B licenses, and commercial Class C licenses.

Commercial Motor Vehicle (CMV) - Vehicles rated at 26,001 lbs. GVWR or more; vehicles rated at 26,001 lbs. or more including a towed unit rated at 10,000 lbs.; DOT placarded vehicles under hazardous material regulations; and vehicles designed to transport more than 15 passengers, including drivers.

Covered Employees - All employees and job applicants whose job requires the possession of a CDL.

Driver - Means any person who operates a commercial motor vehicle at the direction of or with the consent of the Department.

Drugs/Controlled Substances - Defined as amphetamines, cocaine, marijuana (regardless of prescription), opiates, and phencyclidine (PCP). Use, sale, distribution, and/or manufacture of amphetamines, cocaine, opiates, and phencyclidine (PCP) without a valid prescription is against the law and a direct violation of the Department's policy. The use, sale, distribution, and/or manufacturing of marijuana during work hours and/or on Department property is a direct violation of this policy.

Employee - Means any employee of the Department who operates a commercial motor vehicle (CMV) and is required to have a CDL.

5 Panel Drug Test - There are five categories of drugs established by the federal government which fall under "controlled substances." They are amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).

Medical Review Officer (MRO) - Means a licensed physician certified

to review and interpret all drug tests before they are reported to the employer.

Performing (a safety-sensitive function) - Means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Premises - Buildings, property, work areas, vehicles, parking lots and any place the driver happens to be during the course and scope of Department employment during regular working hours, breaks or any pay status.

Pre-Employment - Conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. Also required when drivers transfer to a safety-sensitive position.

Prescription Drugs - Any drug or medication prescribed by a licensed physician for a medical condition. With the exception of marijuana, use of prescribed drugs are not in direct violation of the Department's policy; however, inappropriate use or prescribed use which may cause significant impairment, thus creating a safety hazard on the job, is in direct violation of the Department's policy.

Safety-Sensitive Function - Operating any vehicle which can only be operated by personnel who possess a commercial driver's license.

Safety-Sensitive Personnel - Means employees holding a commercial driver's license and driving a commercial vehicle, on a full-time, part-time or intermittent basis.

Substance Abuse Professional (SAP) - Means a licensed physician, licensed or certified psychologist, social worker, employee assistance professional or an alcohol and drug abuse counselor certified by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) Certification Commission. All persons listed in the definition must have specific knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders to qualify.

WHO IS AFFECTED BY THESE RULES?

The Department of Transportation alcohol and drug testing rules require that drivers be tested if they:

- Hold a Commercial Driver's License (Class A, B, or C).
- Drive vehicles rated at 26,001 lbs. GVWR or more.
- Drive vehicles rated at 26,001 lbs. GVWR or more including a towed unit rated at 10,000 lbs.
- Drive DOT placarded vehicles under hazardous material regulations.
- Drive vehicles designed to transport more than 15 passengers, including drivers.

PROHIBITED ACTS - CONTROLLED SUBSTANCES

No driver shall report for duty, remain on duty, or perform a safety-sensitive function, if the driver tests positive for controlled substances.

DRUGS TO BE TESTED FOR

All urine specimens are analyzed for the following drugs:

1. Marijuana (THC Metabolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

The testing is a two-stage process. First, a screening test is performed.

If it is positive for one or more of the drugs, then a confirmation

test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

ALCOHOL TESTING

The rules require breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The driver and the individual conducting the breath test, a breath alcohol technician (BAT), complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test result determines any actions taken.

PROHIBITED ACTS - ALCOHOL

Because alcohol is a legal substance, the rules define specific prohibited alcohol-related conduct. Performance of safety sensitive functions is prohibited:

- While having an alcohol concentration of 0.04 or greater, as indicated by an alcohol breath test.
- While using or possessing alcohol on the job.
- Within four (4) hours after using alcohol.
- When refusing to submit to an alcohol test.
- When using alcohol within eight (8) hours after an accident or until tested (for employees required to be tested).

To further safeguard transportation safety, drivers who have alcohol concentration of 0.02 but less than 0.04 in their breath, when tested just before, during or just after performing safety-sensitive functions, must also be removed from performing such duties for 24 hours or until another breath test is administered and the result is less than .02.

JOB APPLICANT/PRE-EMPLOYMENT

All applicants to the Department for a position as a driver performing safety-sensitive functions shall undergo testing for alcohol and controlled substances.

1. All pre-employment health screens will include a urine drug screen and alcohol breath test. All health screens will include a urine drugs-of-abuse screen for marijuana, cocaine, phencyclidine, opiates and amphetamines. All alcohol tests will include a breath test using an evidential breath-testing device (EBT).
2. All job announcements or other promotional material for covered positions shall specify that drug/alcohol screening shall be part of the physical examination.
3. All applicants for said positions shall be given a copy of this policy at the time of their conditional offer of employment, and shall, as a prerequisite to employment, sign a consent form and submit to pre-employment alcohol/controlled substance testing. Any applicants who do not consent to such testing will not be considered for employment.
4. If the consent form is signed, the pre-employment health screen will be conducted and the urine specimen collected or breath test will be administered using the EBT.
5. Results of any laboratory test will be sent to the Safety Manager and/or General Manager.
6. In testing for the presence of illegal drugs, the Department shall submit the first specimen for testing using an immunochemical assay or radioimmunoassay test on the applicant's urine. If the initial test is positive for an illegal drug, the same specimen shall be subjected to a confirmatory test using the gas chromatography, thin layer

chromatography or gas chromatography/mass spectrometry method (GC/MS) for verification.

7. If a second test of the same sample yields positive results, the applicant shall be so notified by the examining physician and given an opportunity to present bona fide verification of a current valid prescription, in the applicant's name, for any potentially impairing drug (except marijuana) or medication identified in the positive drug screen. If the applicant fails to present such evidence, or if the prescription is for a medication that would not produce the results obtained in the test, the examining physician shall so notify the applicant, to give the applicant an opportunity to withdraw his/her application for employment.
8. After a second test, any applicant whose alcohol test is positive, or whose controlled substance test does not indicate a verified negative result and the applicant does not withdraw his/her application for employment, he/she shall be determined by the MRO to be physically unfit for employment and said termination shall be forwarded to the Safety Manager or General Manager. Such applicants shall be disqualified for employment with the Department.
9. Any applicant disqualified for employment pursuant to this policy shall be permitted an opportunity to reapply after six (6) months for any position posted.

Candidates for jobs that require a CDL shall complete the "Commercial Driver's Application for Employment" (Attachment A) and "Consent for Information From Previous Employer(s) for Alcohol and Controlled Substance Testing Records" (Attachment B).

All applicants required to have a valid motor vehicle license shall provide a Department of Motor Vehicles (DMV) abstract to verify Driver's License validity and minimum past three years of driving history.

Water Department Human Resources shall submit a "Request For Release of Information of Drug and Alcohol Test Results" (Attachment C) to the previous employer(s) of all leading Commercial Driver candidates who have been selected for interviews.

RANDOM SELECTION

Random Testing Requirements:

Employees subject to random selection, for the purpose of alcohol and drug testing of controlled substances will include all employees who possess a commercial driver's license for departmental work-related reasons.

The following items regarding the random selection and testing procedure will apply:

1. The number of drug tests conducted annually shall equal or exceed 50% of the average number of employees for which testing is required. Random alcohol tests shall equal or exceed 25% of employees.
2. The Department shall use a random selection process to select a driver to be tested for the use of alcohol or controlled substances.
3. A driver shall submit to alcohol or controlled substance testing when selected by the random selection process used by the Department.

To assure that the process is in fact random, all covered drivers, whether or not they have been chosen for testing in the past, will remain in the pool of drivers for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in a previous period.

Selecting Drivers for Drug Testing:

Covered drivers' names will be placed on a list and each name shall be assigned a number. This list of names will be checked regularly by a third party who is not a Department employee for additions or deletions. A random number-generating program is loaded into a computer. The computer then generates numbers to select the drivers to be tested during the current testing period.

The selection process is repeated until the required number of drivers are selected. Once the list of test subjects is generated, drivers should not be informed that they have been selected until they must report for testing. **Advance notice of testing shall not be given.** As in all types of tests, accurate records of the details of testing must be kept and confidentiality maintained at all times.

REASONABLE SUSPICION

The Department shall require a driver to be tested, upon reasonable suspicion, for the use of drugs or alcohol.

A driver shall submit to testing, upon reasonable suspicion, for the use of drugs or alcohol when requested to do so by their supervisor.

The conduct must be witnessed by at least one supervisor. The witness or witnesses must have received training in the identification of actions, appearance or conduct of a driver which are indicative of the use of drugs or alcohol.

The documentation of the drivers conduct shall be prepared and signed by the witness(s), and the Director or Superintendent notified, utilizing the Observed Behavior - Reasonable Suspicion Record Form, (see Attachment D). This must be accomplished within 24 hours of the observed behavior or before the results of the test are released whichever is earlier.

"Reasonable Cause/Suspicion" means that the manager/supervisor believes that the actions, appearance, speech, body odors or conduct of an on-duty driver are indicative of the use of drugs, alcohol or other controlled substances. The witness(s) must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require a driver to submit to a drug test. The determination that a reasonable suspicion exists to require a driver to undergo an alcohol test must be based on specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech, or body odors of the drivers. It must be based upon observations of the supervisor making the determination and may not be based upon hearsay. The supervisor(s) witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the workday that the driver is required to be in compliance. A driver may be directed to undergo a reasonable suspicion alcohol test just before, during, or just after performing safety-sensitive functions.

If an alcohol test is not administered within two (2) hours

following a reasonable suspicion determination, the supervisor shall document the reasons for the delay. If an alcohol test is not administered within eight (8) hours, the test shall not be administered, and the supervisor shall document the reasons.

If an alcohol test indicates a concentration of 0.02 or greater, the driver may not be permitted to perform any safety-sensitive functions until 24 hours have elapsed following the determination of reasonable suspicion. Except as provided in this paragraph, the Department shall not take any action against drivers based solely on a test result indicating an alcohol concentration of less than 0.04.

The attached Observed Behavior/Reasonable Suspicion Record should be used to document reasonable suspicion.

(See Attachment D) Observed Behavior/Reasonable Suspicion Record

Once a reasonable suspicion determination is made, it is the responsibility of the manager/supervisor to assure that the driver under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine/breath sample.

(See Attachment E) Procedures for Drivers Believed Under the Influence

It is recommended the driver tested for reasonable cause be denied Commercial Motor Vehicle (CMV) driving privileges until the test results are received from the Medical Review Officer (MRO).

POST ACCIDENT

For purposes of this policy, an "accident" is defined as an incident involving a commercial motor vehicle in which there is either: a fatality, the driver receives a citation (ticket) for a moving traffic violation and there is bodily injury to a person who immediately receives medical treatment away from the accident site, or one of the involved vehicles must be towed from the scene.

As soon as practicable after an accident, alcohol and drug tests shall be administered to every surviving driver who was performing safety-sensitive functions with respect to a CMV or who receives a citation for the operation of the CMV or whose operation of the vehicle cannot be ruled out by the supervisor as a contributing

factor.

The following criteria will be applied in conducting a drug/alcohol test due to accidents, incidents or related occurrences:

1. Post-accident tests (NIDA) must be given as soon as practicable during the eight (8) hours following an accident/incident.
2. The driver must be readily available for the test, or they will be deemed to have refused the test. (Reference "Refusal to Consent," page 12)
3. An alcohol test should be administered as soon as possible. If not within two (2) hours, the manager/supervisor must prepare and maintain records stating why. If eight (8) hours have passed, the attempts should be discontinued. Again, the manager/supervisor must record why they were unable to administer the test.
4. If a controlled substance test is not administered within 32 hours following the accident, the test may not be administered, and the supervisor shall document the reasons.
5. Following an accident, the driver shall remain available for such testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the driver from leaving the scene to obtain assistance or necessary emergency medical care.
6. A driver subject to post-accident testing may not use alcohol within eight (8) hours following the accident or before an alcohol test, whichever comes first.
7. Post-accident information, procedures and instruction shall be provided to every driver for the first time prior to operating a CMV and posted in every Department CMV.

RETURN-TO-DUTY

Drivers who violate the City of San Bernardino Municipal Water Department drug/alcohol policy standards and are accepted into Return-to-Duty and Follow-Up status will comply with the following

guidelines:

1. Drivers who violate the Department drug/alcohol policies must have a return-to-duty test, which would require the drivers to test negative for drugs or alcohol.
2. Such drivers will be referred to the Substance Abuse Professional (SAP) for further assessment.

FOLLOW-UP TESTING

1. All drivers identified by the Substance Abuse Professional (SAP) as needing assistance will be subject to follow-up testing upon returning to duty. They will be subject to a minimum of six (6) unannounced tests over the following 12 months. The SAP can direct additional testing during this period or for an additional period up to a maximum of 60 months from the date the driver returns to duty. The SAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary and is supported by the Department.
2. Follow-up testing may include tests for other substances beyond the drivers' initial positive test of alcohol and/or drugs when the SAP has reason to suspect other drug or alcohol during the follow-up period.

CONSENT

Before a drug test is administered, job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those Department representatives with a need to know. The consent form shall provide a space for drivers and applicants to acknowledge that they have been notified of the Department's drug testing policy.

REFUSAL TO CONSENT

A job applicant who refuses to consent to a drug test will be denied employment with the City of San Bernardino Municipal Water Department.

Refuse to submit (to an alcohol or controlled substances test)

means that a driver:

1. Fails to provide adequate breath for alcohol testing without a valid medical explanation, after he or she has received notice of the requirement for breath testing;
2. Fails to provide an adequate urine sample for controlled substances testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing; or,
3. Engages in conduct that clearly obstructs the testing process.

A driver's refusal to submit to drug testing required by the Department for any reason may result in administrative action, up to and including termination.

Any supervisor or manager encountering drivers who refuse an order to submit to a drug and/or alcohol screening shall remind the drivers of the requirements and disciplinary consequences that he/she has been so informed.

Where there is a reasonable suspicion that the driver is then under the influence of alcohol or drugs, the manager or supervisor shall arrange for the driver to be safely transported home. (The driver shall not be permitted to transport him/herself.)

DISCIPLINE FOR WORK-RELATED PROBLEMS

The City of San Bernardino Municipal Water Department may, in its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon drivers for rule violations resulting from alcohol/substance abuse, consistent with Personnel Rules and Memoranda of Understanding (MOU's). Drivers may be asked to sign a Last Chance Agreement (Attachment F).

CONFIDENTIALITY

1. Confidentiality is an essential element of this substance abuse policy. Any driver violating this confidentiality

shall be subject to discipline and, if the breach is intentional, may also be civilly or criminally liable.

2. The results of any testing done pursuant to this policy shall be used for employment purposes only and shall not be released for use in the criminal justice system, unless compelled by court order.
3. All records pertaining to drug and alcohol testing of a driver shall be contained in a separate confidential medical file that will be securely kept under the control of the Safety Manager, separate from the driver's other personnel records.
4. Absent the driver's consent, test results may be disclosed only to Water Department management, only on a strictly need-to-know basis, and to the driver upon request.
5. The Department may disclose test results without the drivers consent only when:
 - A. The information is compelled by law or by judicial or administrative process;
 - B. The information has been placed at issue by the drivers in a formal dispute between the drivers and the Department;
 - C. The information is necessary to administer drivers' benefit plans; or,
 - D. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
6. Any positive test results which are later refuted shall be removed from the driver's file, and not used for any purpose.

OVERTIME

This policy will follow provisions of various MOUs with respect to payment of overtime.

RECORD-KEEPING

The City of San Bernardino Municipal Water Department will keep the following records for the periods specified. These records will be under the control of the Safety Manager or designee:

1. Results of a driver's alcohol test which indicates an alcohol concentration level of 0.02 or higher; results of a driver's controlled substance test which is positive; documentation of any driver who refused to submit to a required alcohol/drug test; calibration documentation; driver's assessments and referrals by substance abuse professionals. Retention period: 5 years.
2. Records documenting the collection process for the alcohol and controlled substances test and training of supervisors. Retention period: 2 years.
3. Results of any alcohol test which is less than .02; documentation of any negative or canceled drug test. Retention period: 1 year.

SUBSTANCE ABUSE PROFESSIONAL SERVICES (SAP)

The City of San Bernardino Municipal Water Department observes the U.S. Department of Transportation (DOT) and the Federal Highway Administration (FHWA) drug and alcohol testing rules published in the Federal Register on February 15, 1994, and subsequently amended.

The Department supports an opportunity for treatment to be made available to covered drivers. The Department will advise a covered driver who engages in conduct prohibited under this policy of the available resources for evaluation and treatment of drug/alcohol problems, including the names, addresses and telephone numbers of Substance Abuse Professionals (SAPs), counseling, treatment programs, or other available services. The Department will provide for a SAP evaluation to assess drivers with drug and/or alcohol misuse problems.

Each covered driver who violates these rules must be evaluated to determine whether the driver needs assistance resolving problems associated with drug and/or misuse, and if necessary, a referral for further treatment.

Before returning to duty, each driver identified as needing assistance must: (1) be evaluated again by a SAP to determine whether the driver has successfully complied with the treatment program prescribed following the initial evaluation; (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and, (3) be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol test over the following 12 months.

The Department will only provide for an assessment by a SAP. The Department has no obligation to provide or pay for further treatment; this is the responsibility of the driver.

EMPLOYEE ASSISTANCE PROGRAMS

The City's Employee Support Services program (ESS) applies to all drivers and eligible dependents. The program is administered by the City's Human Resources Division, which contracts with The Counseling Team International (TCTI) for ESS services. Drivers who voluntarily request treatment for drug or alcohol addiction prior to the discovery of the drivers' problem will automatically be allowed to utilize the ESS program. Drivers who violate policies regarding alcohol/substance abuse may be allowed to utilize the ESS program. Use of the ESS program will not be unreasonably denied.

The Employee Support Services program provides initial counseling services free of charge for drivers and their immediate family members. If additional professional help is warranted, the driver or family member may be referred to a community agency or other professionals for further assistance.

VOLUNTARY TREATMENT & REHABILITATION:

Drivers who have substance or alcohol abuse problems are encouraged to voluntarily seek treatment or rehabilitation before a violation of this policy is discovered. The Department provides for employee health plans and an Employee Support Services (ESS) program. Employees participating in voluntary treatment or rehabilitation may be granted up to a 12-week leave of absence, as covered by the Family Medical Leave Act (FMLA).

Drivers who voluntarily request treatment for drug and alcohol addictions, prior to the discovery of a driver's problems, will be allowed to utilize the ESS program, health plan treatment options,

and/or privately procured treatment. Drivers who are in treatment and rehabilitation will be removed from driving status and must be evaluated by the Department SAP prior to reinstatement of driving privileges.

NOTICE AND EFFECTIVE DATE

All covered drivers shall be given a copy of this policy at the time they commence employment with the Department or move into a position requiring a commercial driver's license. Anyone currently employed by the Department at the time this policy is adopted shall be given a copy thereof within ten (10) days of its adoption. This policy shall be posted immediately and is effective May 1, 1998.

Policy Review

Substantive changes Board Approved:	<u>5/8/2018</u>
No changes	<u>7/2019</u>
No changes	<u>7/2020</u>
Substantive changes Board Approved:	<u>8/24/2021</u>

**COMMERCIAL DRIVER'S APPLICATION FOR EMPLOYMENT WITH THE
SAN BERNARDINO MUNICIPAL WATER DEPARTMENT
1350 S. E St., Bldg. B, San Bernardino, California 92408**

Please Print

Applicant's Full Name _____

Applicant's Home Address _____

Date of Birth _____ Social Security Number _____

Please list the addresses you have occupied during the previous 3 years: _____

Please list the issuing State, number, and expiration date of each unexpired commercial motor vehicle's operator's license or permit issued to the applicant:

Please list the nature and extent of your experience in the operation of motor vehicles, including the type of equipment that you have operated:

Please list all motor vehicle accidents in which you have been involved in during the 3 years preceding this application. Specify the date and nature of each accident and any fatalities or personal injuries it caused:

Please list all moving violations of motor vehicle laws or ordinances for which you have been convicted or forfeited bond or collateral within the 3 years preceding this application:

Have you ever had a driver's license or permit denied, revoked, or suspended? *Yes* ___ *NO* ___
If you answered *Yes*, please explain the facts and circumstances:

Please list the names and address of your employers during the 3 years preceding this application, together with the dates of employment and the reason that you left that employment:

<i>Name</i>	<i>Address</i>	<i>Dates of Employment</i>	<i>Reason for Leaving</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

Signature

Date

Attachment B



CONSENT FOR INFORMATION FROM PREVIOUS EMPLOYER(S) FOR ALCOHOL AND CONTROLLED SUBSTANCE TESTING RECORDS

I, (print) _____, hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer(s), as listed below, to the new employer. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released by my previous employer(s), is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Previous Employer	Contact Person	Telephone	Dates of Employment

I understand that if the San Bernardino Municipal Water Department is unable to obtain the requested information from my employer(s) from the previous two years within 30 calendar days after the first time that I perform a safety sensitive function, I may be removed from duty until the information is obtained.

I further understand that the San Bernardino Municipal Water Department may terminate my employment if my employer(s) during the preceding two years provide information on the DOT-regulated testing items (listed above).

I understand that the San Bernardino Municipal Water Department has the responsibility for protecting the confidentiality of this information.

The information provided on this form is true, correct, and complete.

Applicant's Signature

Date

Attachment C



**RELEASE OF INFORMATION FORM
49 CFR PART 40 DRUG AND ALCOHOL TESTING**

Company Name _____

Candidate _____

Social Security Number _____

The candidate listed above has applied for employment in a safety sensitive function requiring a commercial motor vehicle driver license.

The candidate has indicated that he/she performed safety sensitive functions while in your employ. The candidate has signed the attached consent form to release information concerning his/her participation in a controlled substance and alcohol testing program.

Pursuant to 49 CFR 382.405, 49 CFR 391.21, and 49 CFR 40.23, complete this form and forward by facsimile to: **SBMWD Attn: Human Resources Department (909)384-5903**

In the two years prior to the date of the employees signature, for DOT-regulated testing

1. Did the employee have alcohol tests with a result of 0.04 or higher? **YES__NO__**
2. Did the employee have verified positive drug tests? **YES__NO__**
3. Did the employee refuse to be tested? **YES__NO__**
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? **YES__NO__**
5. Did a previous employer report a drug and alcohol rule violation to you? **YES__NO__**
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? **YES__NO__**

NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

Completed by:

Signature

Print Name

Title

Date

**CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT
DOT DRUG & ALCOHOL PROGRAM
REASONABLE SUSPICION - OBSERVED BEHAVIOR RECORD**

EMPLOYEE

Name: _____ Identification Number: _____

OBSERVATION

Date: _____ Time: From _____ am/pm To _____ am/pm

Location:

(Street) (City) (State) (Zip)

CAUSE FOR SUSPICION:

1. Presence of drugs and/or drug paraphernalia (specify):

2. APPEARANCE:

____ Normal ____ Dilated/Constricted Pupils ____ Puncture Marks
____ Flushed ____ Dry-Mouth Symptoms ____ Unusual Odors
____ Tremors ____ Inappropriate wearing of sunglasses ____ Profuse Sweating
____ Disheveled ____ Bloodshot Eyes ____ Runny

Nose/Sores

Other: _____

3. BEHAVIOR/SPEECH:

____ Normal ____ Incoherent ____ Slowed ____ Slurred
____ Silent ____ Confused ____ Whispering ____ Hysterical

Other: _____

4. AWARENESS:

____ Normal ____ Confused ____ Euphoria ____ Mood Swings
____ Lethargic ____ Paranoid ____ Disoriented ____ Lack of

Coordination

Other: _____

5. MOTOR SKILLS/BALANCE:

____ Normal ____ Swaying ____ Falling ____ Staggering

Other: _____

6. WALKING & TURNING:
 _____ Normal _____ Swaying _____ Arms Raised for Balance
 _____ Stumbling _____ Falling _____ Reaching for Support
7. Other Observed Actions or Behavior (specify): _____

instructions

WORK PERFORMANCE:

CAUSES FOR SUSPICION:

- | | |
|--|--|
| _____ Unusual or Distinct Pattern of Absenteeism and/or Tardiness | _____ Frequent accidents, mistakes |
| _____ Frequent complaints of illness negatively affecting work performance | _____ Frequently misses deadlines or takes excessive time to complete jobs |
| _____ Increased high/low periods of productivity | _____ Takes needless risks |
| _____ Frequent lapses in concentration and/or judgement | _____ Disregard for safety of others |
| _____ Repeated difficulty in recalling | _____ Frequent complaints from coworkers |
| | _____ Frequently borrowing money from coworkers |
| | _____ Constantly complaining |
| | _____ Bringing domestic or personal problems to work |

QUESTIONS:

1. Do you have any medical problems for which you are currently being treated? _____
 If yes, what are you being treated for? _____
 What is your doctor's name, address, and telephone number? _____

2. Are you taking any medication? _____ If yes, what medication and for what reason?

3. Do you have any medical problems for which you are not currently being treated? _____
 If yes, describe: _____

4. Are you using any type of drug? _____ If yes, what?

When? _____
Where? _____
With whom? _____

5. Have you had alcohol, alcoholic beverage, or other substance with alcohol in it? _____

If yes, what? _____ When? _____
Where? _____ With whom? _____

ADDITIONAL COMMENTS: Additional Comments attached? Yes _____ No _____

OBSERVED & WITNESSED BY:

_____ am/pm
(Signature) (Title) (Date) (Time)

_____ am/pm
(Signature) (Title) (Date) (Time)

This document must be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT**DRUG AND ALCOHOL POLICY
FOR EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES****PROCEDURES FOR DRIVERS BELIEVED UNDER THE INFLUENCE**

There may be instances when supervisors have reasonable cause to believe that (1) an employee has consumed drugs and/or alcohol on Department premises; (2) reported to work under the influence of drugs and/or alcohol. Under these circumstances, the supervisor must request a urine/breath test even though the employee is not believed to be impaired. The drug/alcohol test is not intended to prove impairment but to confirm the presence of the drug and/or alcohol. Whether or not impairment is suspected, if the supervisor has reason to consider requiring a drug/alcohol test, the following process is to be used to validate the reasons for considering a drug/alcohol test.

1. The supervisor should personally escort the employee to an office or other private area. Have another supervisor present as a witness, if possible.
2. Confront the employee with reasons for suspecting drug and/or alcohol policy violations. Use the Reasonable Suspicion - Observed Behavior Record to question and document information from the employee. Complete the form and in conversation with the employee, determine whether or not the employee has either consumed drugs and/or alcohol on Department premises or during work duty and is under the influence, or whether the employee's off-duty abuse of drugs and/or alcohol has resulted in work-related problems.
3. If the employee does not appear to be under the influence of drugs, including prescription drugs, has not consumed drugs during work duty or on Department premises, and the employee is able to perform regular work duties, have him/her return to the work unit and resume work.
4. If it is believed that the employee is under the influence of, or has consumed drugs and/or alcohol on Department premises or during work duty, or that the employee's off-duty abuse of drugs and/or alcohol has resulted in work-related problems, advise the employee that the Department rules may have been violated and that he/she is being requested to provide a urine sample for drug testing, plus the test for alcohol. Personally escort the employee (with another supervisor, when possible) to the Department approved drug/alcohol testing site. (The employee shall not be permitted to drive him/herself to the testing facility.)

5. Require the employee to read and sign a consent form agreeing to the testing. Advise the employee that refusal to sign the form or give a specimen will be treated as a refusal to obey a direct request, and will constitute an admission that the suspicion is reasonable and may be grounds for discipline, up to and including termination. Once the specimen is taken and initialed by the employee, the employee should be placed on administrative leave with pay pending test results and a review of the circumstances.
6. Whenever an employee is required to provide specimens for testing, two (2) specimens shall be collected at the same time in order to facilitate the testing procedures described herein.
7. In testing for the presence of illegal drugs, the testing facility shall submit the first specimen for testing using an immunochemical assay or radioimmunoassay test on the employee's urine. If the initial test is positive for an illegal drug, the same specimen shall be subjected to a confirmatory test using the gas chromatography, thin layer chromatography or gas chromatography/mass spectrometry method (GUMS) for verification.
8. The MRO will report results to the Department via a signed, written communication, within three business days of completion of the MROs' review. The MRO shall also report to the Department that he/she has made all reasonable efforts to contact the employee. The Department shall, as soon as possible, request that the employee contact the MRO prior to dispatching the employee, or within 24 hours, whichever is earlier. At the time the employee contacts the MRO, he/she may request that a second specimen be tested at another laboratory.
9. If the employee fails to contact the MRO, or the employee does not request the testing of the second specimen, or if the employee does request the testing of the second specimen and it also tests positive for an illegal drug, rehabilitative/ corrective action shall be taken as specified in this policy.
10. At any time within 24 hours of being notified of a positive test result, the employee may present bona fide verification of a current valid prescription in the employee's name for any potentially impairing drug (except marijuana) or medication identified in the positive drug screen.
11. If it is believed that the employee is impaired, make arrangements to have the employee taken home. Do not permit him/her to leave the premises or drive alone. If the employee refuses any assistance, make sure the witnessing supervisor can verify that the employee refused such assistance. If the employee cannot control his/her actions and departs without assistance, immediately call the local police or law enforcement agency to inform them of the employee's condition and refusal for assistance. Tell the law enforcement officials the employee's name and a description of the automobile including the license number.

12. Each employee who has engaged in conduct prohibited under this policy will be advised by the Department of resources available in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances.
13. Before an employee returns to duty requiring the performance of a safety-sensitive function, the employee shall undergo a return-to-duty alcohol test or a controlled substances test. In addition, the employee shall be evaluated by a Substance Abuse Professional to determine that he/she has properly followed any prescribed rehabilitation program.
14. The employee shall be subject to unannounced follow-up alcohol and controlled substances tests following the employee's return to duty, consisting of at least six (6) tests in the first 12 months following the employee's return to duty.

NOTE: Employees involved in a fatal accident or who receive a citation for moving violation are required to submit to a urinalysis test and the alcohol test. Consequently, steps 2 through 4, above, do not apply.

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

DRUG AND ALCOHOL POLICY
FOR EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES

LAST CHANCE AGREEMENT

I have received a copy of the City of San Bernardino Municipal Water Department Drug and Alcohol Policy For Employees Who Drive Commercial Vehicles, and I fully understand the provisions and acknowledge that compliance with the Policy is a condition of continued employment.

I hereby acknowledge that I have entered or will enter a treatment or rehabilitation program for alcohol or drug abuse satisfactory to the City of San Bernardino Municipal Water Department. I agree to complete the program, perform the duties of my job in accordance with standards of performance reasonably expected, and comply with the Water Department's rules, including the City of San Bernardino Municipal Water Department Drug and Alcohol Policy For Employees Who Drive Commercial Vehicles. I agree to consent, for up to one year, to undergo physical or psychological examinations, and/or to random testing of my blood, urine or other body fluid specimens for alcohol, drugs or their metabolites. I understand that a violation of said Policy or a breach of this Agreement may result in disciplinary action, up to and including termination.

Employee's Name

Date

Employee's Signature

Witness Signature

Date

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

DEFENSE OF PUBLIC EMPLOYEES

Except as otherwise provided below, upon request of an employee or former employee, a public entity shall provide for the defense of any civil action or proceeding brought against him, in his official or individual capacity or both, on account of an act or omission in the scope of his employment as an employee of the public entity.

For the purposes of this part, a cross-action, counterclaim or cross-complaint against an employee or former employee shall be deemed to be a civil action or proceeding brought against him.

A public entity may refuse to provide for the defense of an action or proceeding brought against an employee or former employee if the public entity determines that:

- a. An act or omission was not within the scope of his employment; or,
- b. He acted or failed to act because of actual fraud, corruption or actual malice; or,
- C. The defense of the action or proceeding by the public entity would create a conflict of interest between the public entity and the employee or former employee.

A public entity may, but is not required to, provide for the defense of:

- a. An action or proceeding brought by the public entity to remove, suspend or otherwise penalize its own employee or former employee, or an appeal to a court from an administrative proceeding by the public entity to remove, suspend or otherwise penalize its own employee or former employee.
- b. An action or proceeding brought by the public entity against its own employee or former employee as an individual and not in his official capacity, or an appeal therefrom.

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

COMMERCIAL DRIVERS DRUG AND ALCOHOL TESTING CONSENT FORM

I hereby authorize the designated drug and alcohol testing facility personnel to perform the required procedures and collect the required specimens. The procedures and specimens are only to be used for the drugs and alcohol testing, as specified by federal regulations and the City of San Bernardino Municipal Water Department Drug and Alcohol Policy For Employees Who Drive Commercial Vehicles. I have previously acknowledged receipt and understanding of the Department's policy.

Furthermore, I consent to the release of the test results to the City of San Bernardino Municipal Water Department for use in disciplinary actions or for other legitimate work-related purposes. The City of San Bernardino Municipal Water Department may disclose the test results to my Doctor for evaluation.

This consent is effective immediately and shall remain in effect for thirty-two hours. I understand that if I refuse to consent to testing or refuse to sign this form, I may be subject to disciplinary actions, up to and including termination of employment.

CONSENT AUTHORIZED BY:		
_____	_____	/
Employee/Candidate Printed Name	Date	Time

Employee/Candidate Signature		
CONSENT REFUSED BY:		
_____	_____	/
Employee/Candidate Printed Name	Date	Time

Employee/Candidate Signature		
WITNESSED BY:		
_____	_____	/
Witness Signature	Date	Time

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

DRUG AND ALCOHOL POLICY
FOR EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES

ACKNOWLEDGMENT OF RECEIPT

Name of Employee: _____

I hereby acknowledge that I have received the City of San Bernardino Municipal Water Department Drug and Alcohol Policy For Employees Who Drive Commercial Vehicles, and I fully understand that I will be expected to comply with its provisions.

Employee's Printed Name

Date

Employee's Signature

Witness Signature

Date