

CITY OF FRISCO PERSONNEL POLICIES

DRUG AND ALCOHOL TESTING: D.O.T.

Subject: DRUG AND ALCOHOL TESTING: D.O.T.

Effective Date: 01/01/96

Approved By: Ordinance No. 16-09-71

Revision Date: 09/20/16

STATEMENT OF PURPOSE:

This policy is simply a cover sheet to a subset policy manual prepared by Compliance Consortium Corporation, at the request of the City of Frisco, which covers the controlled substance abuse and alcohol misuse policies and procedures required by the U.S. Department of Transportation, Federal Highway Administration for all employees in “safety sensitive positions.” After editing the manual, while still complying with the federal regulations, to meet the needs of the City of Frisco it was adopted, in whole as a policy of the City.

Coordination Of This Directive With DRUG AND ALCOHOL TESTING: NON-D.O.T. ADMINISTRATIVE DIRECTIVE:

When implementing either this directive or DRUG AND ALCOHOL TESTING: NON-D.O.T., a determination will first be made as to whether the Department of Transportation regulations apply to the employee and the situation. If the regulations do apply, then this policy takes precedence over the city’s DRUG AND ALCOHOL TESTING: NON-D.O.T. DIRECTIVE and the procedures within this policy will be utilized. In those cases where the D.O.T. regulations do apply, the policies and procedures outlined in the city’s DRUG AND ALCOHOL TESTING: NON-D.O.T. DIRECTIVE will apply for all employees.

**CITY OF FRISCO
FRISCO, TEXAS**

**CONTROLLED SUBSTANCE ABUSE
&
ALCOHOL MISUSE
POLICY MANUAL
FOR
U.S. DEPARTMENT OF TRANSPORTATION
DRUG AND ALCOHOL TESTING**

Prepared by
Compliance Consortium Corporation
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As required by the
U.S. Department of Transportation
Federal Highway Administration

REVISED: January 1, 1999

CONTROLLED SUBSTANCE ABUSE & ALCOHOL MISUSE POLICY MANUAL

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DOT ALCOHOL AND DRUG POLICY

SECTION ONE: PURPOSE

The City of Frisco has established this policy to assist in protecting the traveling public and its employees. The City of Frisco also intends through this policy to reduce accidents, fatalities, injuries, and property damage that may result from employee use of controlled substances or alcohol.

This policy is intended to promote an overall safe, healthful, and efficient working environment for all employees. Being under the influence of a controlled substance or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer, or possession of an illegal drug in the workplace, and the use, possession, or being under the influence of alcohol poses unacceptable risks for safe, healthful, and efficient operations.

The City of Frisco believes it has the obligation and the right to protect City of Frisco's property, information, equipment, operations, and reputation.

The City of Frisco recognizes its obligation to employees for the provision of a company that is free of the influence of controlled substances and alcohol, and will endeavor through this policy to maintain such safe, efficient and professional environment.

The City of Frisco has entered into a contractual agreement with Compliance Consortium Corporation, and that firm will perform a controlled substances and alcohol random testing program.

Furthermore, the City of Frisco takes note of its obligation to comply with US DOT regulations relating to controlled substances and alcohol use. The City of Frisco will ensure that the controlled substances and alcohol testing conducted conforms to US DOT workplace testing requirements.

The City of Frisco's position is that the sale, purchase, transfer, concealment, transportation, use or possession of contraband by any employee of the City of Frisco represents a threat to the health, safety and well-being of its employees and property, as well as to the traveling public and is therefore strictly prohibited.

SECTION TWO: DEFINITIONS

As used in this policy:

City of Frisco premises of facilities means all property of City of Frisco, including but not limited to offices, buildings and surrounding areas on City of Frisco-owned or lease property, parking lots, and storage areas. The term also includes City of Frisco-owned or leased vehicles and equipment wherever located. It also includes any premises where City of Frisco performs contract services.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) means 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 (EBT).

Breath Alcohol Technician (BAT) means an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Collection site means a place where individuals present themselves for the purpose of providing body fluid or breath samples to be analyzed for specific controlled substances or alcohol. A collection site will have all the required personnel, materials, equipment, facilities, and supervision, to provide for the collection, security, temporary storage, and transportation of the samples to the testing laboratory, or for alcohol testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the motor vehicle to be placarded.

Confirmation test for alcohol means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

Contraband means any article, the possession of which on City of Frisco premises or while on City of Frisco business causes an employee to be in violation of a work rule. Contraband includes illegal drugs and alcohol beverages, drug paraphernalia, lethal weapons, firearms, explosives, incendiaries, stolen property, and counterfeit money.

Controlled substances means any drug, substances or immediate precursor listed in Schedules I-V or Penalty Groups 1-4 of the Controlled Substances Act of 1988 as it may be revised from time to time.

DOT agency means an agency of the United States Department of Transportation administering regulation requiring alcohol and drug testing.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: fulltime, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operated contractors who are either directly employed by or under lease to an employer who operates a commercial motor vehicle at the direction of or with the consent of an employer.

Drug testing or testing means the scientific analysis of urine, blood, breath, saliva, hair, tissue or other specimens of the human body for the purpose of detecting a drug or alcohol.

Employee means any employee, agent, officer or representative of the City of Frisco. Any contractor or subcontractor performing work on behalf of the City of Frisco is also expected to comply with this policy.

Employer means any person who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. It also includes agents, officers, and representatives.

Evidential breath testing device (EBT) means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and place on the Conforming Products List of Evidential Breath Measurement Devices.

Illegal drug means any drug in any detectable amount which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples: marijuana, hashish, cocaine, heroin, phencyclidine (PCP), amphetamines, and morphine.

Initial test cutoff levels (ng/ml)

Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	*300
Phencyclidine (PCP)	25
Amphetamines	1,000
*-25 ng/ml if immunoassay for free morphine	

Confirmatory test cutoff levels (ng/ml)

Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine (PCP)	25
Amphetamines	500
Methamphetamine	500

Medical Review Officer (MRO) means a licensed doctor of medicine or osteopathy responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Medically unqualified to work means the condition of a person by reason of an impairing or potentially impairing medical condition such as, but not limited to, the use of illegal drugs and alcohol.

Performing a safety-sensitive function means an employee who is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, just completed performing, or immediately available to perform any safety-sensitive functions.

Possession is also meant to include the presence in the body system of any detectable amount of drug, or in the case of alcohol, a test result of 0.04 or greater.

Reasonable cause means a belief that the actions, appearance or conduct of a person are indicative of the use of a controlled substance or alcohol. Such a belief is based on objective, articulated facts. A reasonable cause or "for cause" situation is any situation in which an employee's job performance is in conflict with established job standards relating to safety and efficiency. The term includes accidents, near accidents erratic conduct, suggestive of drug or alcohol use, any unsafe performance behaviors, and unexplained deviation from productivity.

Refuse to submit to an alcohol or controlled substances test means that an employee:

1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with DOT regulations,
2. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after receiving notification of the testing requirements,
3. Engages in conduct that clearly obstructs the testing process.

Screening test in alcohol testing means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In

controlled substances testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

Substance Abuse Professional (SAP) means a licensed physician (MD or DO), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (NAACACCC certified) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Under the influence means a condition in which a person is affected by a controlled substance or alcohol in any detectable manner. The symptoms or influence are not confirmed to those consistent with misbehavior, or to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance.

A determination of being under the influence can be established by a professional opinion, a scientifically valid test such as urinalysis, breath analysis, or blood analysis and in some cases by the opinion of a layperson.

SECTION THREE: EMPLOYEES SUBJECT TO TESTING

I. Conditions Requiring Testing

A. Pre-employment

All applicants for employment will, as a pre-qualification condition be subject to drug testing. If evidence of the use of illegal drugs by an applicant is discovered either through testing or other means, the employment process will be terminated.

If an applicant refuses to take the drug test, the employment process will be terminated.

If an applicant attempts to substitute or contaminate his or her drug screen specimen or attempts to subvert the procedure, the employment process will be terminated.

B. Testing of current employees

An employee’s consent to submit to drug and/or alcohol testing is required as a condition of employment. In the event of a positive test result under any of the following circumstances, the employee will be subject to termination.

City of Frisco will perform drug and/or alcohol testing of an employee in the following situations:

1. Post accident

Any CDL driver involved in an accident will be required to submit to tests for alcohol and controlled substances as soon as practicable following the accidents, if:

- I. A fatality occurred while performing safety-sensitive functions with respect to the vehicle;
or
- II. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, **and** the CDL driver receives a citation under State or local law for a moving traffic violation arising from the accident;
or
- III. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle, **and** the CDL driver received a citation under State or local law for a moving traffic violation arising from the accident.

CDL Drivers are prohibited from using alcohol for eight hours following any accident or until the required post-accident alcohol test is administered, whichever occurs first. Every effort will be made to conduct post-accident drug and alcohol tests within two hours following an accident. Any CDL driver involved in an accident must therefore remain readily available for testing and will be considered to have refused to submit to testing if he/she fails to do so. This requirement will not, however require a CDL driver to delay any necessary medical attention for injured people following an accident or to remain at the scene of an accident when his/her absence is necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. In order to ensure expeditious testing, the City will provide all drivers with information, procedures and instructions explaining our post-accident testing requirements. These instructions will be distributed to each CDL driver prior to his/her operation of a vehicle covered by this policy.

In the event an alcohol test is not administered within two hours following an accident, the City of Frisco will prepare and maintain a record stating the reasons why the test was not promptly administered. If an alcohol test is not administered within eight hours following an accident, the City of Frisco will make no further effort to administer an alcohol test and will document the reasons why the test was not administered within eight hours. In the event a drug test is not administered within 32 hours following an accident, the City of Frisco will cease its attempts to administer any further testing and prepare and maintain a record stating the reasons why the test was not promptly administered.

The results of any breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State, local officials having independent authority for the test, will be considered to meet the requirements of this section, provided such tests conform to applicable Federal, State or local requirements, and the results of the tests are obtained by the City of Frisco.

2. Reasonable Suspicion (Cause)

Whenever the City of Frisco has reasonable suspicion/cause to believe that a covered CDL driver has engaged in any conduct prohibited by this policy, it will require him/her to submit to an alcohol and/or drug test. However any such suspicion will be based upon specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the CDL driver, which may include indications of the chronic and withdrawal effects of controlled substances.

These observations will only be made by a supervisor or City of Frisco official who has received appropriate training and will be documented by that individual in a *Reasonable Suspicion Report* form within twenty-four (24) hours after his/her observations, or before any drug test results are released. Prior to making a determination for testing, he/she will notify the City Manager, Director of Human Resources, Assistant City Manager or the Administrator representative at (800) 303-0281 to make the determination for testing. Both will substantiate and concur in the decision to test the CDL driver for drugs/alcohol and their concurrence may be by telephone.

Whenever a reasonable suspicion drug or alcohol test is required, the individual(s) making the determination will be required to complete, date and sign a written report describing the CDL driver's condition. Copies of this report will be made available to the CDL driver upon request. In such cases the CDL driver's immediate supervisor(s) may, in a confidential manner, order the employee to submit to substance abuse or alcohol testing.

Third party reports that a CDL driver is impaired in his/her duties due to the use of prohibited drugs/alcohol will not constitute reasonable cause, but may be cause for further observation of the CDL driver.

A reasonable suspicion alcohol test will only be required if the reasonable suspicion observations are made during, just before or just after the period of the work day that the employee is required to be in compliance with this policy. A covered CDL driver will therefore be directed to undergo reasonable suspicion alcohol test only while performing a safety-sensitive function, just before the performance of a safety-sensitive function, just after the performance of such a function, or is immediately available to perform such a function.

If a reasonable suspicion alcohol test is not administered within two hours following the reasonable suspicion determination, the City of Frisco will document the reasons why the test was not promptly administered. If the test is not administered with eight hours following the reasonable suspicion determination, the City of Frisco will no longer attempt to administer an alcohol test and will document the reasons for its inability to do so. Records will be submitted to the Research and Special Programs Administration upon request of the Administrator.

Notwithstanding the above testing requirements, a covered CDL driver may not report for duty or remain on duty requiring the performance of safety-sensitive functions if that CDL driver is under the influence of or impaired by drug/alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. Any such CDL driver will not be allowed to perform or continue to perform a safety-sensitive function until:

1. The CDL driver undergoes an alcohol test yielding an alcohol concentration level less than 0.02;
or
2. The start of the CDL driver's next regularly scheduled duty period but not less than eight hours have elapsed following the reasonable suspicion determination.

The City of Frisco will not take any disciplinary action against the CDL driver based solely upon observations of the CDL driver's behavior and appearance, with respect to drugs/alcohol use, in the absence of an alcohol test.

In any reasonable suspicion testing circumstance, a City of Frisco representative will transport the individual to an appropriate collection facility and await the completion of the collection procedure. The City of Frisco representative will then transport the individual back to the City of Frisco's premises, where a spouse, family member or other individual will be contacted to transport the individual home. In the event no such individual is available, the City of Frisco will contact a taxi to transport the CDL driver home. If the reasonable suspicion test result is negative, the City of Frisco will reimburse the CDL driver for the cost of the taxi. If the CDL driver refuses to comply with any of these procedures and attempts to operate his/her own vehicles, the City of Frisco will take appropriate efforts to discourage him/her from doing so, up to and including contacting local law enforcement officials. Any CDL driver failing to cooperate with any of the above procedures will be subject to immediate dismissal.

3. Random

All CDL drivers subject to this policy will be required to submit to random drug and alcohol testing.

The City of Frisco will conduct alcohol tests at a minimum annual percentage rate of 10% of the average number of driver positions. (If this rate subsequently increased or decreased by the FHWA, we will provide all drivers with written notice of the change.) The minimum annual percentage rate for random controlled substances testing will be 25% of the average number of driver positions.

If a CDL driver performs functions subject to random drug or alcohol testing requirements of another DOT agency, the CDL driver will be tested at the rate of

that agency which regulates more than 25% of the CDL driver's safety-sensitive functions or those that take the greatest percentage of his/her time.

The random selection process will be completely objective and anonymous and will utilize a scientifically valid method such as a random number table or a computer-based random number generator matched with CDL drivers' Social Security numbers, payroll identification numbers, facility number or other comparable identifying numbers. The test will be unannounced and the dates for testing will be reasonably spread throughout the course of the year. All CDL drivers will have an equal chance of being tested at any time, regardless of the number of his/her previous selections.

Any CDL driver notified of his/her selection for random alcohol and/or controlled substances testing will be expected to proceed to the test site immediately. If a CDL driver is performing a safety-sensitive function at the time of his/her notification of the random test requirements, he/she will be required to cease performing the safety-sensitive function and proceed to the testing site as soon as possible. However, a CDL driver will only be required to submit to a random alcohol test if the driver is performing a safety-sensitive function, is about to perform a safety-sensitive function, just ceased performing a safety-sensitive function or is immediately available to perform a safety-sensitive function.

II. Prescribed Drugs

The City of Frisco reserves the right at all times to judge the effect that a legal drug may have upon an employee's work performance and to restrict the employee's work activity or presence at the workplace accordingly. It also reserves the right to have a physician of its own choice determine if the medication at the prescribed dosage produces hazardous effects, and may restrict the employee's work activity.

III. Prohibited activities

The use, sale, offer to sale, purchase, transfer, distribution, or possession of drug paraphernalia or any detectable amount of an illegal drug or alcohol by any employee while on the City of Frisco premises or while performing the City of Frisco business is strictly prohibited.

No CDL drivers shall be on duty if the CDL driver uses controlled substances or alcohol while on duty or tests positive for the use of controlled substances or alcohol, except in the case of legally prescribed medications. If a prescription medication is found but a legal prescription does not exist, dismissal will occur.

A regulated person under the FHWA who tests positive for the use of a controlled substance or alcohol is considered medically unqualified to work and subjects the employee to immediate dismissal.

A regulated person under the FHWA who refuses to be tested for any controlled substance or alcohol will not be permitted to work. Such a refusal will be treated as a positive test and cause the employee to be considered medically unqualified to work and subjects the employee to immediate dismissal.

IV. Discipline

Disciplinary action consists of dismissal of any employee who:

1. Uses, possesses, distributes, transfers, conceals, sells, offers to sell, purchases or offers to purchase illegal drugs, drug paraphernalia or alcohol on the City of Frisco premises, or while on the City of Frisco business, or on duty. This includes all regularly scheduled work hours as well as all “on-call” hours.
2. Substitutes, contaminates, tampers or attempts to substitute, contaminate or tamper with their specimen to be presented for testing.
3. Tests positive for an illegal drug in a test conducted under the provisions of this policy.
4. Tests positive for alcohol in excess of 0.04 percent when measured by the standard blood alcohol concentration tests.
5. Refuses to submit to a drug or alcohol test when requested to do so.
6. Is found to be in possession of contraband.
7. Refuses to submit to a search or inspection under the provisions of this policy.
8. Refuses to cooperate with the Medical Review Officer (MRO) as required under this policy.

Suspension without pay for the duration of the investigation may be applied to any employee who is the subject of a drug-related inquiry by the City of Frisco or a law enforcement agency.

Disbarment from the City of Frisco work or workplace may be applied to any contractor or contractor employee who violates this policy.

V. Responsibilities

Each individual required to submit to drug testing shall as soon as practicable, provide the required biological specimens for testing. Failure to meet this responsibility is an offense punishable by dismissal.

Individuals in supervisory positions shall as soon as practicable following an incident which requires drug or alcohol testing, arrange for the collection and testing specimens for drug and/or alcohol. Failure to meet this responsibility is an offense punishable by dismissal.

VI. Confidentiality

All employee information relating to drug or alcohol testing will be protected by the City of Frisco as confidential unless otherwise required by law, or authorized in

writing by the employee. There may be some instances where overriding public health or safety concerns may require the release of information otherwise considered confidential.

The City of Frisco will ensure that no person will obtain the individual's test results retained by the laboratory or the MRO and the vendor will not release the individual's test results of any employee to any person without first obtaining written authorization from the tested employee. Nothing in this paragraph will prohibit the vendor from releasing to designated City of Frisco officials the information relevant to an employee's test results.

The City of Frisco will ensure that only those persons on a need-to-know basis or those persons in management directly involved in the decision-making process will obtain any drug or alcohol testing information in files maintained by the City of Frisco.

VII. Notifications

The City of Frisco will notify each covered employee of this policy by providing to each employee a copy of this policy. Each employee will acknowledge in writing the receipt and understanding of this policy.

The City of Frisco will generally publicize this policy to the employees through memoranda, posted notices, or ensuring covered employees receive a copy of this policy.

The City of Frisco will notify each employee of the results of random, reasonable cause and post-accident drug and alcohol tests when the test results are positive. The employee will also be advised what drug class was discovered and be removed from performing a safety-sensitive function.

VIII. Recordkeeping

Information regarding an individual's drug and alcohol test results may be released only upon the written consent of the individual, except that such information must be released regardless of consent to OSHA or a State or Federal agency upon request as part of an accident investigation or if required by the State Open Records Act. Statistical data related to drug or alcohol testing and rehabilitation that is not name-specific and training records must be made available to OSHA or the appropriate State or Federal agency upon request.

The City of Frisco will insure that all records related to the administration and results of DOT drug and alcohol testing are maintained for a minimum of 5 years, except that individual negative test results will be maintained for a minimum of 12 months. Records pertaining to the alcohol and drug collection process and training will be maintained for a period of not less than two years.

Compliance Consortium Corporation, Scott & White Drug Testing Laboratory and the MRO will retain the reports of individual tests for a minimum of 5 years.

The City of Frisco will retain in the employee's medical file such information that will indicate only the following:

1. That the employee submitted to a drug and/or alcohol test.
2. The date and location of the test.
3. The identity of the firm performing the test.
4. Whether the test finding was "positive" or "negative".

The City of Frisco will produce upon demand and will permit authorized representatives of the DOT to examine all records related to administration and results of the drug and alcohol test programs. The City of Frisco will maintain an annual, calendar year summary of the records related to the administration and results of the DOT testing programs.

IX. Appeals

An employee or CDL driver whose test is reported as positive for drugs will be asked by the City of Frisco in a confidential meeting or telephone conference to offer an explanation. The purpose of the meeting or telephone conference will be to determine if there is any reason that a positive test could have resulted from such cause other than drug use which is in violation of this policy.

If the CDL driver is desirous of a second opinion in the result of a positive drug test, they may request a retest of the same specimen by an alternate laboratory which has been approved by the City of Frisco. The retest will be at the employee's expense. The retest must be performed using the same methods and techniques as the initial test and will be at the expense of the employee.

The CDL driver may also request to review the findings of the drug test with a licensed physician knowledgeable of substance abuse disorder (MRO). The related costs will be at the expense of the City.

An appeal that merits further inquiry may require that the CDL driver be suspended without pay until the inquiry and the appeals process is completed.

If the CDL driver is cleared of any charges or violations of this policy, the City of Frisco will reimburse back pay due the employee, up to two weeks of regular pay and the cost of the retest.

SECTION FOUR: TESTING PROGRAM

I. Applicability

This policy applies to every person within the City of Frisco who is employed, operates a commercial motor vehicle in either interstate or intrastate commerce, and is subject to a CDL.

II. General

The provisions of this section of the policy are applicable in addition to, not in lieu of the provisions that applies to all employees.

A CDL driver subject to the provisions of this section of the policy may be a person employed by the City of Frisco, a contractor engaged by the City of Frisco or an employee of such contractor.

All drug and alcohol testing performed under this section will conform to DOT procedures.

III. Program and Procedures

Any program or procedures resulting from this policy will conform to this policy and the DOT procedures:

The City of Frisco will maintain and follow program and procedures containing:

1. Methods and actions for complying with all the requirements of this policy and DOT procedures, including requirements with respect to the EAP.
2. The name of each laboratory that analyzes specimens collected for drug testing:

Alere Toxicology Services

3. The name and address of the Medical Review Officer (MRO) employed in the administration of drug testing under this section of the policy:

Alere EScreen - MRO services, Dr. Stephan Kracht

IV. Drug testing

The City of Frisco has engaged a laboratory certified by the Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMSHA) formally NIDA, in accordance with DOT procedures. The testing laboratory will be required to permit:

1. Inspection by the City of Frisco before the laboratory is selected to perform testing.
2. Unannounced inspections including examination of records at any time by the City of Frisco, SAMSHA, or a State agency if the laboratory is subject to State agency jurisdiction.

The City of Frisco will not hire or contract for the use of any person as an employee whose functions are subject to DOT procedures unless that person passes a drug and alcohol test.

Specimens tested for drugs will be retained and retested in the following manner:

1. Specimens that yield positive results on confirmation will be retained by the laboratory in frozen storage for at least 365 days, during which time the City of Frisco, SAMSHA, or a State agency may request retention for an additional period.
2. If the MRO determines there is no legitimate medical explanation for a confirmed positive test result, the split specimen will be tested if the employee makes a written request for so doing within 60 days of receipt of the final test result from the MRO. The City of Frisco will require the employee to pay in advance the cost of shipment and analysis, but the City of Frisco will reimburse the employee for such expense should the split sample test return as negative.
3. If the employee requests a test of the split sample, it must be forwarded to another SAMSHA-certified laboratory of the City of Frisco choice.
4. Since some analysis may deteriorate during storage, any detectable level of the drug will be reported and considered corroborative of the original positive test results.

V. Testing Methodology

A. Alcohol

1. The Breath Alcohol Technician

All alcohol testing required under this policy will be carried out by a breath alcohol technician (“BAT”) trained to proficiency in the operation of the evidential breath testing device (“EBT”) being used by the City of Frisco or its designated agent for alcohol testing and in the alcohol testing and in the alcohol testing procedures required herein.

The BAT will be required to successfully complete a course of instruction that will provide training in the principles of EBT methodology, operation and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required in 49 CFR Part 40 for obtaining a breath sample and interpreting and recording EBT results. The City of Frisco or its designated agent will document the training and proficiency testing of each BAT being used to test drivers and retain records regarding the same for a minimum of two (2) years.

2. Alcohol Testing Devices

For purposes of both screening and confirmatory breath tests, the City of Frisco or its designated agent will use an EBT that is capable of providing a printed result of each breath test in triplicate (or three consecutive identical copies). This device will be capable of assigning a unique and sequential number to each completed test with the number capable of being read by the BAT and CDL driver before each test and being printed out on each copy of the result, along with the name of the manufacturer, the serial number and time of test. The EBT will also be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level and be capable of testing an air blank prior to each collection of breath and performing an external calibration check. Any EBT used for alcohol testing under this policy will be stored in a secure place when not in use at a testing site.

A logbook will be maintained for each individual EBT. This logbook will be used to record every test conducted on the device and will not be used in conjunction with any other device. The log book will include columns for the test number, date of the test, name of the BAT, location of the test, result displayed on the EBT and initials of the CDL driver taking each test, and be maintained for two years.

3. Quality Assurance Plan

In order to be used for any alcohol testing under this policy, the EBT must have a quality assurance plan (QAP) developed by the manufacturer according to Department of Transportation regulations.

The City of Frisco or its designated agent will take action to comply with QAP for each EBT it uses for alcohol testing under this policy. These actions will be documented and maintained for a minimum of two years.

4. The Alcohol Testing Site

The City of Frisco or its designated agent will use an alcohol testing site that affords visual and aural privacy to the individual being tested. This site will have available all of the necessary equipment, personnel and materials for breath testing, and may include the use of a mobile collection facility. The alcohol testing site will be secure with limited access while testing is being conducted or when the EBT remains unsecured.

In unusual circumstances (e.g. when it is essential to conduct a test outdoors at the scene of an accident), the City of Frisco or its designated agent the BAT will ensure that visual and aural privacy will be provided to the greatest extent practicable.

A BAT will supervise only one CDL driver's use of the EBT at a time and will not leave the alcohol testing site while the preparations for testing and testing of a given driver are in progress.

5. The Breath Alcohol Testing Form

The City of Frisco will use a Breath Alcohol Testing Form prescribed by the Department of Transportation. This form will not be modified or revised, except that a form directly generated by an EBT may omit the space for affixing a separate printed result to the form.

A. Alcohol Testing Procedures

1. Preparation For Testing

Any CDL driver required to submit to an alcohol test under this policy will be required to provide positive identification (photo I.D. card or identification by an employer representative) to the BAT upon entry to the testing site. The BAT may also provide positive identification if the CDL driver requests it. The BAT will then explain the testing procedure to the CDL driver and complete, date and sign the testing form along with the CDL driver. Except as otherwise provided, any refusal by a CDL driver to sign the required certification will be considered a refusal to submit to the test.

2. Administration Of The Initial Test

Once the BAT and CDL driver have completed the necessary paperwork, the BAT will open an individually-sealed mouthpiece in view of the CDL driver and attach it to the EBT. The BAT will then instruct the CDL driver to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.

The BAT will show the CDL driver the result displayed on the EBT and then affix the test result printout to the test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper-evident tape).

If the result of the initial screen is an alcohol concentration of less than 0.01, no further testing will be required. Both the BAT and the CDL driver will date the test form and sign the appropriate certification. If the CDL driver does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it will not be considered a refusal to be tested. In this event, the BAT will note the CDL driver's failure to sign or initial in the "Remarks" section of the form. The BAT will then transmit the result to City of Frisco in a

confidential manner and City of Frisco will receive and store the information in a confidential manner consistent with this policy.

In the event the test result printed by the EBT does not match the displayed result, or if a sequential test number printed by the EBT does not match the number displayed by the EBT prior to the test, the BAT will note the disparity in the “Remarks” section of the form. Both the CDL driver and the BAT will then initial or sign this notation and the test will be considered invalid, with City of Frisco and the CDL driver advised of the same.

If the result of the screening test is an alcohol concentration of 0.01 or greater, a confirmatory test will be required, as provided below. If the confirmation test is to be conducted by a different BAT, the BAT who conducted the screening test will complete and sign the form and log book entry, and provide the CDL driver with Copy 2 of that form.

3. Administration of the Confirmatory Test

If a BAT other than the one who conducted the screening test is to conduct the confirmation test, he/she will again obtain positive identification of the CDL driver’s identity and will also provide identification to the CDL driver, if requested to do so. The new BAT will also again explain the testing procedure to the CDL driver.

A waiting period of not less than 15 minutes nor more than 30 minutes will be required. The CDL driver will be instructed by the BAT not to eat, drink or put any object in his/her mouth and if possible, not to belch during the waiting period. The BAT will also explain that the test will be conducted at the end of the waiting period, even if the CDL driver has disregarded the instruction. If the BAT becomes aware that the CDL driver has failed to comply with this instruction, he/she will so note in the “Remarks” section of the form.

If a new BAT is to conduct the confirmation test, he/she will initiate a new testing form, completing Step 1 and requesting the CDL driver to complete and sign Step 2. The new BAT will also note in the “Remarks” section of the form that a different BAT conducted the screening test.

After completion of the waiting period, the breath collection procedures set forth in Part 2 above, will again be followed and a new mouthpiece will be used for the confirmation test. However, before the confirmation test is administered, the BAT will ensure that the EBT registers 0.00 on an air blank. If the reading is greater than

0.00, the BAT will conduct one more air blank. If the EBT does not register 0.00 on the second attempt, testing will not proceed using that instrument, but may continue using another EBT. Any EBT taken out of service because of failure to perform an air blank accurately will not be used for testing until a check of external calibration is conducted and the EBT is found to be within tolerance limits. Before the confirmation test is administered, the BAT will also ensure that he/she and the CDL driver read the sequential test number displayed by the EBT.

In the event the confirmatory test result differs from the screening test result, the confirmation test result will be deemed to be the final result upon which any action under this policy will be based.

The BAT will show the CDL driver the result displayed on the EBT and affix the test result printout to the test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper evident tape).

Following completing of the confirmatory test, the BAT and the CDL driver will both date and sign the testing form in the appropriate manner. If the CDL driver does not sign the certification in Step 4 of the form, it will not be considered a refusal to be tested. In this event, the BAT will note the CDL driver's failure to sign in the "Remarks" section.

If a test result printed by the EBT does not match the displayed result, or if a sequential test number printed by the EBT does not match the number displayed by the EBT prior to the test, the BAT will note this disparity in the Remarks section of the form, which will be signed or initialed by both the CDL driver and the BAT. If this occurs, the confirmatory test will be deemed invalid, and City of Frisco and CDL driver will be so advised.

The BAT will transmit all results in a confidential manner to the individual(s) designated below, who will be responsible for any communications with the BAT concerning alcohol testing and test results and for confidentially receiving and handling alcohol testing results on behalf of City of Frisco:

Freedom Total Wellness, PLLC

3550 Parkwood Blvd., Ste 103

Frisco, Texas 75034

(214) 288-2329

Transmission of test results to a City of Frisco representative may be in writing, in person or by telephone or electronic means, but the BAT will ensure that any test results requiring the City of Frisco to prevent a CDL driver from performing or continuing to perform a safety-sensitive function will be transmitted immediately. If the initial transmission is not in writing, the BAT will follow-up by providing the City of Frisco with its copy of the test form, which will be treated as a confidential record under this policy.

4. Inability To Provide An Adequate Amount of Breath

In the event a CDL driver is unable, or claims to be unable to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the BAT will instruct the CDL driver to attempt to provide an adequate amount of breath. If the CDL driver refuses to make such an attempt, the BAT will immediately inform the City of Frisco. If the CDL driver attempts, but fails to provide an adequate amount of breath, the BAT will record it in the “Remarks” section of the form and immediately inform the City of Frisco.

If a CDL driver attempts and fails to provide an adequate amount of breath, he/she will be required to obtain, as soon as practical after the failed attempt, an evaluation from a City of Frisco approved physician concerning his/her medical ability to provide an adequate amount of breath. Until a written evaluation by a City of Frisco approved physician is received, the CDL driver will be removed from his/her safety-sensitive functions.

- a. If the physician determines, in his/her reasonable medical judgement, that a medical condition has, or with a high degree of probability, could have precluded the CDL driver from providing an adequate amount of breath, the CDL driver’s failure to provide an adequate amount of breath will not be deemed a refusal to take a test. However, the physician will be required to provide the City of Frisco with a written statement of the basis for this conclusion.
- b. If the physician, in his/her reasonable medical judgement, is unable to make a determination that the CDL driver’s conduct was due to a medical condition, the CDL driver’s failure to provide an adequate amount of breath will be regarded as refusal to take a test which will result in dismissal. The physician will be required to provide the City of Frisco with a written statement of the basis for this conclusion.

5. Invalid Tests

A breath alcohol test will be deemed invalid under any of the following circumstances:

- a. By more than the tolerance stated in the QAP from the known value of the test standard. In this event, every test result of 0.02 or above obtained on the device since the last valid external calibration check will be invalidated. As a result, external calibration tests will be performed after every positive test.
- b. The BAT does not observe the minimum 15 minute waiting period prior to the confirmatory test;
- c. The BAT does not perform an air blank of the EBT before a confirmatory test, or an air blank does not result in a reading of 0.00 prior to the administration of the test;
- d. The BAT does not sign the form as required;
- e. The BAT fails to note on the "Remarks" section of the form that the CDL driver has failed or refused to sign the form following the printing or attachment of the test result to the form;
- f. The EBT fails to print a confirmation test result; or
- g. On a confirmation test and where applicable, on a screening test, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

6. Refusal To Test and Uncompleted Tests

In the event a CDL driver refuses to complete and sign the testing form, refuses to provide breath or an adequate amount of breath, or otherwise fails to cooperate with the collection process in a way that prevents the completion of the test, the BAT will record such conduct in the "Remarks" section of the form, terminate the testing process and promptly notify the City of Frisco. All CDL drivers are expected to exercise good faith and cooperate during the collection process and failure to do so will subject the CDL driver to immediate dismissal.

If an initial or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT will, if practicable, begin a new initial or confirmation test, as applicable, using a new testing form with a new sequential test number.

B. Controlled Substances

1. Appropriate Laboratory

All urine specimens to be tested for the presence of controlled substances must be analyzed by a laboratory certified under the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. Therefore, drug tests requiring confirmation when needed by the City of Frisco will be shipped for analysis to:

Alere Toxicology Services
Gretna, LA
Alere eScreen

2. Initial Screen

All urine specimens will be initially tested for the use of controlled substances by an immunoassay screen, which will eliminate negative urine specimens from further consideration. Any positive test results in an initial test will be subject to confirmation through an additional, more precise and accurate testing methodology. See “Cut Off Level”, Section Two, Definitions.

Any urine specimen identified as positive on the initial screen will be confirmed by a second analytical procedure independent from the initial test and which uses a different chemical technique and procedure. Gas chromatography/mass spectrometry will be used to confirm initial positive test results. See “Cut Off Levels”, Section Two, Definitions.

3. Laboratory Reporting of Test Results

Before the laboratory reports any test results, it will first review the results of the initial test, confirmatory test or any relevant quality control data to certify that the test result is accurate. Any specimen which was negative on the initial or confirmatory test will be reported as negative. The only specimens reported as positive will be those which have been confirmed as positive through gas chromatograph/mass spectrometry.

The MRO may request from the laboratory and the laboratory will provide quantitation of test results. The MRO will then report to the City of Frisco whether the

test is positive or negative and, if positive, the identity of the drug(s) for which there was a positive result.

4. Specimen Retention

All positive urine specimens will be retained in long-term frozen storage (-20 degrees C or less) for a minimum of one year.

5. Split Specimen Procedures

If the laboratory observes that the split specimen is untestable, inadequate, or unavailable for testing, the laboratory shall nevertheless test the primary specimen. The laboratory will inform the MRO or the City of Frisco of the untestability, inadequacy, or unavailability of the split specimen until and unless the primary specimen is a verified positive test and the MRO has informed the laboratory that the CDL driver has requested a test of the split specimen.

C. Controlled Substances Testing Procedures

1. Urine Specimen Collection

Any person requested to undergo a drug test will be required to provide a urine sample at a designated collection site. In order to ensure integrity of the specimen collection procedure, a DOT Urine Custody and Control Form will be used. This form will be completed by the CDL driver and the person responsible for collecting the urine sample and will be forwarded along with the urine sample to the designated laboratory, which will conduct the actual drug test. The laboratory will then review it when analyzing any positive test results. The City of Frisco will retain a copy of the DOT Urine Custody and Control Form for each test it conducts.

All urine specimens will be collected in a clean, single-use specimen bottle that is securely wrapped until filled with the specimen. If urination is directly into the specimen bottle, that specimen bottle shall be provided to the CDL driver still sealed in its wrapper or shall be unwrapped in the CDL driver's presence immediately prior to its being provided. If a separate collection container is used for urination, the collection container shall be provided to the CDL driver still sealed in its wrapper or shall be unwrapped in the CDL driver's

presence immediately prior to its being provided; and the collection site person shall unwrap the specimen bottle in the presence of the CDL driver at the time the urine specimen is presented.

The City of Frisco and collection site will utilize a temporary sealing system designed to ensure against undetected opening and a shipping container in which the specimen and associated paper work may be transferred and sealed to prevent undetected tampering.

Any person requested to take a drug test will be provided a copy of written specimen collection procedures which must be followed by the individual and the collection site personnel.

2. Specimen Collection Site

The designated facilities area approved collection sites which have the personnel, materials, equipment, facilities and supervision necessary to provide for the collection, security, temporary storage and shipping of urine specimen to an appropriate laboratory for testing.

3. Chain of Custody and Collection Control

To the maximum extent possible, collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled. The chain-of-custody block on the Urine Custody and Control Form shall be executed by authorized personnel upon receipt of the specimen. This form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen.

4. Split Sample Procedures

There shall be a sufficient volume of each specimen to allow for it to be subdivided, secured and labeled in the presence of the tested individual, so that it can be retained in a secured manner to prevent the possibility of tampering. This will allow an individual the opportunity to request a retest of the specimen by an appropriate laboratory of the CDL driver's choosing in accordance with Part V, C-5 of this policy.

5. Inability to Provide an Adequate Urine Specimen

In the event a CDL driver is unable, or claims to be unable to provide an amount of urine sufficient to permit a valid drug test because of a medical condition, the collector will instruct the CDL driver to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the CDL driver is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the City of Frisco so notified. The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. (In pre-employment testing, if the City of Frisco does not wish to hire the individual, the MRO is not required to make such a referral.) Upon completion of the examination, the MRO shall report his/her conclusion to the City of Frisco in writing.

Until a written evaluation by a City of Frisco approved physician is received, the CDL driver will be removed from his/her safety-sensitive functions.

6. Failure to Cooperate

Any CDL driver required to provide a urine sample will be expected to sign a consent or release form authorizing the collection of the specimen, analysis of the specimen for designated controlled substances, and release of the results to the City of Frisco. The CDL driver will not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others.

If a CDL driver refuses to cooperate during the collection process (e.g. refusal to provide a complete specimen, complete paperwork initial specimen), the collection site person will inform the City of Frisco representatives and document the CDL driver's conduct on the Urine Custody and Control Form. CDL

drivers are expected to exercise good faith and cooperate during the collection process and failure to do so will subject the CDL driver to immediate dismissal.

VI. Medical Review of Test Results

The City of Frisco will ensure that each positive or negative test results are reviewed by an MRO. The purpose of the review will be to rule out the possibility of any alternative medical explanation for the confirmed positive test result. The MRO will also review the chain of custody to ensure that it is sufficient and complete and on its face. The City of Frisco's MRO is:

Alere EScreen - MRO services, Dr. Stephan Kracht

The Duties of the MRO will be:

1. Review the results of all drug testing prior to being reported to the City of Frisco.
2. Review and interpret each confirmed positive test result as follows to determine if there is an alternative medical explanation for the confirmed positive test result:
 - a. Conduct a medical interview with the individual tested. If the individual cannot be reached, the MRO will contact the City of Frisco and the City of Frisco will contact the individual and instruct him/her to contact and discuss the results of the drug test with the MRO. If, after making reasonable efforts the City of Frisco is still unable to contact the individual, the City of Frisco will dismiss the CDL driver.
 - b. Review the individual's medical history and any relevant biomedical factors.
 - c. Review all medical records made available by the individual tested to determine if a confirmed positive test resulted from legally prescribed medication.
 - d. Upon request of the employee, require the split sample to be analyzed to determine the accuracy of the reported test result.
 - e. Verify that the laboratory report and assessment are correct.

The following rules will govern MRO determination:

1. If the MRO determined after appropriate review that there is a legitimate medical explanation for the confirmed positive test result, the MRO will take no further action.

2. If the MRO determines after appropriate review that there is no legitimate explanation for the confirmed positive test result, the MRO will so inform the designated City of Frisco officials.
3. Based on a review of the laboratory inspection reports, chain-of-custody, quality assurance and quality control data, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances the MRO will conclude that the test is negative.
4. For opiate positives, the City of Frisco will also require the MRO to determine if there is clinical evidence in addition to the drug test of unauthorized use of any opium, opiate, or opium derivative. The clinical evidence may include a medical history and a physical examination.

SECTION FIVE: EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City of Frisco will provide to its employees at no cost resources and/or materials on the negative effects of drugs and alcohol usage.

The City of Frisco will also provide to each DOT-regulated employee who does not pass a drug screen or alcohol test a list of the available resources for resolving problems associated with the misuse of alcohol and the use of illegal drugs. This list will include the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and other counseling and treatment programs.

The City of Frisco will also conduct training programs of not less than one hour for drugs and one hour for alcohol, for supervisory personnel which address specific, contemporaneous, physical, behavioral and performance indicators of probable drug or alcohol use. The training will also focus on intervention tactics, post-accident testing procedures, and supervisory responsibility for the execution of this policy.