



CITY OF ELKO
CITY MANAGER
1751 COLLEGE AVENUE
ELKO, NEVADA 89801
(775) 777-7110/FAX (775) 777-7119

The Elko City Council will meet in regular session on Tuesday, September 11, 2018

Elko City Hall, 1751 College Avenue, Elko, NV 89801, at 4:00 P.M., P.D.T.

Attached with this notice is the agenda for said meeting of the Council.

In accordance with NRS 241.020, the public notice and agenda was posted on the City of Elko

Website, <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website,

<https://notice.nv.gov>, and in the following locations:

ELKO COUNTY COURTHOUSE

571 Idaho Street, Elko, NV 89801

Date/Time Posted: September 6, 2018 at 8:40 a.m.

ELKO COUNTY LIBRARY

720 Court Street, Elko, NV 89801

Date/Time Posted: September 6, 2018 at 9:00 a.m.

ELKO POLICE DEPARTMENT

1448 Silver, Elko NV 89801

Date/Time Posted: September 6, 2018 at 8:50 a.m.

ELKO CITY HALL

1751 College Avenue, Elko, NV 89801

Date: Time Posted: September 6, 2018 at 8:30 a.m.

Posted by: Kim Wilkinson

Name

Administrative Assistant

Title

Kim Wilkinson
Signature

The public may contact Kim Wilkinson by phone at (775)777-7110 or email at kwilkinson@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is available at Elko City Hall, 1751 College Avenue, Elko, NV or on the City website at <http://www.elkocitynv.gov/>

Dated this 6th day of September, 2018

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.

Curtis Calder
Curtis Calder, City Manager

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.D.T., TUESDAY, SEPTEMBER 11, 2018
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES: August 28, 2018 **Regular Session**

I. PRESENTATIONS

- A. Presentation by Josh Weber, Sam Castor and Ryan Cherry, Nevadans for Affordable Clean Energy Choices, regarding Question No. 3 "The Energy Choice Initiative", and matters related thereto. **INFORMATION ONLY-NON ACTION ITEM**
- B. Presentation by Vitality Unlimited Center, Chief Executive Officer, Ester Quilici regarding the new Behavioral Health Clinic, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**
- C. Presentation by Larry Hyslop regarding a proposed Bicycle Path between the City of Elko and the California Trail Interpretive Center, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

II. CONSENT AGENDA

- A. Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 2.10 Drug-and Alcohol-Free Workplace, and matters related thereto. **FOR POSSIBLE ACTION**

The Federal Department of Transportation (DOT) issued a Final rule which requires covered employers to make changes to their DOT drug-testing program. The new

rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Drug and Alcohol Free Workplace Policy (Chapter 2.10) has been updated to reflect these changes. AB

- B. Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 13 Vehicle Operators Drug and Alcohol Policy, and matters related thereto. **FOR POSSIBLE ACTION**

The Federal Department of Transportation (DOT) issued a Final rule which requires covered employers to make changes to their DOT drug-testing program. The new rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Vehicle Operators Drug and Alcohol Policy (Chapter 13) has been updated to reflect these changes. AB

III. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review and possible approval of Print 'N Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- C. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

IV. NEW BUSINESS

- A. Review, consideration, and possible authorization to solicit Statements of Qualifications for the Exit 298 Lift Station and Sewer Design, and matters related thereto. **FOR POSSIBLE ACTION**

This capital project is budgeted for in the current fiscal year. The design work would consist of designing a lift station and a sewer force main back to the Water Reclamation Facility. If authorized, Staff will bring back a ratings sheet to Council for possible award at a future meeting. RL

- B. Review, consideration, and possible approval to grant a Utility Easement to Sierra Pacific Power Company, a Nevada Corporation, d/b/a NV Energy across property owned by the City of Elko along Bullion Road on APN 006-090-059 and matters related thereto. **FOR POSSIBLE ACTION**

NV Energy is requesting the City grant an easement over the location of an existing pole line. This land was formerly owned by the BLM. The BLM had granted an easement for the pole line, but the location of the former easement was not clearly defined. The granting of this easement clarifies the rights of NV Energy to operate and maintain the utility in the existing location. City Staff supports this request. BT

- C. Review, consideration, and possible nomination of a new Chairperson for the Storm Water Advisory Committee, and matters related thereto. **FOR POSSIBLE ACTION**

Due to a Staff member resignation, the Chairperson position is currently vacant. Article III, Section 1 of the committee bylaws states that the City Council shall nominate the Chairperson. BT

- D. Review, consideration, and possible action to initiate an Off Highway Vehicle (OHV) Ordinance, pursuant to NRS 490, by amending Title 7 of the Elko City Code, and matters related thereto. **FOR POSSIBLE ACTION**

NRS 490 allows cities and/or counties to designate paved roadways for limited Off Highway Vehicle (OHV) use. Information has been included in the agenda packet for review. CC

- E. Review, discussion, and possible action to donate \$1,000 from the Community Support Account/General Fund for the Elko High School Homecoming Parade, for the purpose of paying for the 2018 Homecoming Parade Permit, and matters related thereto. **FOR POSSIBLE ACTION**

Annually, the City of Elko donates money to various organizations through the Community Support Account. Although the Homecoming Parade was not included in the FY 2018/2019 Budget, adequate revenues exist to cover the expenditure. A budget augmentation will be required prior to the end of the fiscal year. CC

- F. Review, consideration, and possible approval of a request from the Elko City Recreation Department to close the parking lot between the City Pool and Ernie Hall Field for the Trunk or Treat Event, scheduled for October 26, 2018 from 5:00 p.m. to 8:00 p.m., and related matters thereto. **FOR POSSIBLE ACTION**

The Recreation Department is having their second annual Trunk or Treat Event and would like to utilize the parking lot to set up the event. KW

V. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Hunt Convenience Stores, located at 275 12th St, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Idaho Street Station, LLC, located at 1600 Idaho St, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

VI. REPORTS

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Administrative Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

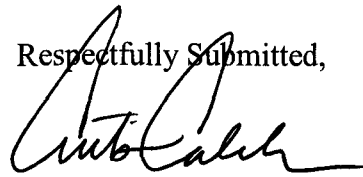
COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

NOTE: The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Curtis Calder", written over the text "Respectfully Submitted,".

Curtis Calder
City Manager

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 2.10 Drug-and Alcohol-Free Workplace, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **CONSENT**
4. Time Required: **5 Minutes**
5. Background Information: **The Federal Department of Transportation (DOT) issued a Final rule which requires covered employers to make changes to their DOT drug-testing program. The new rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Drug and Alcohol Free Workplace Policy (Chapter 2.10) has been updated to reflect these changes. AB**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of revised policy**
9. Recommended Motion: **Approve the revised personnel policy, Chapter 2.10 Drug and Alcohol Free Workplace effective September 11, 2018**
10. Prepared By: **Aubree Barnum, Human Resources Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

2.10 Drug and Alcohol-Free Workplace

2.10.1 Policy

The **employer** recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills. This drug- and alcohol-free workplace policy applies to volunteers as well as employees.

1. The **employer** is committed to:
 - a. Maintaining a safe and healthy workplace for all employees and volunteers;
 - b. Assisting employees or volunteers who recognize they have a problem with drugs, prohibited substances, or alcohol in receiving appropriate treatment;
 - c. Periodically providing employees and volunteers with information about the dangers of workplace drug abuse; and
 - d. When appropriate, taking disciplinary action for failure to comply with this policy.
2. The **employer** strictly prohibits the following behavior:
 - a. The use, sale, attempted sale, manufacture, attempted manufacture, purchase, possession or cultivation, distribution and/or dispensing of illegal drugs or prohibited substances by an employee at any time and in any amount. For the purpose of this policy, illegal drugs include those classified as such under local, state, or federal laws. Prohibited substances include medical and recreational marijuana, the use or possession of prescription medicines for which the individual does not have a valid prescription, and the inappropriate use of prescribed medicines for which the employee has a valid prescription. The prohibition also includes using over-the-counter medications contrary to manufacturer instructions, or consumer products not meant for human consumption. In addition, the **employer** prohibits employees from possessing open containers of alcoholic beverages while on the **employer's** premises and/or while on duty and from working with a blood-alcohol level of .02 or more at any time.
 - b. Bringing alcohol, illegal drugs, and other prohibited substances which may impair the safety or welfare of employees or the public onto the premises controlled by the **employer** or placing in vehicles or equipment operated on behalf of the **employer**.
 - c. Driving an organizational vehicle while on or off duty with a blood alcohol level of .02 or more or under the influence of an illegal drug or prohibited substance, regardless of the amount.

- d. Law enforcement personnel performing job-related functions which require possession and/or transportation of such substances are exempt from this section.

3. Reporting Requirements

- a. A supervisor who receives information or is a witness to any use of illegal drugs, prohibited substances, or alcohol by an employee which violates **employer's** policies or the law, is required to report this information to his/her department head and/or Human Resources immediately. The information reported must include:
 - i. The persons(s) involved, including all witnesses;
 - ii. Any information gathered, such as actual observation of drug /alcohol use, the presence of paraphernalia, observation of any unusual physical signs or behaviors;
 - iii. A written record of specific conversations held with the accused and any witnesses;
 - iv. All pertinent facts, including date(s), time(s), and locations(s).
 - b. An employee who witnesses or obtains information regarding illegal drug/prohibited substance/alcohol use by his/her immediate supervisor is required to report the incident to that supervisor's supervisor.
- 4. Specimen collection, drug testing procedures, sample collection, and alcohol testing procedures will comply with all applicable provisions of federal and state law.
 - 5. A positive test result for illegal drugs/prohibited substances/alcohol will be grounds for disciplinary action, up to and including termination.
 - 6. Employees in safety-sensitive positions as defined in 49 CFR Part 382, et seq., are subject to the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMCSR), as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399), as well as the **employer's** Drug- and Alcohol-Free Workplace Policy.
 - 7. The **employer** receives funding through federal grants and is therefore subject to the Drug-Free Workplace Act of 1988. Marijuana (including medical and recreational marijuana), cocaine, opioids, amphetamines (including methamphetamines), phencyclidine (PCP), and methylenedioxy-methamphetamine (MDMA) are considered illegal Schedule I or II drugs through the federal government. All employees must comply with the Drug-Free Workplace Act of 1988 and may not have any detectable level of Schedule I or II drugs in their system while at work. Failure to

comply will be grounds for disciplinary action, up to and including termination.

8. As provided in NRS 453A, the **employer** is not required to provide reasonable accommodation for the medical use of marijuana for:
 - a. Attorneys, investigators, special investigators or other employees acting in his/her professional or occupational capacity within the District Attorney's Office, and
 - b. Peace Officers or other employees acting in his/her professional or occupational capacity in a law enforcement agency.

2.10.2 Employee Responsibilities

1. Each employee is responsible for meeting standards for work performance and safe on-the-job conduct.
2. Employees shall not report to work under the influence of alcohol, illegal drugs, prohibited substances, or misused prescription or over-the-counter drugs, regardless of the amount.
3. Employees who suspect they may have a substance abuse problem are encouraged to seek counseling and rehabilitation from the **employer's** Employee Assistance Program (EAP) provider, substance abuse professional, or other treatment provider. The **employer's** medical insurance policy may provide for payment of some or all of the treatment costs.
4. It is the responsibility and obligation of employees in safety-sensitive positions to determine, by consulting a health care provider if necessary, whether or not a legal drug s/he is taking may/or will affect his/her ability to safely perform his/her job duties. An employee in a safety-sensitive position whose medication may affect their ability to safely perform their job must contact the human resources director or department director who will attempt to find an appropriate alternative assignment. If none is available, the employee and the **employer** will take steps consistent with the advice of a health care provider which could include the use of sick leave or a leave of absence. If an employee reports to work under the influence of prescription medication and, as a result, endangers him/herself or others, the employee will be subject to discipline, up to and including termination.
5. Each employee must report the facts and circumstances of any drug or alcohol conviction resulting from an incident that occurred while the employee was on duty or which may impact the employee's ability to perform the duties of his/her job. If duties involve driving a vehicle, the employee must report to his/her supervisor a conviction for driving under the influence (DUI), and/or revocation or suspension of the driver's license pending adjudication. Notification to **employer** must occur before resuming work duties or immediately after the conviction or revocation/suspension. Failure to notify **employer** will be grounds for disciplinary action, up to and including termination.

6. Employees in safety-sensitive positions identified by the **employer** are subject to random drug and/or alcohol testing as provided in this policy.
7. Employees must act as responsible representatives of the **employer** and as law-abiding citizens. It is every employee's responsibility to report violations of this policy to his/her immediate supervisor, to the department head, and/or Human Resources. Such reporting is critical in preventing serious injuries or damage to the **employer's** property.
8. Employees who are required to submit to a drug/alcohol test must complete and sign a consent form. Employees acknowledge that by consenting to drug testing, they are waiving any expectation of privacy.

Note: Law enforcement employees and applicants for law enforcement positions are also subject to the law enforcement department's drug testing policy.

2.10.3 Department Head Responsibilities

The department head or his/her designee is responsible for:

1. Authorizing the testing of employees.
2. Coordinating drug and/or alcohol testing.
3. Completion of a required consent form.
4. Notifying employees of positive test results and their right to a retest of the same sample.
5. Implementing disciplinary action against employees who fail to comply with provisions outlined in this policy.
6. Notifying the **employer's** attorney of an employee's conviction of a federal or state drug and/or alcohol violation.
7. Ensuring that the drug and/or alcohol test forms and results are kept confidential and only provided to employees with a business need for the information.
8. Identifying safety-sensitive positions.
9. Notifying employees in department safety-sensitive positions that they are subject to random drug and/or alcohol testing.

2.10.4 Supervisor Responsibilities

Supervisors are responsible for:

1. Determining if reasonable suspicion exists to warrant drug and/or alcohol testing and detailing, in writing, the specific facts, symptoms, or observations that are the basis for the reasonable suspicion.
2. Submitting the documentation to the department head or designee.
3. Complying with the appropriate provisions outlined in this policy that apply to supervisory personnel.

2.10.5 Employer Responsibilities

Employers are responsible for:

1. Providing communication and training on this policy to include a training program to assist supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of drug and/or alcohol use by employees and how to take appropriate corrective action.
2. Receiving and maintaining employee drug and alcohol testing records and files from all sources and assuring that they are kept confidential.
3. Making drug and/or alcohol testing and notice forms available.
4. Notifying appropriate department heads of positive results of drug and alcohol tests.
5. Administering the contract with a third party to provide drug and alcohol testing services.
6. Overseeing the administration of the **employer's** Drug- and Alcohol-Free Workplace Policy.
7. Designating safety-sensitive positions.
8. Notifying department heads of their employees randomly selected for drug and/or alcohol testing.
9. Ensuring the administration of all pre-employment drug testing.

2.10.6 Employee Education

The **employer** maintains information relating to the hazards of and treatment for drug- and alcohol-related problems. Proactive training and information shall be sponsored by the **employer** periodically. Any employee may voluntarily seek advice, information, and assistance. Medical confidentiality will be maintained consistent with this policy.

2.10.7 Employee Assistance and Voluntary Referral

1. The **employer** strongly encourages employees who suspect they have substance abuse problems to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs, prohibited substances, or alcohol under this policy and prior to any other violation of this policy, including a conviction of that individual for a drug or alcohol related offense. A decision to participate in the employee assistance or other treatment program will not be a protection or defense from discipline.
2. Any employee who voluntarily requests assistance in dealing with a personal drug and/or alcohol problem may do so through a private treatment program for drug and alcohol problems. An employee who is being treated for substance abuse in a recognized rehabilitation program may, if the Americans with Disabilities Act applies, be entitled to reasonable accommodation so long as the

employee is conforming to the requirements of the program and is abstaining from the use of controlled substances and/or alcohol. These situations will be addressed on a case-by-case basis.

3. The cost of the drug or alcohol rehabilitation or treatment program shall be borne by the employee and, if applicable, the employee's insurance provider. All information regarding an employee's participation in treatment will be held in strict confidence. Only information that is necessary for the performance of business will be shared by the **employer's** management.

2.10.8 Reasonable Suspicion Testing

1. When any supervisor has reasonable suspicion that an employee may be under the influence of alcohol, drugs, or prohibited substances, the employee in question will be directed by the department head or designee and/or Human Resources, to submit to drug and/or alcohol testing. This test may include a breath or blood test or urinalysis.
2. The supervisor shall be responsible to determine if reasonable suspicion exists to warrant drug and/or alcohol testing and shall be required to document, in writing, the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. When possible, the documentation will be forwarded to the department head or designee to authorize the drug and/or alcohol test of an employee.
3. The department head or designee and/or Human Resources shall direct an employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee is in violation of this policy. The employee will be placed on administrative leave with pay pending results of the test.

An employee who is required to submit to reasonable suspicion testing:

- a. Must sign a consent form. By consenting to testing, the employee acknowledges that s/he is waiving any expectation of privacy.
 - b. Will be immediately provided transportation by the **employer** to the location of the test.
 - c. Will be advised to refrain from eating or drinking before being tested.
 - d. Will be provided transportation by the **employer** or transportation arrangements will be made available by the **employer** after the employee submits to the test or refuses to be tested.
4. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - a. Information provided either by reliable and credible sources or independently corroborated.

- b. The first line supervisor or another supervisor/manager receives information from a reliable and credible source as determined by the department head that an employee is violating the **employer's** policy.
 - c. Direct observation of drug, prohibited substance, or alcohol use while on duty.
 - d. The first line supervisor or another supervisor/manager directly observes an employee using drugs, prohibited substances, or alcohol while an employee is on duty.
 - e. Employee admits using drugs, prohibited substances, or alcohol prior to reporting to work or while at work.
 - f. Drug, prohibited substance, or alcohol paraphernalia possibly used in connection with illicit drugs, prohibited substances, or alcohol found on the employee's person or at or near the employee's work area.
 - g. Evidence that the employee has tampered with a previous test for drugs, prohibited substances, or alcohol.
5. The following behaviors will also contribute toward reasonable suspicion and, collectively or independently, on a case-by-case basis may provide a sufficient reason for requesting a test for drugs, prohibited substances, or alcohol:
- a. A pattern of abnormal or erratic behavior.

This includes, but is not limited to a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
 - b. Presence of physical symptoms of drug and/or alcohol use.

The supervisor observes physical symptoms that could include, but are not limited to, glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes.
 - c. Violent or threatening behavior.

First Incident: If an employee engages in unprovoked, unexplained, aggressive, violent, and/or threatening behavior against any person, the department head may request that the employee submit to drug and/or alcohol testing.

Second Incident: Whether or not an employee has previously received formal counseling or disciplinary action for unprovoked, unexplained, aggressive, violent, or threatening behavior, upon a second or subsequent episode of similar behavior/conduct, the department head will request that the employee undergo drug and/or alcohol testing. ✓
 - d. Absenteeism and/or tardiness.

If an employee has previously received disciplinary action for absenteeism and/or tardiness, a continued poor record that warrants a second or subsequent disciplinary action may, in combination with other relevant behaviors, result in drug and/or alcohol testing.

2.10.9 Post-Accident Testing

1. Employees have the right and are encouraged to report all workplace accidents and injuries promptly and accurately.
2. Employees involved in a work-related accident or incident involving the violation of any safety or security procedures may be tested for illegal drugs, prohibited substances, and alcohol as soon as possible after the accident, but after any necessary emergency medical attention has been provided. In those instances in which the **employer** has a reasonable objective basis to believe that drug or alcohol use was a contributing factor to the accident or injury, post-accident testing will be required. Accidents that may trigger testing are those that result in:
 - a. Death;
 - b. Medical treatment of employee or another individual, other than first-aid;
 - c. Loss of consciousness; or
 - d. Property damage estimated to be valued at or in excess of five hundred dollars (\$500)
3. An employee who is subject to a post-accident test must sign a consent form and remain readily available for testing. Except in cases of emergency, an employee who leaves the scene before the test is administered or who does not make him/herself readily available may be deemed to have refused to be tested, and such refusal shall be treated as a positive test. The employee will be advised to refrain from eating or drinking before being tested. Further, the employee, subject to a post-accident test, must refrain from consuming alcohol for eight hours following the accident or until the employee submits to an alcohol test, whichever comes first.

An employee who is required to submit to post-accident testing will be immediately provided transportation by the **employer** to the location of the test.

Upon completion of the test:

- a. If the employee is reasonably believed to have caused or contributed to the accident, or the **employer** determines there is a risk to return him/her to work, the employee will be provided transportation to his/her home or the **employer** will make transportation arrangements, and the employee will be placed on administrative leave with pay pending the results of this test.

- b. If the **employer** determines the employee did not cause or contribute to the accident, the employee will be transported back to the work site (if medically able) and will resume work.

If the test comes back positive and the **employer** needs to conduct further investigation, the employee will be placed on administrative leave with or without pay.

Note: NRS 616C states a positive test for illegal drugs, prohibited substances (including marijuana), or alcohol per limits set forth in NRS 484C can cause the denial of workers' compensation claims. By consenting to post-accident testing, the employee waives any expectation of privacy.

4. In the event the **employer** has a reasonable objective basis for concluding that drug or alcohol use was a contributing factor to the accident or injury, and an employee is so seriously injured that s/he cannot provide a blood, breath, or urine specimen at the time of the accident, the employee must provide necessary authorization, as soon as the employee's physical condition allows, to enable the **employer** to obtain limited hospital records or other documents for the limited purpose of determining whether illegal drugs, prohibited substances, or alcohol were a causative factor for the accident or injury.
5. In the event federal, state, or local officials conducted drug and/or alcohol testing following an accident, and the **employer** has a reasonable objective basis for concluding that drug or alcohol use was a contributing factor to the accident or injury, the employee will be required to sign a release allowing the **employer** to obtain the test results from such officials.

2.10.10 Safety-Sensitive Positions

1. The **employer** may conduct pre-employment testing and random testing for drugs, prohibited substances, and/or alcohol for positions identified as safety-sensitive by the **employer**. Successfully passing these tests is a condition of future or continued employment.
2. Safety-sensitive positions mean positions which may, in the normal course of business:
 - a. Require the employee to operate the **employer's** vehicles or heavy equipment or private vehicle on company business on a regular and recurring basis; and/or
 - b. Involve job duties which, if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure, may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, coworkers, and/or the public, including positions that require use of dangerous tools/equipment; performance of job duties at heights; use of dangerous chemicals; or carrying firearms in the performance of job duties.

3. The **employer** shall maintain a list entitled "List of Positions Designated as Safety-Sensitive." The list shall be a public record.

2.10.11 Random Testing

1. All employees in positions identified as safety-sensitive by the **employer** shall be subject to random testing for drugs, prohibited substances, and alcohol.
2. Per DOT testing guidelines for CDL holders, the **employer** will test for drugs/prohibited substances at a minimum, 25% of the average number of employee CDL positions each calendar year. The **employer** will alcohol test, at a minimum, 10% of the average number of employee CDL positions each calendar year.
3. For all other safety-sensitive positions, the **employer** will test for drugs/prohibited substances, at a minimum, 25% of the average number of employee positions designated as safety-sensitive each calendar year. The **employer** will alcohol test, at a minimum, 10% of the average number of employee positions designated as safety-sensitive each calendar year.
4. The selection of employees for random testing shall be on a non-discriminatory basis and made from a computer-based random number generator that is matched with the employee's social security number. Random testing will be unannounced and the dates for administering the tests will be spread reasonably throughout the year. Random testing will be performed at any time while the employee is at work.
5. An employee selected for random testing shall proceed immediately to the test site and will be advised to refrain from eating or drinking prior to the test. An employee who engages in conduct which does not lead to testing as soon as possible after notification may be considered to have refused to be tested.
6. Employees selected for a random test but absent due to annual, sick leave, other leave, or on urgent employer business approved by their department head will not be notified to take the random test until the first day they return to work after random selection.
7. Random selection may result in some employees being tested more than once each year; some may not be tested at all.

2.10.12 Return-to-Work Testing/Follow-Up Testing

1. If the **employer** agrees to continue employment, an employee who violates this policy and undergoes rehabilitation for drugs, prohibited substances, or alcohol will, as a condition of returning to work, be required to undergo follow-up testing as established by the **employer**. The extent and duration of the follow-up testing will depend upon the safety and security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The **employer** will review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment

shall be given to the employee in writing. The **employer** may consider the employee's rehabilitation program in determining an appropriate follow-up testing program.

2. Any employee subject to return-to-work testing that has a confirmed positive drug or alcohol test will be in violation of this policy and subject to termination.

2.10.13 Consequence of Refusal to Submit to Testing/Adulterated Specimen

1. An employee who refuses to submit to testing for drugs, prohibited substances, and/or alcohol, or who consents to a test but fails to appear timely at the collection site, or who fails to give his/her sample after reasonable opportunity to do so, or engages in conduct which attempts to or does impact the validity of any such testing, will be treated as a refusal to submit to a test. Such refusal shall be treated as a positive test and may result in disciplinary action up to and including termination.
2. Submission of an invalid, substituted, or adulterated specimen will be considered a refusal to test and such refusal shall be treated as a positive test and may result in disciplinary action up to and including termination.
3. A diluted positive test result shall be treated as a positive test and may result in disciplinary action up to and including termination.

2.10.14 Testing Guidelines

1. The **employer** may test for alcohol and illegal/prohibited substances including but not limited to:
 - a. Marijuana (THC)*
 - b. Cocaine, including crack
 - c. Opioids, including heroin, codeine, morphine, hydrocodone, hydromorphone, oxymorphone, and oxycodone
 - d. Amphetamines, including methamphetamines
 - e. Phencyclidine (PCP)

*Tests for marijuana for workers' compensation purposes must be a blood test per requirements set forth in NRS 616C.230.

2. In addition to testing for the above substances, CDL holders are subject to testing for the following substances:
 - a. 6-Acetylmorphine
 - b. MDMA (Ecstasy)
3. Where applicable, the **employer** will follow federal testing procedures for drugs and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Part 40 and the Federal Motor Carrier Safety Regulations (FMCSR). These regulations may be amended from time to time.

2.10.15 Option for Drug/Prohibited Substance Retest

1. No later than 72 hours after receipt of a positive test, an employee who tests positive may request a confirmatory retest of the same sample at his/her expense at a certified laboratory of his/her choice.
2. Upon request, the medical review officer will authorize the laboratory holding the employee's sample to release to a second laboratory, approved by the U.S. Department of Health and Human Services, a sufficient quantity of the sample to conduct a second testing analysis.
3. The employee will be required to authorize the laboratory to provide the employer with a copy of its test results. The accuracy of the test results will be verified by the laboratory conducting the analysis. The result of the confirmatory test is final.

2.10.16 Requirement for Drug Retest

An employee who tests negative dilute will be required to immediately retest. The employee will:

1. Be given the minimum possible advance notice of retest,
2. Will be accompanied by a supervisor to the collection site, and
3. Will not be allowed to eat or drink between the period of being noticed of the retest and the actual test.

The retest will not be under direct observation unless directed so by the Medical Review Officer. If the retest is also negative dilute, the test will be considered negative and the **employer** will not conduct a third test unless directed to do so by the Medical Review Officer.

2.10.17 Searches

1. If the **employer** suspects that an employee is in possession of illegal drugs, prohibited substances, alcohol, or contraband in violation of this policy, the **employer** may search **employer** vehicles, lockers, desks, and work areas. By entering into or being present at a job site while on **employer** time or representing the **employer** in any way, an individual is deemed to have consented to such searches. If an individual is asked to submit to a search and refuses, that individual will be considered insubordinate and will be escorted off the job site and disciplined, as appropriate. The **employer** may take whatever legal means are necessary, consistent with this policy, to determine whether alcohol, prohibited substances, or illegal drugs are located or being used on **employer** property. The **employer** may call upon law enforcement authorities to conduct an investigation if deemed necessary.
2. Searches will be conducted by management personnel or law enforcement authorities and may or may not be conducted in the presence of the person whose work area is searched. Any suspected contraband will be confiscated and may be turned over to law enforcement as appropriate. Any person whose property is

confiscated will be given a receipt for that property by the **employer's** representative conducting the search.

2.10.18 Discipline Related to Abuse

1. Employees in violation of the provisions of this policy will be subject to disciplinary action, up to and including termination.
2. An employee may be found to have violated this policy on the basis of any appropriate evidence including, but not limited to:
 - a. Direct observation of illegal use of drugs or use of prohibited substances, prohibited use of alcohol, or possession of illegal drugs, prohibited substances, alcohol, or related contraband;
 - b. Evidence obtained from an uncontested motor vehicle citation, or a conviction for use or possession of illegal drugs or prohibited substances, or for the use or being under the influence, of alcohol on the job;
 - c. A verified positive test result; or
 - d. An employee's voluntary admission.
3. Prior to determining its course of action, the **employer** may direct an employee who has tested positive to submit to an evaluation by a substance abuse professional. The evaluation will attempt to determine the extent of the employee's use of or dependence on the abused substance(s) and, if necessary, recommend an appropriate program of treatment.
4. If an evaluation is conducted which results in a recommendation for treatment, continued employment may, but is not required, to be allowed if the recommended treatment is immediately begun and successfully completed. The treatment program may include, but is not limited to, rehabilitation, counseling, and after-care to prevent future substance use/abuse problems. The treatment program will **not** be at the **employer's** expense; however, employees may use benefits provided by applicable insurance coverage. Failure by the employee to enroll within the required timeframe in the recommended treatment program, to consistently comply with the program's requirements, to complete it successfully, and/or to complete any continuing care program shall be grounds for immediate termination from employment.
5. When an employee undergoes treatment under this policy, the employee may be required to comply with the following as a condition of continued employment:
 - a. Monitoring of the treatment program and the employee's participation by the **employer**;
 - b. Submission to return-to-work testing as required under this policy and continuing follow-up testing as provided in the *Return-to-Work Testing/Follow-Up Testing, section 2.10.12.*; and

- c. Any other reasonable condition that the **employer** deems necessary to maintain a safe and healthy workplace for all employees.

Failure by the employee to enroll in a required treatment program, to consistently comply with the program requirements, to successfully complete the program, and/or to complete any continuing care program will be grounds for immediate termination of employment.

- 6. Appropriate disciplinary action will also be taken for any job performance or behavior that would otherwise be cause for disciplinary action.

2.10.19 Confidentiality

Positive test results may only be disclosed to the employee; the appropriate medical and substance abuse treatment providers; the **employer's** attorney; an **employer** representative necessary to respond to an alleged violation of this policy; individuals within the **employer** who have a need-to-know of drug and/or alcohol testing results; and a court of law or administrative tribunal, as required.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 13 Vehicle Operators Drug and Alcohol Policy, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **CONSENT**
4. Time Required: **5 Minutes**
5. Background Information: **The Federal Department of Transportation (DOT) issued a Final Rule, which requires covered employers to make changes to their DOT Drug-Testing Program. The new rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Vehicle Operators Drug and Alcohol Policy (Chapter 13) has been updated to reflect these changes. AB**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of revised policy**
9. Recommended Motion: **Approve the revised personnel policy, Chapter 13 Vehicle Operators Drug and Alcohol Policy as presented effective September 11, 2018**
10. Prepared By: **Aubree Barnum, Human Resources Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

13 Vehicle Operators Drug and Alcohol Policy

13.1. Purpose

The City of Elko is the employer referenced throughout this policy manual.

The employer seeks to operate a drug- and alcohol-free workplace that is in compliance with the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMSCR), as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399). Therefore, it is the policy of the employer that all employees who perform safety-sensitive functions as defined in this policy, including employees required to maintain commercial driver's licenses (CDL), be drug and alcohol free.

To further this goal, the employer has implemented this Vehicle Operators Drug and Alcohol Policy. The policy provides the employer with reasonable measures to ensure that an employee's drug or alcohol use does not jeopardize the employer's successful operations, the employer's workplace, its employees, or the general public.

13.2. Coverage

The Vehicle Operators Drug and Alcohol Policy covers all employees who are required to obtain and maintain a CDL as a qualification for their position. All employees covered by this policy are referred to as "drivers" for the purposes of this policy. A CDL is required for all drivers that operate a vehicle:

1. In excess of 26,000 pounds Gross Vehicle Weight Rating (GVWR); or
2. Designed to carry 16 or more passengers (including the driver); or
3. Of any size which is used in the transportation of a placardable amount of hazardous material.

This includes, but is not limited to: full-time, part-time, casual, intermittent, or occasional drivers. Mechanics who operate commercial vehicles to test their operations are specifically covered by this policy.

13.2.1 Basic Information about Alcohol and Controlled Substances

Section 382.601(b) of the FMSCR requires that all employees be provided with information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected.

1. Alcohol

a. Health Effects

- The liver is the primary site of alcohol metabolism and can be severely affected by heavy alcohol use. The three primary dangers are fatty liver, alcoholic hepatitis, and cirrhosis.
- Heavy alcohol use can also severely affect the gastrointestinal tract, contributing to inflammation of the esophagus, exacerbating peptic ulcers, and causing acute and chronic pancreatitis. It interferes with the absorption of nutrients from food and contributes to malnutrition.
- Heavy alcohol use affects the heart and vascular system, contributing to heart attacks, hypertension, and strokes.

- Either because of direct action or indirectly through the malnutrition, liver disease, and other effects it causes, alcohol depresses immune system functioning and increases the likelihood of infection.
 - There is considerable evidence that alcohol abuse is associated with the incidence of cancer, particularly cancers of the liver, esophagus, nasopharynx, and larynx.
 - Heavy alcohol consumption causes brain damage, manifested through dementia, blackouts, seizures, hallucinations, and peripheral neuropathy.
 - Birth defects.
- b. Workplace Issues
- Alcohol affects vision, reflexes, coordination, emotions, aggressiveness, and judgement, which deprives a professional driver of most of the tools s/he relies upon to perform safely.
 - Hangovers also present a risk to driving behavior. The sick feeling associated with hangovers, including headaches, nausea, and other symptoms, can distract a driver's attention and lead to accidents even though alcohol may no longer be detectable in the body.
- c. Signs and Symptoms of Use
- Evidence of presence of alcohol: Bottles, cans, and other containers which alcohol-containing beverages may have been purchased and/or consumed in; bottle caps from alcohol containers; bottle or can openers; drivers drinking from paper bags; odor of alcohol on containers or on driver's breath.
 - Physical symptoms: Reduction of reflexes, slurred speech, loss of coordination, unsteady gait.
 - Behavioral symptoms: Increased talkativeness, reduced emotional control, distorted judgment, impaired driving ability, gross effects on thinking and memory.

2. Marijuana

a. Health Effects

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.
- Marijuana is commonly contaminated with a fungus called *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection.
- Chronic smoking causes changes in brain cells and brain waves.
- Decrease in fertility.
- Birth defects.
- Delayed decision making, diminished concentration, impaired short-term memory, erratic cognitive function, distortion of time estimation.

b. Workplace Issues

- The active chemical, THC, is stored in body fat and slowly released.
- Marijuana smoking has long-term effects on performance.

- Increased THC potency in modern marijuana increases the impairment.
 - Combining alcohol or other depressant drugs with marijuana increases impairment.
- c. Signs and Symptoms of Use
- Evidence of presence of marijuana: Plastic bags (commonly used to sell marijuana); smoking papers; roach clip holders; small pipes of bone, brass, or glass; smoking bong; distinctive odor.
 - Physical symptoms: Reddened eyes; stained fingertips from holding joints; chronic fatigue; irritating cough; chronic sore throat; accelerated heartbeat; slowed speech; impaired motor coordination; altered perception; increased appetite.
 - Behavioral symptoms: Impaired memory; time-space distortions; feeling of euphoria; paranoia; false sense of power.
3. Cocaine
- a. Health Effects
- Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells.
 - The onset of nervous system illnesses such as Parkinson's disease could also occur.
 - Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks.
 - Strong dependency can occur with one "hit" of cocaine. Usually mental dependency occurs within days of using. Cocaine causes the strongest mental dependency of any known drug.
 - Treatment success rates are lower than those of other chemical dependencies.
 - Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention.
- b. Workplace Issues
- Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
 - Lapses in attention and ignoring warning signals increases probability of accidents.
 - High cost frequently leads to theft and/or dealing.
 - Paranoia and withdrawal may create unpredictable or violent behavior.
 - Performance is characterized by forgetfulness, absenteeism, tardiness and missing assignments.
- c. Signs and Symptoms of Use
- Evidence of presence of cocaine: Small folded envelopes, plastic bags, or vials used to store cocaine; razor blades; cut-off drinking straws or rolled bills for snorting; small spoons; heating apparatus.
 - Physical symptoms: Dilated pupils, runny or irritated nose, profuse sweating, dry mouth, tremors, needle tracks, loss of appetite, hyper-excitability,

restlessness, high blood pressure, heart palpitations, insomnia, talkativeness, formication (sensing of bugs crawling on skin).

- Behavioral symptoms: Increased physical activity, depression, isolation and secretive behavior, unusual defensiveness, frequent absences, wide mood swings, difficulty in concentration, paranoia, hallucinations, confusion, false sense of power and control.

4. Opioids

a. Health Effects

- Intravenous users have a high risk of contracting hepatitis or AIDS when sharing needles.
- Increased pain tolerance. As a result, a person may more severely injure themselves and fail to seek medical attention as needed.
- Narcotic effects are multiplied when combined with other depressants causing an increased risk for an overdose.
- Because of tolerance, there is an ever increasing need for more.
- Strong mental and physical dependency occurs.
- With increased tolerance and dependency combined, there is a serious financial burden for the user.

b. Workplace Issues

- Side effects such as nausea, vomiting, dizziness, mental clouding and drowsiness place the user at high risk for an accident.
- Causes impairment of physical and mental functions.

c. Signs and Symptoms of Use

- Evidence of presence of opioids: Foil, glassine envelopes, or paper "bindles" (packets for holding drugs); balloons or prophylactics used to hold heroin; bloody tissues used to wipe the injection site; a pile of burned matches used to heat the drug prior to injection.
- Physical symptoms: Constricted pupils, sweating, nausea, and vomiting, diarrhea, needle marks or "tracks", wearing long sleeves to cover "tracks", loss of appetite, slurred speech, slowed reflexes, depressed breathing and heartbeat, and drowsiness and fatigue.
- Behavioral symptoms: Mood swings, impaired coordination, depression and apathy, stupor, euphoria.

5. Amphetamines

a. Health Effects

- Regular use causes strong psychological dependency and increased tolerance.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to increased blood pressure.
- Chronic use may cause heart or brain damage due to severe constriction of capillary blood vessels.
- Euphoric stimulation increases impulsive and risk taking behavior, including bizarre and violent acts.
- Withdrawal may result in severe physical and mental depression.

- Long-term heavy use can lead to malnutrition, skin disorders, ulcers, and various diseases that come from vitamin deficiencies.
- b. Workplace Issues
- Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest, which can result in increased accidents.
 - With heavy use or increasing fatigue, the short-term mental or physical enhancement reverses and becomes an impairment.
 - The hangover effect of amphetamines is characterized by physical fatigue and depression, which make operation of equipment or vehicles dangerous.
- c. Signs and Symptoms of Use
- Evidence of presence of amphetamines: Most frequently – pills, capsules, or tablets; envelopes, bags, vials for storing the drug; less frequently – syringes, needles, tourniquets.
 - Physical symptoms: Dilated pupils, sweating, increased blood pressure, palpitations, rapid heartbeat, dizziness, decreased appetite, dry mouth, headaches, blurred vision, insomnia, high fever (depending on level of the dose).
 - Behavioral symptoms: Confusion, panic, talkativeness, hallucinations, restlessness, anxiety, moodiness, false sense of confidence and power.
6. Phencyclidine (PCP)
- a. Health Effects
- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
 - PCP, when combined with other depressants, including alcohol, increases the possibility of an overdose.
 - If misdiagnosed as LSD induced, and treating with Thorazine, can be fatal.
 - Irreversible memory loss, personality changes, and thought disorders may result.
- b. Workplace Issues
- Not common in workplace primarily because of the severe disorientation that occurs.
 - The distortions in perception and potential visual and auditory delusions make performance unpredictable and dangerous. PCP use can cause drowsiness, convulsions, paranoia, agitation, or coma.
- c. Signs and Symptoms of Use
- Evidence of presence of PCP: Packets, stamps, injection paraphernalia, herbs.
 - Physical symptoms: Dilated or floating pupils, blurred vision, nystagmus (jerky eye movement), drooling, muscle rigidity, profuse sweating, decreased sensitivity to pain, dizziness, drowsiness, impaired physical coordination (e.g., drunken-like walk, staggering), severe disorientation, rapid heartbeat.
 - Behavioral symptoms: Anxiety, panic/fear/terror, aggressive/violent behavior, distorted perception, severe confusion and agitation, disorganization, mood swings, poor perception of time and distance, poor judgment, auditory hallucinations.

7. Intervening When an Alcohol or a Controlled Substances Problem is Suspected

No matter what the employee's position is in the organization, it is requested that any signs or symptoms of drug use or alcohol abuse be reported to the employee's immediate supervisor. Alternatively, employees may report any signs or symptoms to the Designated Employer Representative (DER).

Employees who suspect they may have a substance abuse problem are encouraged to seek counseling and rehabilitation from the employer's Employee Assistance Program (EAP) provider, a substance abuse professional (SAP), or other treatment provider. The employer's medical insurance policy may provide for payment of some or all of the treatment costs.

13.3 Education and Training

In an ongoing effort to prevent and eliminate substance abuse in the workplace, the employer provides drivers with information and referral resources regarding substance abuse. In addition, supervisors receive a minimum of sixty (60) minutes of training on controlled substance use and sixty (60) minutes of training on alcohol misuse to include the identification of actions, appearance, and conduct of a driver that may indicate drug use and/or alcohol misuse.

13.4. Safety-Sensitive Functions

Pursuant to the FMSCA, safety-sensitive functions mean any of the following on-duty functions.

On-duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work. On-duty work includes:

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

13.5 Prohibited Conduct

The following conduct is prohibited for purposes of this program. No driver shall:

1. Consume alcohol while performing safety-sensitive functions;
2. Perform a safety-sensitive function within four (4) hours after using alcohol;
3. Have an alcohol concentration of .02 or greater just before, during, and just after performing his/her safety-sensitive functions.
 - If a driver has a blood alcohol content (BAC) of .02 to .039, the driver will be immediately removed from all safety-sensitive functions for a period of twenty-four (24) hours.

- If a driver has a BAC of .04 or greater just before, during, or just after performing a safety-sensitive function, the immediate consequences shall include the driver being removed from safety-sensitive functions and referred to an evaluation by a Substance Abuse Professional (SAP).
 - In addition, the employer may take additional disciplinary action against a driver who has a test result of .02 or greater;
4. Use alcohol for eight (8) hours following an accident or until the driver undergoes a post-accident test, whichever comes first;
 5. Possess alcohol while on duty, unless the alcohol is manifested and transported as a part of the shipment;
 6. Use or possess any drug, except when use is pursuant to the instructions of a physician or dentist who has advised the driver that the substance does not adversely affect the driver's ability to operate a commercial motor vehicle.

NOTE - Prescription Drugs: Drivers may take over-the-counter or prescription drugs under the guidance of a physician in the course of medical treatment.

A driver should ask his/her physician or pharmacist whether the use of the prescription drug or over-the-counter drug could adversely affect his/her ability to perform safety-sensitive functions. Drivers must follow all manufacturers' directions or package inserts when taking any over-the-counter or prescription drugs.

In addition, the employer requires a driver to report that s/he is using any over-the-counter or prescription drug if the use of the drug could affect the safe performance of his/her safety-sensitive functions;

1. Test positive for drugs;
2. Refuse to submit to a post-accident, random, reasonable suspicion, or follow-up drug or alcohol test;
3. Switch, adulterate, or commit any other misconduct pertaining to any breath, urine, or saliva sample;
4. Fail to provide an adequate sample for testing without a valid medical explanation;
5. Disclose to individuals, other than on a need-to-know basis, information pertaining to alcohol and/or drug testing referrals, results of such testing or treatment referrals;
6. Fail to sign the DOT Alcohol Testing Form (ATF) or Federal Drug Testing Custody and Control Form (CCF) (see current form on website www.health.org/workplace);
7. Fail to consent and sign the *Drug/Alcohol Test Informed Consent Form*;
8. Fail to consent and sign the Consent to Release of Drug / Alcohol Information-Drug / Alcohol Testing Form;
9. Fail to report to the collection site in the time allocated;
10. Leave the scene of an accident without a valid reason before submitting to a post-accident test;
11. Engage in any other conduct that clearly obstructs the testing process; and
12. Use illicit drugs on or off duty.

13.6. Consequences for Violation of the DOT/FMCSA Drug and Alcohol Policies

The Federal DOT/FMCSA mandates certain immediate consequences whenever a driver engages in prohibited conduct. These consequences include removal from duty and referral to a SAP. *In addition, it is important to note that the Employer may apply additional consequences, up to and including termination, for violation of this policy and*

DOT/FMSCA. A driver who is removed from performing safety-sensitive functions may be suspended, without pay.

13.7. Consequences for Drivers for a Confirmed Violation of this Policy

Specific immediate consequences shall occur whenever a driver:

1. Has verified, positive drug test or an alcohol test result of .04 or greater.
2. Consumes alcohol while performing or four (4) hours before performing a safety-sensitive function.
3. Consumes alcohol within eight (8) hours following an accident or before s/he is tested, whichever occurs first.
4. Refuses to submit³ to any required random, post-accident, reasonable suspicion, or follow-up test.
5. Possesses drugs or alcohol in violation of this policy.

13.7.1 The immediate consequences are:

1. The driver will be immediately removed from performing all safety-sensitive functions.
2. The driver may be disciplined, up to and including termination.
3. The driver will be referred for evaluation by a SAP. When an employee has a verified, positive, adulterated or substituted test result, or has otherwise violated this policy, the employer shall not return the employee to the performance of safety-sensitive functions until or unless the employee completes the return-to-duty process provided in this policy.

If the employer decides to continue employing a driver who has violated this policy or DOT/FMSCA, the following shall occur:

1. The driver will receive, from the employer, information on resources available to the driver to resolve and evaluate any problems associated with substance abuse.
2. Before being returned to his/her safety-sensitive functions, the driver must undergo a return-to-duty drug and/or alcohol test.
3. If the driver required treatment as recommended by a SAP, the driver must complete the treatment and be re-evaluated by a SAP before submitting to a return-to-duty test.
4. If the driver required treatment as recommended by a SAP, the driver will be subject to unannounced follow-up drug and/or alcohol tests.

13.7.2. Consequences for Job Applicants

1. Applicants who fail a pre-employment test will be denied employment.
2. A current employee (who is transferring to a covered position) who fails a pre-employment test will not receive the position. In addition, the employer may refer the employee to a SAP for evaluation and treatment and may take additional disciplinary actions.

13.7.3. Failure of a Post-Accident Test

A driver who has a positive drug or alcohol test result following an accident, as provided in Section D. of this policy, will be terminated from employment.

13.7.4. DOT Penalties

NOTE: Employer discipline is likely in addition to the DOT penalties.

Any driver who violates the DOT/FMCSA drug and alcohol rules will be subject to civil or criminal penalties. (see *Appendix D* of this policy).

In addition, 49 CFR §383.51 also provides penalties for drug- and alcohol-related conduct of commercial motor vehicle drivers (see *Appendix D* of this policy).

The following are “disqualifying” offenses:

1. Driving a commercial motor vehicle while under the influence of drugs or alcohol.
2. Refusing to submit to a test as required by any state or jurisdiction in the enforcement of federal or state law.
3. Leaving the scene of an accident involving a commercial motor vehicle.

First Offenders: A driver who is convicted of driving a commercial motor vehicle while under the influence of drugs or alcohol for the first time will be disqualified for a period of one (1) year provided the vehicle was not transporting hazardous materials. If the vehicle was transporting hazardous materials, the driver will be disqualified for a period of three (3) years.

In addition, a driver who is convicted of the use of a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing drugs (controlled substances) is disqualified for life.

Second Offenders: A driver who is convicted of driving a commercial motor vehicle while under the influence of drugs or alcohol for a second time will be disqualified for life. Ten (10) years after the violation, if the driver has voluntarily enrolled in and successfully completed an appropriate treatment program, the driver may apply for reinstatement of his/her CDL.

Third Offenders: If a reinstated driver is convicted of another drug- or alcohol-related offense, s/he will be permanently disqualified for life, and will not be eligible to re-apply for a reduction of the lifetime disqualification.

13.7.5. Employer-Imposed Penalties and Actions

All violations of this policy (even a first offense) will serve as the basis for discipline, up to and including termination. The severity of the penalty imposed by the employer will depend on the circumstances of each case. However, drivers need to be aware that any offense, including but not limited to possession, sale or use of controlled substances or illegally used drugs on employer premises or while on duty is likely to result in immediate termination.

In addition to any disciplinary action imposed for a violation of this policy, or while such actions are held in abeyance, the employer may, at its sole discretion, refer the driver for appropriate assessment, counseling, and/or a treatment program as applicable. However, the employer reserves the right to make the final decision.

13.8 Alcohol and Drug Testing

The methods used to determine the presence of alcohol and/or drugs in the driver's system under the DOT/FMCSA regulations include a urine⁴, breath, and/or saliva test.

⁴ All urinalysis tests for drugs will use the “split sample” method of collection. The driver's urine sample will be split into two specimen bottles. One will contain the primary specimen; and the other, the split specimen. The split specimen will be preserved under stringent laboratory conditions. Whenever a driver employee receives notification of a positive drug test, the driver may request that the split sample be tested in a

All alcohol and drug testing will be conducted in accordance with DOT procedures for transportation workplace drug and alcohol testing programs, 49 CFR Part 40. Any employee who refuses to submit to discovery testing for alcohol or drugs pursuant to this policy will be deemed to have failed the test and will be subject to disciplinary action, up to and including termination. Drivers will be subject to the following types of alcohol and drug testing:

- Pre-employment testing
- Reasonable suspicion testing
- Post-accident testing
- Random testing
- Return-to-duty testing
- Follow-up testing

13.8.1. Testing Forms

1. The *Federal Drug Testing Custody and Collection Form (CCF)* (see current form on website <https://www.transportation.gov/sites/dot.dev/files/docs/Alcohol-Drug-Testing-Form-Suppliers.pdf>) must be used for each drug test under this policy, and the *DOT Alcohol Testing Form (ATF)* (see "Sample" Form 4) must be used for each alcohol test under this policy.
2. Tests under the Vehicle Operators Drug and Alcohol policy must be conducted prior to and separate from any other drug or alcohol tests. The employer shall not use the CCF or the ATF in non-DOT Drug and Alcohol Testing Programs.

13.8.2. Pre-Employment Testing

1. All driver applicants⁵ whom the employer intends to hire or use to perform safety-sensitive functions must give their consent and submit to a urine drug test
2. The employer may choose not to require pre-employment drug testing for a driver applicant if the employer can verify the individual:
 - a. Has participated in a valid controlled substance testing program that meets the requirements of 49 CFR Part 382, within the previous thirty (30) days; and
 - b. Was tested for controlled substances within the past six (6) months from date of application with the employer while participating in the program, or participated in a random testing program within the previous twelve (12) months from the date of application with the employer.
 - c. After obtaining the driver applicant's written consent via completion of the *Consent to Release of Drug/Alcohol Information Drug/Alcohol Testing Form* employer will verify that no former employer of the driver applicant in the preceding two (2) years has knowledge or records that the individual:
 1. Had an alcohol test with a result of .04 alcohol concentration or greater; or
 2. Had a verified positive-controlled substance test result; or
 3. Refused to be tested; or

different laboratory that is certified by the Department of Health and Human Services (DHHS). This request must be made within seventy-two (72) hours after the Medical Review Officer (MRO) gives the driver notification of the positive drug test.

⁵ Includes current employees

4. Violated other DOT drug and alcohol testing regulations.
3. With respect to a driver applicant's violation of a DOT drug and alcohol regulation, the employer shall obtain documentation of the driver applicant's successful completion of return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process, the employer shall obtain this information from the employee. Refer to 49 CFR 40.25 for guidance, if unable to obtain this information.
4. As the employer, the employer shall also ask the employee whether s/he has tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain safety-sensitive transportation work covered by Federal Highway Safety Administrator's Drug and Alcohol Testing Rules during the past two (2) years. If the employee admits that s/he had a positive test or a refusal to test, the employer shall not use the employee to perform safety-sensitive functions until and unless the employee documents successful completion of the return-to-duty process.
5. If information is requested from another employer, the employer shall, after reviewing the employee's specific written consent, immediately release the requested information to the employer making the inquiry.

As an employer requesting the information required, the employer shall maintain a written confidential record of the information the employer obtained of the good faith efforts the employer made to obtain the information. The employer shall retain this information for three (3) years from the date of the employee's first performance of safety-sensitive functions for the employer.
6. (Optional) The employer may, but is not required to, conduct pre-employment alcohol testing. If such tests are conducted, the employer shall comply with the requirements of 49 CFR 382.301.

13.8.3. Reasonable Suspicion Alcohol and/or Drug Testing

A driver shall be required to submit to an alcohol and/or drug test when the employer has reasonable suspicion the driver has violated the prohibitions of the alcohol and/or drug policy.

- **Determining Reasonable Suspicion**

A supervisor shall determine that reasonable suspicion exists that requires the driver to undergo testing based on directly making specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. In addition, the observations for drug use may include indications of the chronic use and/or the withdrawal effects of controlled substances.

- **Timing of a Reasonable Suspicion Test**

- 1) Alcohol testing is authorized only if the observations are made during, just preceding, or just after the driver performs safety-sensitive functions. A driver shall be directed to undergo reasonable suspicion testing only while the driver is performing safety-sensitive functions, just before the driver is performing safety-sensitive functions, or just after the driver has ceased performing such functions.
- 2) Alcohol testing shall occur as soon as possible after the observed conditions or event. If the test is not administered within two (2) hours, the employer shall prepare and maintain on file a record stating the

reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

- 3) Drug testing shall occur as soon as possible after the observed conditions or event. If the test is not administered within thirty-two (32) hours, the employer shall cease attempts to administer the drug test and shall state in the record the reasons for not administering the test.

- **Documentation of a Reasonable Suspicion Test**

A written record of the driver's conduct that creates reasonable suspicion shall be prepared and signed by the supervisor(s) who made the observations within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier (see *Documentation Reasonable Suspicion Drug / Alcohol Testing Form*)

- **Transportation of Driver for Reasonable Suspicion Testing**

A driver who is required to submit to reasonable suspicion testing shall be transported by the employer to the location of the test. After the driver submits to the test, the employer shall provide transportation for the driver to his/her home. The driver shall be placed on leave with pay, pending test results.

13.8.4. Post-Accident Testing

No requirements in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Drivers who are involved in an accident shall be sent for an alcohol and drug test following the accident whenever:

1. The accident involved a fatality; or
2. The driver received a citation for a moving traffic violation arising from the accident, and the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b. One or more of the vehicles involved in the accident was towed away from the scene.

Type of Accident Involved	Has Citation Been Issued to the CMV Driver?	Must be Tested by employer?
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

13.8.5 The Employer's Responsibility

- 1) The employer shall provide drivers with necessary post-accident report information, procedures, and instructions before the driver operates a commercial motor vehicle to allow drivers to comply with the testing requirements.
- 2) The employer is responsible for adhering to the following post-accident timeline, including any recording requirements.

Time Lapsed	Action Required
2 hours	ALCOHOL – If the driver has not submitted to an alcohol test at this time, the employer will prepare and maintain on file, a statement of the reasons the test was not promptly administered.
8 hours	ALCOHOL – The employer shall cease attempts to administer an alcohol test and prepare and maintain on file, a statement of the reasons why the test was not promptly administered.
32 hours	DRUGS – If the driver has not submitted to a drug test at this time, the employer shall cease attempts to administer the test and prepare and maintain on file, a statement of the reasons why the test was not promptly administered.

- 3) In the event that federal, state, or local officials conduct a breath or blood test for the use of alcohol and/or urine tests for the use of drugs following an accident, these tests shall be considered to meet the DOT requirements, providing the tests conform to applicable federal, state, or local testing requirements and that the results of the tests are obtained by the employer. The employer shall provide transportation for the driver to the location of the test. After the driver submits to the test, the employer shall provide transportation for the driver to his/her home.

13.8.6 Driver's Responsibility

A driver is obligated to complete a post-accident report form, to follow the post-accident instructions supplied by the employer, and to see that the alcohol and/or drug test(s) are conducted.

- 1) A driver must submit to an alcohol test as soon as practicable, but not later than eight (8) hours after the accident.
- 2) A driver must submit to a drug test as soon as practicable, but not later than thirty-two (32) hours following the accident.
- 3) In the event a driver is so seriously injured that the driver cannot provide a blood, breath, or urine specimen at the time of the accident, the driver must provide necessary authorizations, as soon as the driver's physical condition allows, to enable the employer to obtain hospital records or other documents that indicate whether there were drugs or alcohol in the driver's system when the accident occurred.
- 4) In the event federal, state, or local officials conducted alcohol and/or drug testing following an accident as provided in Section D.3. "Employer's Responsibility," the driver will be required to sign a release allowing the employer to obtain the test results from such officials.
- 5) A driver who is subject to a post-accident test must remain readily available for testing. A driver who leaves the scene before the test is administered or who does not make himself/herself readily available may be deemed to have refused to be tested and such refusal shall be treated as a positive test. Further, the driver, subject to a post-accident test, must

refrain from consuming alcohol for eight (8) hours following the accident, or until the driver submits to an alcohol test, whichever comes first.

- 6) For safety reasons, a driver required to submit to post-accident testing will be placed on administrative leave, with pay, pending receipt of the post-accident testing result.

13.8.7 Random Testing

All drivers are subject to random alcohol and drug testing.

1. Random Selection Process

- a. The selection of drivers for random alcohol and drug testing shall be made from a random number table or a computer-based random number generator that is matched with the driver's social security number. Random testing will be unannounced and the dates for administering the tests will be spread reasonably throughout the year; and
- b. The employer will drug test, at a minimum, twenty-five percent (25%) of the average number of driver positions each calendar year. The employer will alcohol test, at a minimum, ten percent (10%) of the average number of driver positions each calendar year.

(Optional) The employer utilizes a Consortium/Third-party Administrator (C/TPA) to conduct random testing for alcohol and controlled substances. The total number of drivers to be calculated shall be based on the total number of drivers covered by the C/TPA at the same minimum annual percentage rate.

2. Timing for Random Testing

- a. Random drug testing will be performed at any time while the driver is at work;
- b. Random alcohol testing will be performed just before, during, or just after the driver is performing safety-sensitive functions; and
- c. A driver selected for random testing shall proceed immediately to the test site. A driver who engages in conduct, which does not lead to testing as soon as possible after notification, may be considered to have refused to test and such refusal shall be treated as a positive test.

13.8.7.1 Return-to-Duty Process and Testing

1. Referral

A driver, who has violated a DOT Drug and Alcohol Regulation, shall be provided by the employer or through a C/TPA or other Service Agent a listing of SAPs including their names, addresses, and telephone numbers of SAPs who are readily available to the employees and acceptable to the employer.

2. SAP and Treatment Services for Employees

- a. The employer may, but is not required to, offer an employee an opportunity to return to a position performing DOT safety-sensitive functions following a violation of a DOT drug or alcohol regulation.
- b. Before the employee again performs a safety-sensitive function following a violation, the employer must ensure that the employee receives an evaluation by a SAP, and that the employee successfully complies with the SAP's evaluation recommendations.

- c. Payment for SAP evaluations and services shall be the responsibility of the employee, or as otherwise covered in the employer's health care benefits, and/or governed by existing management/labor agreements.
- 3. SAP Evaluation/Recommendations
 - a. Once an employee with a DOT Drug and Alcohol Regulation violation has been evaluated by a SAP, neither the employee nor the employer can seek a second SAP evaluation in order to obtain another recommendation.
 - b. If the employee, contrary to (a) above, does obtain a second SAP evaluation, the employer may not rely on it.
- 4. Changing a SAP Initial Evaluation
 - a. Except as provided in (b) below, no one may change in any way the SAP's evaluation or recommendations for assistance.
 - b. The SAP who made the initial evaluation may modify his/her initial evaluation and recommendations based on new or additional information (e.g., from an education or treatment program).
- 5. Additional Treatment, Aftercare Services

The employer, upon receiving recommendations from a SAP for an employee who has resumed the performance of safety-sensitive functions,) may, in addition to follow-up tests:

 - a. Require the employee to participate in the recommended services as a part of the return-to-duty agreement with the employee;
 - b. Monitor and document the employee's participation in the recommended services; and
 - c. Make use of SAP and employee assistance program (EAP) services in assisting and monitoring the employee's compliance with the SAP recommendations.

13.8.7.2.Follow-Up Testing

If the employer decides to permit the employee to return to the performance of safety-sensitive functions, the employee must take a return-to-duty test after the SAP has determined that the employee has successfully complied with the prescribed treatment and/or education. The employer must direct a collection under direct observation if the drug test is a return-to-duty test or follow up test.

The employee must have a negative drug test and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive functions.

All drivers who have committed a violation of DOT Drug or Alcohol regulations will be subject to a written follow-up drug and/or alcohol testing plan prepared by the SAP. A copy of this plan shall be presented directly to the Designated Employer Representative (DER).

Follow-up testing applies during the period following completion of a treatment program. The driver will be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following twelve (12) months following the employee's return to safety-sensitive functions.

The SAP can require additional testing up to a maximum of sixty (60) months from the date the driver returns to duty. Likewise, the SAP can terminate the additional follow-up testing that was ordered in excess of the minimum twelve (12) month period.

A driver whose follow-up alcohol test result is .02 to .039 must be removed from any safety-sensitive functions for twenty-four (24) hours. This test result is not a violation of the DOT/FMCSA regulations. The employer may also impose additional disciplinary action.

The employer shall carry out the SAP's follow-up testing requirements. The employee shall not be permitted to perform safety-sensitive functions, unless follow-up testing is completed as directed by the SAP.

The employer shall schedule follow-up tests at its discretion and shall ensure the tests are unannounced without any discernable pattern as to their timing and that the employee is not given advance notice.

There shall be no substitution of any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement.

A cancelled follow-up test does not constitute a completed test. Any follow-up test that was cancelled must be re-collected.

- *Timing of a Follow-Up Alcohol Test*
Follow-up alcohol testing shall be conducted just before, during, or just after the driver performs safety-sensitive functions.
- *Timing of a Follow-Up Drug Test*
Follow-up drug testing may be performed at any time while the driver is at work. The driver does not have to be performing a safety-sensitive function.

13.8.7.3 Test Results (Invalid)

If the employer receives a drug test result indicating that the employee's specimen was invalid and that a second collection must take place under direct observation:

1. Immediately direct the employee to provide a new specimen under direct observation;
2. Do not attach consequences to the finding that the test was invalid, other than collecting a new specimen under direct observation;
3. Do not give any advance notice of this test requirement to the employee;
4. Instruct the collector to note on the Federal Drug Testing Custody and Control Form (CCF) the same reason (e.g. random test, post-accident test) as for the original collection.

13.8.7.4 Report of a Dilute Specimen

1. If the MRO informs the DER that a positive drug test was dilute, the DER shall treat the test as a verified positive test and must not direct the employee to take another test based on the fact that the specimen was dilute.
2. If the MRO informs the DER that a negative test was dilute, the employer will take the following action:
 - a. If the MRO directs the employer to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5mg/dL, the employer must do so immediately.
 - b. Otherwise (i.e., if the creatinine concentration of the dilute specimen is greater than 5mg/dL), the employer may, but is not required to, direct the employee to take another test immediately.

- i. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see § 40.67 (b) and (c))
- ii. The employer must treat all employees the same for this purpose. The employer may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment situations, but not in random test situations). The employer must inform their employees in advance of the employer's decisions on these matters.
- c. The employer must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site; the employer must treat the result of the test as the test result of record. If the result of the test the employer directed the employee to take is also negative and dilute, the employer is not permitted to make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs the employer to conduct a recollection under direct observation the employer must immediately do so.

13.8.7.5 Cancelled Drug or Alcohol Test

A cancelled drug or alcohol test is neither positive nor negative.

1. The employer must not attach to a cancelled test the consequences of a positive test or a violation of a DOT Drug or Alcohol Testing Regulation (e.g., removal from a safety-sensitive position).
2. The employer must not use a cancelled test as evidence of a negative test to authorize the employee to perform safety-sensitive functions (i.e., in the case of a pre-employment, return-to-duty, or a follow-up test).
3. The employer must not direct a re-collection from an employee, except when conducting a pre-employment return-to-duty or a follow-up test, or in other provisions of the regulations that require another test to be conducted as provided in 49 CFR 40.159(a) (5) when a drug test result is invalid, and 40.187(b) when a split specimen laboratory result failed to reconfirm Drug(s)/Drug Metabolite(s) not detected.
4. A cancelled test does not count toward compliance with DOT requirements for the number of tests needed to meet the employer's minimum random testing rate.
5. A cancelled DOT test does not provide a valid basis for a non-DOT test.
6. A cancelled alcohol test must be reported to the DER and treated as if the test never occurred.

13.8.7.6 Insufficient Amount of Urine for Drug Test

1. When a collector informs the DER that an employee has not provided a sufficient amount of urine for a drug test, the DER must, after consulting with the MRO, direct the employee to obtain within five (5) working days an evaluation from a licensed physician, who is acceptable to the MRO, and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.
2. When the MRO indicates to the DER that a test is cancelled due to a medical condition that has, or with a high degree of probability could have precluded the employee from providing a sufficient amount of urine, the employer shall take no further action with the employee. The employee shall remain in the random testing pool.

13.8.7.7 Insufficient Amount of Saliva or Breath for an Alcohol Test

1. When a STT informs the DER that the employee has not provided a sufficient amount of saliva for an alcohol-screening test, the DER must immediately arrange to administer an alcohol test to the employee using an EBT or other breath-testing device.
2. When a BAT or SAT informs the DER that the employee has not provided a sufficient amount of breath, the employer must direct the employee to obtain, within five (5) working days, an evaluation from a licensed physician who is acceptable to the employer, and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The DER must provide the physician with the following information and instructions:
 - a. That the employee was required to take a DOT breath alcohol test, but was unable to provide a sufficient amount of breath to complete the test;
 - b. The consequences for refusing to take a required alcohol test include removal from performing all safety-sensitive functions, referral for evaluation by a SAP, and disciplined up to and including termination;
 - c. The physician must provide the DER with a signed statement of his/her conclusion regarding the employee's failure to provide a sufficient amount of saliva or breath for an alcohol test; and
 - d. That the physician, in his/her reasonable medical judgment, must base those conclusions on requirements listed in 49 CFR 40.265.
3. Upon receipt of the report from the examining physician, the DER must immediately inform the employee and take appropriate action based upon Federal Highway Administration Regulations.

13.8.7.8 Addressing "Correctable Flaws" in Alcohol Testing

1. If a BAT or STT reports to the DER that a correctable flaw has occurred, and another testing device is not available for the new test at a testing site, the DER shall make reasonable efforts to ensure that the test is conducted at another test site as soon as possible.
2. All other problems must be addressed by a BAT, STT, employer, or other Service Agent administering the process, or the test must be cancelled.

13.8.7.9 Fatal Flaws

The employer must cancel an alcohol test if any of the following "fatal flaws" occur. The test is cancelled and must be treated as if the test never occurred. These problems are:

1. In the case of a screening test conducted on saliva ASD or a breath tube ASD:
 - a. The STT or BAT reads the result either sooner than or later than the time allotted by the manufacturer.
 - b. The saliva ASD does not activate, or
 - c. The device is used for a test after the expiration date printed on the device or on its package.

13.8.7.10 Alcohol Confirmation Test Result

The employer shall take the following steps with respect to the receipt and storage of alcohol test results information:

1. If the test results are not in writing (e.g., by telephone or electronic means), the DER shall identify and record the BAT sending the results.

2. Store all test results information in a way that protects confidentiality.

13.8.7.11 Direct Observation

The employer must direct an immediate collection under direct observation with no advance notice to the employee, if:

1. The laboratory reported to the MRO that the specimen is invalid, and the MRO reported to the employer that there was not an adequate medical explanation for the result; or
2. The MRO reported to the employer that the original positive, adulterated, or substituted test result had to be cancelled, because the test of the split specimen could not be performed.
3. The laboratory reported to the MRO that the specimen was substituted with a creatinine concentration greater than or equal to 2mg/dL and less than 5mg/dL and the MRO reported the specimen to the employer as negative and dilute.

13.8.7.12 Stand-Down Employee

The employer is prohibited from standing down an employee following the MRO's receipt of a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test pertaining to the employee prior to the MRO completing the verification process. Note: To obtain a waiver to this prohibition, the employer shall send a written request which includes all of the information required to the Federal Motor Carrier Safety Administrator, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

13.8.7.13 Service Agents

1. If the employer uses a Service Agent to perform the tasks necessary to comply with the DOT drug and alcohol testing requirements, it shall ensure the Service Agent complies with 49 CFR Part 40 (Q), Roles and Responsibilities of Service Agents.
2. The employer shall ensure that Service Agents used meet qualifications required for their specialty area, and may require Service Agents to present documentation that they meet these requirements.
3. The employer shall obtain information required from their Service Agents. For example, the employer must not assume that "no news is good news" and permit an applicant to perform safety-sensitive functions before receiving the test results.
4. The employer must not permit the Service Agent to also serve as the DER.

13.8.7.14 Designated Employer Representative (DER)

The employer shall provide to collectors, BATs and STTs, the name and telephone number of the appropriate DER and C/TPA to contact about any problems or issues that may arise during the testing process.

13.8.7.15 Payment for the Test of a Split Specimen

1. The employer is responsible for making sure that the MRO, first laboratory, and second laboratory perform testing of split specimens in a timely manner once the employee has made a timely request for a test or split specimen.
2. The employer must not condition compliance with this requirement on the employee's direct payment to the MRO, or laboratory, or the employee's agreement to reimburse the employer for the costs of testing. The employer

may seek payment or reimbursement of all the costs for the split specimen from the employee.

13.8.7.16 SAP Information Provided by Agent Employer

The employer, through a C/TPA or other Service Agent, shall provide to each employee, (including an applicant or new employee) who violates a DOT Drug or Alcohol Regulation, a listing of SAPs with their addresses and phone numbers who are readily available to the employee and acceptable to the employer. The employee shall not be charged any fee for compiling or providing this list.

13.8.7.17 Confidentiality and Release of Information

1. The employer shall not release individual test results or medical information about an employee to third parties without the employee's specific written consent.
 - a. A third party is any person or employer to whom other subparts of 49 CFR 40 do not explicitly authorize or require the transmission of information in the course of the drug and alcohol testing process.
 - b. Specific written consent means a statement signed by the employee that s/he agrees to the release of specific information to an explicitly identified, person or employer at a particular time. Blanket releases of information (e.g., all test results) or release of information to a category of parties (e.g., other employers who are members of a C/TPA, companies to which the employee may apply for employment) are prohibited.
2. The employer may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings as provided for in 49 CFR 40.323.
3. The employer shall, upon request of DOT agency representatives, provide the following:
 - a. Access to the employer's facilities for DOT agency drug and alcohol program functions.
 - b. All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentations, agreements, contracts, policies, and statements.
4. If requested by the National Transportation Safety Board as part of an accident investigation, the employer shall provide information concerning post-accident tests administered after the accident.
5. If requested by a federal, state, or local safety agency with regulatory authority over the employer or the employee, the employer shall provide drug and alcohol test records concerning the employee.

13.8.8 Record Retention Requirements

1. The employer shall keep the following records for a period of five (5) years:
 - a. Records of employee alcohol test results indicating an alcohol concentration of 0.02 or greater;
 - b. Records of employee's verified positive drug test results;
 - c. Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
 - d. SAP reports; and
 - e. All follow-up tests and schedules for follow-up tests.

2. The employer shall keep records of information concerning drug and alcohol test results obtained from previous employers on employees that perform safety-sensitive functions for three (3) years.
3. The employer shall keep the following records for a period of two (2) years:
 - a. Records of the inspection, maintenance, and calibration of EBT for ; and
 - b. Records related to the alcohol and drug collection process. These include documents related to random selections, reasonable suspicion determinations, and post-accident determinations; medical evaluations for insufficient amounts of urine and breath; and supervisor and employee education and training records.
4. The employer shall keep records of negative and cancelled drug test results and alcohol results with a concentration of less than 0.02 for one (1) year.
5. The employer shall maintain these records described in 1 through 4 above in a location with controlled access.
6. If the employer decides to have their Service Agent retain these records, the employer shall ensure the records can be produced at the employer's place of business in the time required by the FMCSA (e.g., within two (2) days of a request by the FMCSA inspector).

13.9 Reservation of Rights

The employer reserves the right to interpret, change, or rescind this policy in whole or in part, with or without notice, subject to any state and federal laws and relevant collective bargaining agreements.

Provisions within the Federal Department of Transportation (DOT), Federal Motor Carrier Safety Regulations (FMCSR), and state law will supercede any conflicting language in this policy manual.

Nothing in this policy creates a binding employment contract nor modifies an existing contract.

APPENDIX A

DRUG SPECIMEN COLLECTION AND TESTING PROCEDURES

The Laboratory

The employer has retained a laboratory that is certified by the Department of Health and Human Services (DHHS) and qualified to service federally mandated drug testing programs. The use of a certified laboratory ensures the highest standards of forensic toxicology and includes a quality assurance program that covers the entire drug testing process. The laboratory maintains stringent security at its facilities and strictly adheres to federally mandated chain-of-custody procedures.

Key People Involved in the Collection and Testing Process

The Collection Site Personnel. The individual(s) who walks a driver through the specimen collection process.

The Laboratory Personnel. Individuals who test the specimen for the presence of drugs and are qualified to perform screening and confirmation tests.

The Medical Review Officer (MRO). A licensed physician who specializes in substance abuse. The Medical Review Officer reviews all test results, contacts the driver for additional information about a positive test, and reports the final test result to the employer. This individual will be referred to as the MRO.

The Collection and Testing Process

Chain of Custody: A standardized, chain-of-custody form will be used to maintain control and security of the specimen and to track the specimen as it proceeds through each collection and testing phase. Each time a specimen is handled or transferred, the date, purpose, and individual handler's identification will be noted.

Once a driver has been referred to testing, the following steps will be followed. These steps are described in the following pages.

- STEP 1: The specimen is collected.**
- STEP 2: The specimen is split and shipped to the lab.**
- STEP 3: The laboratory tests the specimen.**
- STEP 4: The test results are reviewed and reported.**
- STEP 5: The employee may request a test of the split specimen.**
- STEP 6: The lab stores the specimen and keeps records.**

Step 1: The specimen is collected.

The driver arrives at the site.

The driver must arrive at the collection site on time and present a valid photo identification (either a driver's license or an employee badge) to the collection site personnel. The driver may also ask the collector to provide identification to the driver.

If the driver does not have a valid form of photo identification, an employer representative must arrive at the collection site and identify the driver.

The driver must remove any unnecessary outer clothing such as a jacket or coat. Any briefcase or personal belongings will be kept with the coat. The driver may keep his/her wallet and may ask the collection site personnel for a receipt for his/her belongings.

Medical Attention: If the employee needs immediate medical care (e.g., after an accident), medical attention will not be delayed in order to collect the specimen.

The driver privately provides the specimen.

The driver will wash his/her hands. Then the driver will stay with the collection site personnel until the driver is given a specimen collection container.

The driver will provide the specimen, in private, in a secure area. There will be safeguards in place, such as blue water in the toilet, to ensure a driver does not dilute or otherwise tamper with the urine specimen.

Direct Observation Exception: The specimen must be provided under direct visual observation by an authorized individual of the same gender if there is a reason to believe the driver may alter or substitute the specimen. However, there are only six circumstances where direct observation will be allowed:

- The specimen is above or below the normal body temperature range (90.5 to 99.8° F).
- The driver refuses to allow his/her temperature to be taken orally.
- The driver's temperature varies more than 1.8° F from the collected specimen.
- Collection site personnel observe conduct that clearly indicates an attempt to substitute or adulterate the specimen.
- The driver had a prior urine specimen specific gravity of less than 1.003 and a creatinine concentration below .25g/L.
- The driver has previously tested positive for drugs and is now taking a return-to-duty or follow-up test.

Whenever a decision is considered to directly observe a collection, a higher-level supervisor of the collection site person or an authorized representative of the employer must review and agree to the decision before the collection takes place.

The driver must provide a specimen that is at least 45 milliliters (ml) of urine (45 ml is approximately 1.5 ounces or ¼ of a cup).

Shy Bladder: If the employee can't produce 45 ml, the specimen will be thrown out and the employee will be given one 8-ounce glass of water every 30 minutes, but no more than a total of 24 ounces, until the employee can produce a specimen of 45 ml. If two hours lapse and the employee still cannot provide a sample, the collection will end.

The Medical Review Officer (MRO) will refer the employee for a medical evaluation to determine whether there is a medical explanation for the employee's inability to produce a specimen. The medical evaluator will report the results back to the MRO, who will report the written conclusions to the employer.

After the specimen is collected, the collection site personnel will immediately check the temperature and other factors for signs of contamination, tampering, or adulteration. If there are any signs of such activity, the collection site person will send the specimen to the lab for testing and ask the driver to provide a second specimen under direct observation.

Step 2: The specimen is split and shipped to the lab.

Throughout the splitting and shipping process, two safeguards are in place:

- First, the driver will observe the splitting and packaging of the specimen.
- Second, the driver will be asked to initial certain identification labels and other documents throughout the process.

The specimen is split.

The collection site personnel will “split” the specimen, in front of the driver, by pouring 30 ml into one container (the primary specimen) and at least 15 ml into another container (the split specimen).

The specimen is packaged and shipped to the laboratory.

The specimens will be sealed with a tamper-proof seal and an identification label, and the collection site personnel will sign and fill out a custody and control form. Both bottles will be shipped in one specially designed shipping container. The container will be sealed to prevent tampering.

At this time, the driver will also be asked to sign the laboratory consent and release form that allows the laboratory to test the specimen and the MRO to review the test results and report those results to the employer.

Important: If the driver does not sign the laboratory consent form, the process will end and *this action will be viewed as a refusal to be tested.*

Step 3: The laboratory tests the specimen.

The lab receives the shipment.

The laboratory personnel will inspect the package for any evidence of tampering. The lab personnel will also review the information on the specimen bottles and the chain-of-custody form. Any differences in the information or evidence of tampering will immediately be reported to the employer.

The lab tests for seven drugs.

The laboratory will routinely test for the seven drugs listed in the table below. Each drug listed will be tested at the specified cut-off level.

Drug Metabolites	Screen Test Cut-Off Level*	Confirmation Test Cut-Off Level*
Marijuana (pot, weed, grass)	50	15
Cocaine (coke, crack)	150	100
Opioids		
heroin, morphine, codeine	2000	2000
hydrocodone, hydromorphone	300	100
oxycodone, oxymorphone	100	100
6-Acetylmorphine	10	10
Phencyclidine (PCP)	25	25
Amphetamine/Methamphetamine (speed, uppers, meth, ice)	500	250
Methylenedioxymethamphetamine (MDMA)/Methylenedioxyamphetamine (MDA)	500	250
* All levels are measured at ng/ml (nanograms per milliliter). These cut-off levels are subject to change by the DHHS as advances in technology or other considerations warrant identification of these substances at other concentrations.		

The first test (the screen) will use the immunoassay method of testing. If the screen is positive, the specimen will undergo a confirmation using the more accurate Gas Chromatography/Mass Spectrometry (GC/MS) test. A different cut-off level is used for the GC/MS.

Step 4: The test results are reviewed and reported.

The MRO reviews and investigates.

The Medical Review Officer (MRO) provides a final review of all test results and reports the conclusion to the employer. The MRO will:

- Receive the test results.
- Verify the test results.
- Report the final results to the employer.

A negative test result is reported.

If the test is negative, the MRO reports the negative result to the employer. A positive test with a valid, confirmed medical explanation would also be reported as negative (explanation follows).

A positive test result is reported.

If the test is positive, the MRO will consider and investigate alternative medical explanations for the positive test. The investigation will include a discussion with the driver and require the driver's cooperation.

The MRO will conduct a medical interview of the driver and review the driver's medical history or other relevant biomedical information.

The MRO will contact the driver directly and give the driver an opportunity to discuss the test result before making a final decision.

If the MRO cannot reach the individual (after making a reasonable effort), the MRO will contact the employer. Then the employer will try to contact the driver and direct the driver to contact the MRO as soon as possible. The MRO and the employer must try to the greatest extent possible to contact the individual in confidence.

APPENDIX B

ALCOHOL SAMPLE COLLECTION AND TESTING PROCEDURES

Alcohol Testing

The initial sample must be collected through the use of a saliva device, a nonevidential breath test device [alcohol screening device (ASD)], or an evidential breath testing device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA). All screening tests must be performed by a trained breath alcohol technician (BAT). Saliva and nonevidential breath testing must only be performed by a trained screening test technician (STT).

The confirmation sample must be conducted within 30 minutes of the completion of the screening test. The confirmation test must use an EBT that is approved by NHTSA. The test must be performed by a trained BAT.

Evidential Breath Testing Device

An EBT is a breath testing device that is capable of measuring a driver's blood alcohol concentration. It must be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level. An EBT must be capable of conducting an air blank and performing an external calibration check. For confirmation tests (defined later), the employer must use EBTs that can:

- Produce a printed result in triplicate or three consecutive identical copies of each breath test
- Print a unique and sequential number of each completed test, with the BAT and the driver being able to read the number before each test, and print the number on each copy of the result
- Print, on each copy of the result, the manufacturer's name for the device, the device's serial number, and the time of the test

The EBT must have a manufacturer-developed quality assurance plan approved by NHTSA. The plan must include

- A designated method or methods to be used to perform external calibration checks of the device
- Specified minimum intervals for performing external calibration checks of the device that account for different frequencies of use, environmental conditions (e.g., temperature, altitude, humidity), and contexts of operation (e.g., stationary or mobile use)
- Specified tolerances on an external calibration check within which the EBT is regarded to be in proper calibration
- Specified inspection, maintenance, and calibration requirements and intervals for the device.

The employer must ensure that the external calibration checks of each EBT are performed as described in the manufacturer's plan and that the EBT will be taken out of service if any external calibration check results in a reading outside the tolerances for the EBT. The EBT cannot be returned to service until it has been recalibrated and has had an acceptable external calibration check. The employer must also ensure that the inspection, maintenance, and calibration of each EBT are performed by the manufacturer or a maintenance representative certified by the

manufacturer or an appropriate State agency. The employer must also maintain records of the external calibration checks of the EBT and store the EBT in a secure place when not being used.

Breath Alcohol Technician

The alcohol tests must be performed by a BAT who is "trained to proficiency" in the operation of the EBT that he/she is using and in the alcohol testing procedures specified in the regulations. The BAT must successfully complete a DOT-approved course of instruction that provides training in the principles of EBT methodology, operation, and calibration checks. In addition, the BAT must complete training on the fundamentals of breath analysis for alcohol content, the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

The BAT must demonstrate competence in the operation of the specific EBT he/she will use. The BAT will be required to receive additional training as new or additional devices or technology are introduced. The employer must identify the individual(s) who will serve as the employers BAT(s).

Alcohol Testing Site

Alcohol tests should be conducted at a site that provides privacy to the driver being tested. The testing site must be secured, with no unauthorized access at any time the ASD and/or EBT is unsecured or when testing is occurring. The BAT must conduct only one test at a time and must not leave the testing site while the preparations for testing or the test itself are in progress.

In unusual circumstances (e.g., an accident), an alcohol test can be conducted at a place other than an alcohol testing site. In such cases, the STT or BAT shall conduct the test in a manner that provides the driver with privacy to the greatest extent practicable.

Alcohol Testing Process

The following procedures must be used to conduct the test.

Preparation

Upon arrival at the alcohol testing site, the driver must provide positive identification to the STT or BAT. The identification can be in the form of a company photo identification card, a commercial driver's license (CDL), or identification by an employer representative.

After the testing procedures are explained to the driver, the driver and the STT or BAT must complete, date, and sign the alcohol testing form. The driver and the STT or BAT sign the form indicating that the driver is present and providing a saliva or breath sample.

EBT Screening Test

The BAT will inform the driver of the need to conduct a screening test. The BAT must open an individually sealed, disposable mouthpiece in view of the driver and attach it to the EBT. For screening tests, air blanks are not required.

The BAT will instruct the driver to blow forcefully into the mouthpiece for at least 6 seconds or until an adequate amount of breath has been obtained. Following the screening test, the BAT must show the driver the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported as a negative test. The driver may then return to his/ her safety-sensitive function.

ASD Screening Test

The steps for preparation for testing are the same as provided for EBT alcohol testing. If a saliva test is being conducted, the STT will explain the testing procedure to the driver. The STT will check the expiration date of the saliva testing device, showing the date to the driver, and must not use a device at any time after the expiration date. The STT will open an individually sealed package containing the device in the presence of the driver and then will offer the driver the opportunity to use the swab. If the driver chooses to use the swab, the

STT will instruct the employee to insert the absorbent end of the swab into his/her mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as indicated in the manufacturer's instructions for the device.

If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate, the STT will insert the absorbent end of the swab into the driver's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as indicated in the manufacturer's instructions for the device.

The STT will wear a surgical glove while doing so. The STT will place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT will insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.

If the swab breaks, or the STT drops the swab on the floor or another surface, or the swab is removed or falls from the device before the device is activated, the STT will discard the device and swab and conduct a new test using a new device. The new device will be one that has been under the control of the employer or STT prior to the test. The STT will note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If the test continues to be unsuccessful, the collection shall be terminated and an explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.

If the procedures are followed successfully but the device is not activated, the STT will discard the device and swab, and conduct a new test. In this case, the STT will place the swab into the driver's mouth to collect saliva for the new test.

The STT will read the result displayed on the device 2 minutes after inserting the swab into the device and will show the device and its reading to the driver and enter the result on the form.

Confirmation Test

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.

Employers that use nonevidential ASDs are responsible for ensuring that an EBT is available for use within 30 minutes of obtaining a test result on the ASD. If employer cannot ensure that an EBT will be available within the 30-minute time limit, the employer must not use ASDs in an alcohol testing program. The FMCSA will not allow, as a standard practice, employers to violate the 30-minute time limit for getting a confirmation test started. Rare instances may be allowed, at the FMCSA's discretion, on a case-by-case basis.

Once a screening test indicates an alcohol concentration of 0.02 or greater, however, a confirmation test must be conducted, no matter how long it takes to complete it. As stated above, these instances will be rare.

The BAT will inform the driver of the need to conduct a confirmation test. The driver will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the driver not to belch (to the extent possible) while awaiting the confirmation test. The BAT must inform the driver that the test will be conducted at the end of the waiting period, even if the driver has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an air blank on the EBT. An air blank is a test of ambient air containing no alcohol to ensure that the EBT is properly calibrated. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second air-blank reading is greater than 0.00, the EBT must not be used to conduct the test.

The confirmation test is conducted using the same procedures as the EBT screening test. A new mouthpiece must be used if the screening test was conducted on the EBT. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be cancelled and the EBT removed from service.

The BAT will sign and date the form. The driver will sign and date the certification statement, which includes a notice that the driver cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater. If the results are 0.04 or greater, the driver must be removed from his/her driving duties and attendant safety-sensitive functions and be evaluated by an SAP. The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-evident tape (unless the results are printed directly on the form).

Reporting

The BAT will transmit all results to a designated representative in a confidential manner (in writing, in person, by telephone, or other electronic means). In the event a driver must be removed from safety-sensitive functions, the BAT will notify employer immediately.

Incomplete Tests

If a screening or confirmation test cannot be completed, the BAT must, if practical, begin a new test using a new alcohol testing form with a new sequential test number.

Refusal by a driver to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process must be noted on the form and the test will be terminated.

If a driver attempts and fails to provide an adequate amount of breath, the BAT must note this on the form and immediately inform employer. Employer shall direct driver to obtain, from an acceptable licensed physician, an evaluation concerning the driver's medical ability to provide an adequate amount of breath. The evaluation should be made as soon as practical after the attempted breath test. If the physician indicates that there was a valid medical reason, the driver's failure to provide an adequate amount of breath will not be considered a refusal. If no valid medical reason is determined, the inadequate amount of breath must be considered a refusal to take the test.

Test Accuracy

To protect the integrity of the test and to ensure accurate results, the procedures for conducting an alcohol test are rigorous. Alcohol tests are considered invalid when the following occur:

- The external calibration check of the EBT produces a result outside the allowed tolerance levels.
- The BAT does not wait 15 minutes between the screening and confirmation tests.
- A valid air blank test that registers 0.00 is not performed before each confirmation test.
- The alcohol test form with the attached EBT printout is not completed correctly. Employee, STT, and BAT signatures, and relevant STT and BAT remarks, must be included.
- The EBT fails to print the confirmation results, the sequential test number on the EBT is not the same as the number on the printout, or the alcohol concentration displayed on the EBT is different from what is printed out.
- For tests conducted on a saliva device —
 - The result is read before 2 minutes or after 15 minutes from the time the swab is inserted into the device.
 - The device does not activate.
 - The device is used for a test after the expiration date printed on its package.
 - The STT fails to note on the alcohol testing form that the test was conducted using a saliva device.

APPENDIX C

Department of Transportation

United States Code Annotated

Title 49. Transportation

Subtitle I, Chapter 5, Special Authority

Subchapter II – *Penalties*

Pursuant to the FHWA regulations §382.507, any employer or driver who violates the requirements of this part shall be subject to the penalty provisions of 49 U.S.C. §521(b). Section 521(b), Civil Penalties, provides:

(b) Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators. -

(1) *Notice.* -

(A) In general. - If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),(1) or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) Nonapplicability to reporting and recordkeeping violations. - Subparagraph (A) shall not apply to reporting and recordkeeping violations.

(2) *Civil Penalty.* -

(A) In general. - Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.

(B) Recordkeeping and reporting violations. - A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person -

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) Violations pertaining to cdl's. - Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(D) Determination of amount. - The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E) Copying of records and access to equipment, lands, and buildings. - A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) Criminal Penalties. -

(A) In general. - Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) Violations pertaining to cdl's. - Any person who knowingly and willfully violates -

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a), shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) Prohibition on operation in interstate commerce after nonpayment of penalties. -

(A) In general. - An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) Regulations. - Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

DEFINITIONS

For the purposes of the Vehicle Operators Drug and Alcohol Policy, the following definitions shall apply:

Adulterated Specimen. A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Air Blank. In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

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

Alcohol Concentration. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

Alcohol Confirmation Test. A subsequent test using an EBT following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

Alcohol Test. A test using an evidential breath test device (EBT) or a non-evidential breath test device (such as a saliva test); the method of testing used to detect the level of alcohol. Both a screening test and a confirmation test must be used to establish a positive test result.

Alcohol Screening Test. An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol Testing Site. A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

Alcohol Use. The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.

Aliquot. A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Blind Specimen or Blind Performance Test Specimen. A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

Blood Alcohol Concentration (BAC). 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.

Breath Alcohol Technician (BAT). A person who instructs and assists employees in the alcohol testing process and operates an evidential breath-testing device.

Cancelled Test. A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Chain of Custody. The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) (see current form on website:

<https://www.transportation.gov/sites/dot.dev/files/docs/Alcohol-Drug-Testing-Form-Suppliers.pdf>).

Collection Container. A container into which the employee urinates to provide the specimen for a drug test.

Collection Site. A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

Collector. A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the *Federal Drug Testing Custody and Control Form* (CCF) (see current form on website <https://www.transportation.gov/sites/dot.dev/files/docs/Alcohol-Drug-Testing-Form-Suppliers.pdf>).

Commercial Motor Vehicle. A motor vehicle used in commerce to transport passengers or property, if the motor vehicle: (1) has a gross vehicle weight rating (GVWR) in excess of 26,000 pounds, or (2) is designed to carry 16 or more passengers (including the driver), or (3) of any size, which is used in the transportation of a placardable amount of hazardous material.

Confirmation Test. For alcohol testing, means a second test using an evidential breath test device, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration.

For drug testing, means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test, and that uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy, generally a Gas Chromatography/Mass Spectrometry (GC/MS).

Confirmatory Drug Test. A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmatory Validity Test. A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Confirmed Drug Test. A confirmation test result received by an MRO from a laboratory.

Consortium/Third-party Administrator (C/TPA). A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members.

Designated Employer Representative (DER). An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer. Service agents cannot act as DERs.

Dilute Specimen. A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT, the Department, DOT Agency. These terms encompass all DOT agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Research and

Special Programs Administration (RSPA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.

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

Drugs. The drugs for which tests are required are: marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Drug Test. A urinalysis (urine) test that includes specimen collection and testing by a Department of Health and Human Services (DHHS) certified laboratory. Both a screening test and a confirmation test must be used to establish a positive test result.

Employee. Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing, the term "employee" has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Employer. A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this policy. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this policy.

Evidential Breath Testing Device (EBT). A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for "Evidential Breath Measurement Devices," and identified on the CPL as conforming with the model specifications.

HHS. The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Illegally Used Drug. Any prescribed drug that is legally obtainable, but has not been legally obtained or is not being used for prescribed purposes, all designer drugs, and any other over-the-counter or non-drug substances (e.g., airplane glue) being used for other than their intended purpose. (Note: A designer drug is a man-made drug, or combination of drugs, which is similar in basic scientific properties to a drug or controlled substance and is produced in a clandestine laboratory.)

Initial Drug Test (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test. The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

Invalid Drug Test. The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory. Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD). The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation. For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO). A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Negative Result. The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative Specimen. A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolites(s)), and /or invalid.

Office of Drug and Alcohol Policy and Compliance (ODAPC). The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department, and providing information concerning the implementation of 49 CFR Part 40.

Oxidizing Adulterant. A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

Positive Result. The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reasonable Suspicion of Drug and/or Alcohol Use. Reasonable suspicion means such suspicion that will justify a supervisor in referring a driver for an alcohol and/or drug test. It is the amount of suspicion sufficient to convince a trained supervisor under the circumstances to believe that:

- a. The driver has violated the Vehicle Operators Drug and Alcohol policy; or
- b. The actions, appearance, or conduct of an on-duty driver are indicative of the use of drugs or alcohol.

The suspicion must be based in fact on specific, contemporaneous, articulable observations by a trained supervisor(s) concerning the appearance, behavior, speech, or body odors of the driver.

For reasonable suspicion of alcohol misuse, such observations must be made during, just preceding, or just after the period of the work day that the driver is performing a safety-sensitive function. Reasonable suspicion is more than mere speculation but less than absolute certainty.

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing. The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

Screening Test. In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration in his/her system (breath or saliva test). In drug testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Screening Test Technician (STT). A person who instructs and assists employees in the alcohol testing process and operates an Alcohol Screening Device (ASD).

Service Agent. Any person or entity, other than an employee of the employer, who provides services specified under this part (49 CFR Part 40) to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs, STTs, laboratories, MROs, SAPs, and C/TPAs. To act as service agents, persons and employers must meet the qualifications set forth in applicable sections of 49 CFR Part 40. Service agents are not employers for purposes of 49 CFR Part 40.

Split Specimen Collection. A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

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

Substance Abuse Professional (SAP). A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders. (Note: To act as SAP under the DOT drug testing program, the individual must meet the requirements for credentials, basic knowledge, qualification training, continuing education, and documentation listed in 49 CFR 40.281.)

Substituted Specimen. A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

Verified Test. A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization to solicit Statements of Qualifications for the Exit 298 Lift Station and Sewer Design, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **3 Minutes**
5. Background Information: **This capital project is budgeted for in the current fiscal year. The design work would consist of designing a lift station and a sewer force main back to the Water Reclamation Facility. If authorized, Staff will bring back a ratings sheet to Council for possible award at a future meeting. RL**
6. Budget Information:

Appropriation Required:
Budget amount available: \$250,000.00
Fund name: Sewer
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Move to authorize soliciting Statements of Qualifications for Exit 298 Sewer Design**
10. Prepared By: **Ryan Limberg, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:



CITY OF ELKO
1751 COLLEGE AVENUE
ELKO, NEVADA 89801

**Request for Qualifications
For Design Services for Exit 298
Lift Station and Sewer Main**

General

The City of Elko is currently soliciting Statements of Qualifications (SOQ) from qualified engineering firms for the design services related to the following project:

Design of a lift station and sewer force main.

Professional services for this project will include, but are not limited to, civil design including all phases from schematic design to construction documents.

The design work shall be completed no later than June 25, 2019 and the project budget for this work is \$250,000.00.

The project will consist of designing a lift station and also a force main approximately 12,000 feet in length.

Technical Expertise

The City seeks to work with a team that has experience and a successful record working on publicly-owned projects of similar size and nature. The ability to forecast cost, respect budgets, and meet deadlines are factors for consideration.

Required Information/Evaluation Criteria

Interested firms are invited to submit one original and three copies of their SOQ that demonstrates their experience in performing projects of this scale and type. **Documents shall be limited to twenty (20) pages (front and back) and should include:**

- **General Information** **(10 Points)**
 - Identification of the firm/team submitting their SOQ. If a team of firms is proposed, the lead firm should be identified as the primary firm with the other firms listed as secondary firms.
 - A brief description of each firm/team member should be provided along with a list of major services offered by each firm/team member.

- Percentage of time that each person will be committed to the project.
- Length of time with the firm.
- Applicable professional registrations.
- **Experience and qualifications of the firm/teams and key personnel (60 Points)**
 - A summary demonstrating the firm/team's qualifications to meet the project requirements as outlined above.
 - A representative list of clients with contact names.
 - A representative list of projects of a scale and type similar to the project which is being considered by the City. The list should include the project location, description, project estimate, bid day cost, final construction cost, date of construction, services provided by your firm for the project, and owner contact name.
 - From the representative list of projects, discuss in detail the project your firm has completed that you believe most closely matches the effort which will be required for the project as outlined above.
- **Innovative approaches used on other similar projects in a similar environment (10 Points)**
 - Identify innovative approaches that were used in executing work on similar project(s). Also, discuss the particular expertise your firm/team offers and how you propose to use that expertise to benefit the City to add value to the project.
- **Approach to Project Management (20 Points)**
 - Identify the team's approach to project design and quality control of the design documents
 - Construction management practices and overall project cost control

Selection Process

A selection committee comprised of City Staff will review the SOQ's and will rate submittals. The selection committee may develop a short list not to exceed three firms to be interviewed by the committee before a recommendation is made for possible council approval. The interview process is an option that may occur depending on the original review by the selection committee.

The City of Elko will not provide compensation or defray any costs incurred by any firm relating to the response of this request. The City reserves the right to negotiate with any and all persons or firms. The City also reserves the right to reject any and all SOQ's, or to accept any SOQ deemed most advantageous, or to waive any irregularities or informalities in any SOQ received, and to revise the process schedule as circumstances require. The City Council reserves the right to accept or reject the selection committee's recommendation and make its own decision regarding the possibility of awarding a contract to whom the City Council feels is in the best interest of the City.

Contact Information

Questions, clarifications, or requests for general information will be accepted up to ten (10) days prior to the date the submittals are required and are to be directed to:

**Kelly Wooldridge
City Clerk
City of Elko
1751 College Avenue
Elko, NV 89801
E-mail: kwooldridge@elkocitynv.gov
Phone: 775-777-7126**

Submittals must be mailed or delivered to:

**Kelly Wooldridge
City Clerk
City of Elko
1751 College Avenue
Elko, NV 89801**

All submittals must be received no later than 3:00 PM on Friday, December 7, 2018.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval to grant a Utility Easement to Sierra Pacific Power Company, a Nevada Corporation, d/b/a NV Energy across property owned by the City of Elko along Bullion Road on APN 006-090-059 and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **NV Energy is requesting the City grant an easement over the location of an existing pole line. This land was formerly owned by the BLM. The BLM had granted an easement for the pole line, but the location of the former easement was not clearly defined. The granting of this easement clarifies the rights of NV Energy to operate and maintain the utility in the existing location. City Staff supports this request. BT**
6. Budget Information:

Appropriation Required: N/A
Budget amount available: N/A
Fund name: N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Grant of Easement Document**
9. Recommended Motion: **Move to approve granting an easement to NV Energy across the parcel of land identified as APN 006-090-059 owned by the City, as described in the Grant of Easement Document.**
10. Prepared By: **Bob Thibault, Civil Engineer**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **William Kruger, PLS**
NV Energy
WKruger@nvenergy.com

**Elko City Council
Agenda Action Sheet**

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Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Grant of Easement Document**
9. Recommended Motion: **Move to approve granting an easement to NV Energy across the parcel of land identified as APN 006-090-059 owned by the City, as described in the Grant of Easement Document.**
10. Prepared By: **Bob Thibault, Civil Engineer**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: *William Kruger, PLS*
NV Energy
WKruger@nvenergy.com

APN: 006-090-059

**Recording Requested By
and Return to:**

City of Elko
C/O City of Elko Development Department
1751 College Avenue
Elko, NV 89801

The undersigned affirms that
this document does not contain
a social security number.

**Grantees' Address/
Mail tax statement to:**
Property Services-NV Energy
P.O. Box 10100 MS S4B20
Reno, NV 89520

GRANT OF EASEMENT

This GRANT OF EASEMENT is hereby entered into this ____ day of _____, 2018, by and between The **CITY OF ELKO**, a Municipal Corporation and body politic in Elko County, Nevada, ("Grantor"), and **SIERRA PACIFIC POWER COMPANY**, a Nevada Corporation, d/b/a NV Energy ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property situate in the City of Elko, State of Nevada, more particularly described in Exhibit "A" ("Easement Property") attached hereto and by this reference made a part hereof; and

WHEREAS, Grantor desires to grant a permanent non-exclusive easement and right of way to Grantee and its successors and assigns over a portion of the Grantor's Property for the purposes of and on the terms and conditions set forth herein.

NOW THEREFORE, Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, does hereby agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee and its successors, assigns, licensees, contractors, invitees and agents, a permanent non-exclusive easement and right of way, over, across, upon, under and through that portion of the Grantor's Property set forth in the description attached hereto at Exhibit "A" and depicted on the map attached hereto at Exhibit "B," (the "Easement Area") to construct, operate, add to, modify, maintain, and remove communication facilities and electric line

systems for the distribution of electricity underground, consisting of cables, conduit, duct banks, manholes, vaults, transformers (aboveground or underground), service boxes/meters, panels (aboveground or underground), cabinets (aboveground or underground), bollards (aboveground), and other equipment, fixtures, apparatus, and improvements.

2. Access; Use. Except as provided in Section 1, Grantee shall not traverse, trespass on or disturb other portions of the Grantor's Property or other real property owned by Grantor without the prior written consent of Grantor. Grantee shall comply with all applicable dust control and emissions requirements, regulation and laws while entering over, across, upon, under, and through that portion of the Grantor's Property for ingress and egress and for the purpose of utilizing its rights granted hereunder.
3. Grantee may remove, clear, cut and trim any obstructions and materials (including trees and other vegetation) from the surface or subsurface of the Easement Area as Grantee may deem necessary or advisable for the safe and proper use and maintenance of the electric line systems and communication facilities in the Easement Area.
4. Grantor covenants for the benefit of Grantee, its successors and assigns, that no building, structure or other real property improvements will be constructed or placed on or within the Easement Area without the prior written consent of Grantee, such structures and improvements to include, but not be limited to, drainage, trees, bridges, and signage. Grantor retains, for its benefit, the right to maintain, use and otherwise landscape the Easement Area for its own purposes; provided, however, that all such purposes and uses do not interfere with Grantee's rights herein and are in all respects consistent with the Grantee's rights herein, Grantee's electrical practices, and the National Electrical Safety Code.

THIS GRANT OF EASEMENT and the terms contained herein shall run with the land and become and be a burden on the Grantor's Property and shall be binding upon and shall inure to the benefit of Grantor and Grantee, and the successors and assigns of Grantor and Grantee.

TO HAVE AND TO HOLD all the singular and said premises unto said Grantee and its successors and assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have caused these presents duly to be executed the day and year first above written.

GRANTOR:

CITY OF ELKO

By: _____
CHRIS J. JOHNSON, Mayor

ATTEST:

By: _____
KELLY WOOLDRIDGE, City Clerk

GRANTEE:

**SIERRA PACIFIC POWER COMPANY,
D/B/A NV ENERGY**

By: _____
MATT GINGERICH,
Manager Land Resources

STATE OF NEVADA)
)
 COUNTY OF ELKO) ss.

This instrument was acknowledged before me on the _____ day of _____, 2018, by **CHRIS J. JOHNSON**, Mayor, and **KELLY WOOLDRIDGE**, City Clerk of the City of Elko.

 NOTARY PUBLIC

STATE OF NEVADA)
)
 COUNTY OF Washoe) ss.

This instrument was acknowledged before me on the _____ day of _____, 2018, by Matt Gingerich, as Manager, Land Resources of Sierra Pacific Power Company d/b/a NV Energy.

 NOTARY PUBLIC



The City of Elko
APN: 006-090-059

EXHIBIT "A"
EASEMENT

A portion of Section 29, T34N, R55E, MDM, Elko County, Nevada;

An easement, 15 feet in width, lying 7.5 feet on each side of the following described centerline:

COMMENCING at the Northeast Corner of Section 29, T34N, R55E, **THENCE** S00°46'19"E, 1115.87 feet along the East line of said Section 19 to the **POINT OF BEGINNING**;

THENCE along the following seven (7) courses:

1. S59°10'00"W, 32.32 feet;
2. S73°09'00"W, 1250.50 feet;
3. S68°32'48"W, 250.00 feet;
4. S59°20'24"W, 250.00 feet;
5. S50°13'27"W, 250.00 feet;
6. S46°49'20"W, 1725.00 feet;
7. N33°52'45"W, 387.63 feet to the **TERMINUS OF THIS DESCRIPTION**.

Excepting therefrom the portion described lying in the Southeast 1/4 of the Northwest 1/4 of said Section 29.

Also excepting therefrom, that portion lying in Elko County roadway known as Bullion Road.

The sidelines of said easement are to be extended or truncated to meet at angle points and to terminate on the boundary lines of the Grantor.

Together with the right to install guy and anchor facilities at poles required, to support said poles. Said facilities to extend not more than 25 feet from poles so supported.



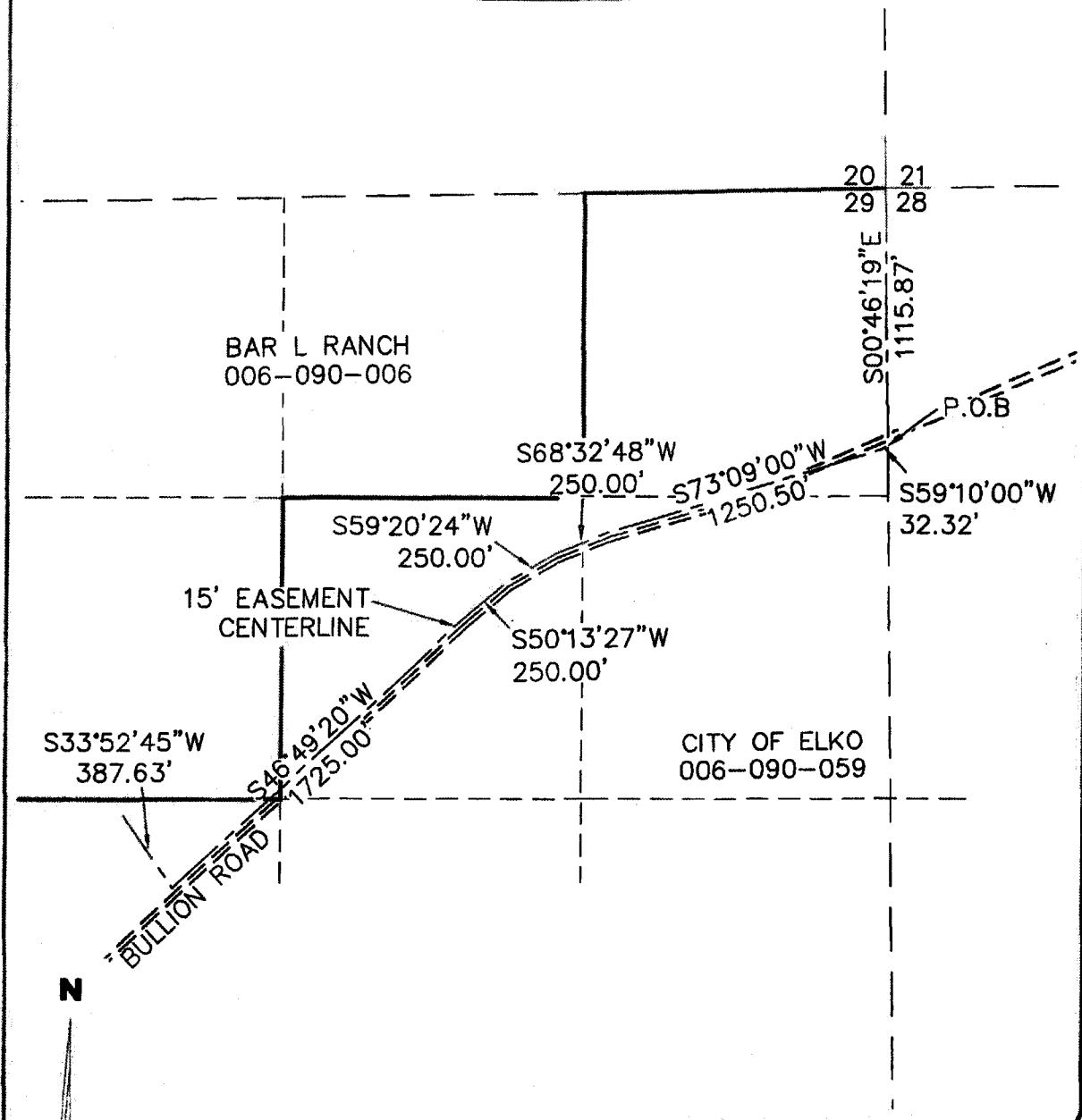
Said Easement contains 59646 square feet more or less.

See Exhibit "B" attached hereto and made a part thereof.

The Basis of Bearings: S00°46'19"E, along the East line of said Section 19, T34N, R55E, MDM.

Prepared by William Kruger, PLS

EXHIBIT B



SCALE: 1" = 750'

K:\Survey\CSE\Coe_Cod\LR8891XB17-City of Elko.dwg
LR8891XB17 CITY OF ELKO.dwg <BC30885> 27Dec17-14:38



6100 NEIL RD.
RENO, NV 89511
775-834-4011

EXHIBIT MAP

EASEMENT

CITY OF ELKO

APN: 006-090-059

SECT. 29, T. 34 N., R. 55E., M.D.M.
ELKO ELKO COUNTY NEVADA

12/27/17

1 OF 1

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible nomination of a new Chairperson for the Storm Water Advisory Committee, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Due to a Staff member resignation, the Chairperson position is currently vacant. Article III, Section 1 of the committee bylaws states that the City Council shall nominate the Chairperson. BT**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **List of Current Board Members, Committee Bylaws**
9. Recommended Motion: **Move to nominate (insert name) as Chairperson of the City of Elko Storm Water Advisory Committee**
10. Prepared By: **Bob Thibault, Vice Chairperson, Storm Water Advisory Committee**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Jason Demaline, Secretary, SWAC
JDemaline@dot.state.nv.us**

**CITY OF ELKO STORM WATER ADVISORY COMMITTEE (SWAC)
BYLAWS**

Adopted March 27, 2012

ARTICLE I ESTABLISHMENT AND PURPOSE

Section 1 The City of Elko Storm Water Advisory Committee (SWAC) was established by the Elko City Council on or about May 24, 2005.

Section 2 The City of Elko Storm Water Advisory Committee was established to serve as an advisory board to the Elko City Council on matters relating to water quality and storm water management within and adjacent to the City of Elko.

ARTICLE II MEMBERSHIP, APPOINTMENT, QUALIFICATIONS, TERMS

Section 1 *Membership:*
The City of Elko Storm Water Advisory Committee shall consist of five (5) members, which shall include one member of the City Council. Members will be professional representatives from the Community at large, federal and state land management agencies, contracting firms, engineering design firms, and academia. Prospective members of the Storm Water Advisory Committee shall be appointed by approved members.

Section 2 *Terms:*
a. The terms of the Chairperson, Vice-Chairperson and Secretary shall be two (2) years.
b. All terms shall expire on June 30 of the respective year.
d. Other members may serve indefinite terms.

Section 3 *Minimum Qualifications for appointment include:*
a. Interest in the City of Elko Community.
b. Ability to work cooperatively with individuals, groups, community agencies and organizations.
c. Willingness to meet and conduct business under the Nevada Open Meeting Law.

Section 4 Any Committee member who compiles more than three (3) consecutive absences, or fails to attend more than seventy-five (75) percent of the regularly scheduled meetings within a calendar year, shall be considered to have resigned.

Excused absences are defined as absences due to illness of a member or a member's family, employment related activities, or other instances as approved by the Chair on a case-by-case basis. Notification of absences is to be made to the Secretary of the Storm Water Advisory Committee.

ARTICLE III OFFICES, DUTIES AND APPOINTMENT OF OFFICERS

Section 1 The City of Elko Storm Water Advisory Committee (SWAC) requests that the Elko City Council shall ***nominate*** the Chairperson. The Vice-Chairperson shall be elected by the members. The Secretary shall be the City Environmental Coordinator unless otherwise

elected by the members. There is no minimum or maximum number of times a member may serve as chairperson, vice-chairperson, or secretary.

Section 2

The duties of the officers shall be as follows:

- a. *Chairperson:* To preside over meetings of the Storm Water Advisory Committee, to ensure that actions are properly taken, to sign official documents and correspondence on behalf of the Storm Water Advisory Committee, to assist City Staff in preparing agendas, and to represent the Storm Water Advisory Committee at City Council meetings and other official functions.
- b. *Vice-Chairperson:* To assume the duties of the Chairperson in the absence of the Chairperson and to assist with publicity efforts as necessary.
- c. *Secretary:* To sign or attest official documents of the Storm Water Advisory Committee, to keep minutes of the meetings, and to review record-keeping functions of the Storm Water Advisory Committee as performed by City Staff.

ARTICLE IV RESPONSIBILITIES, POWERS, AND DUTIES

Section 1

The responsibilities, powers and duties of the Storm Water Advisory Committee shall include, but not be limited to, the following:

- a. Conduct forums and meetings pursuant to Nevada Revised Statutes (NRS) 241 to promote the open exchange of information;
- b. Obtain public input;
- c. Advise the City of Elko on matters relating to water quality and storm water management within and adjacent to the City of Elko.

ARTICLE V MEETINGS, RECORDS, QUORUMS, AND VOTING

Section 1

The Storm Water Advisory Committee shall hold at least one regular meeting in each quarter.

Section 2

Special meetings may be called for as directed by:

- a. The City Council;
- b. The committee chairperson;
- c. A majority vote of a quorum at a regular or special meeting;
- d. By request of a majority of the members.

Section 3

All meetings shall be properly noticed, posted and conducted according to the open meeting law requirements of NRS 241.020.

Section 4

Three (3) members of the Storm Water Advisory Committee shall constitute a quorum for holding meetings and conducting business. A majority vote of the members of the Storm Water Advisory Committee shall be necessary for any official action.

Section 5

Bylaws may be amended as deemed necessary by the Committee for the efficient conduct of its business by a majority vote of the Committee.

ARTICLE VI FILING WITH THE OFFICE OF THE CITY CLERK

- Section 1** The executed original of the bylaws must be filed with the office of the City Clerk within ten (10) days of approval by the City Council.
- Section 2** Originals of the agenda, agenda backup items, and certificate of posting are to be filed with the office of the City Clerk at the time of the posting of the agenda.
- Section 3** Executed original of the meeting minutes are to be filed with the office of the City Clerk within ten (10) calendar days of approval.

ARTICLE VII ADOPTION AND AMENDMENT

- Section 1** These bylaws shall become effective upon adoption by the Elko City Council.
- Section 2** An amendment of these bylaws may be introduced and initiated by a majority vote of the Storm Water Advisory Committee at any regular meeting and shall be acted upon at the next regular meeting. A majority vote of the members of the Storm Water Advisory Committee shall be necessary to recommend an amendment of the Storm Water Advisory Committee Bylaws to the Elko City Council.
- Section 3** Pursuant to Nevada Revised Statutes 241.020, the Storm Water Advisory Committee must use a prepared agenda. Any action items must be submitted to the committee chairperson or his designee at least ten (10) calendar days prior to the official meeting date. Appropriate back-up material must be submitted with the item.

BYLAWS ADOPTED by ELKO CITY COUNCIL: March 27, 2012
BYLAWS MODIFIED by ELKO CITY COUNCIL: August 28, 2012

Current SWAC Board Members

Vacant	Chair
Bob Thibault	Vice Chair
Jason Demaline	Secretary
Reece Keener	Member
Dennis Strickland	Member

Term

June 30, 2017-July 1, 2019
June 30, 2017-July 1, 2019
City Council Rep
Indefinite Term

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to initiate an Off Highway Vehicle (OHV) Ordinance, pursuant to NRS 490, by amending Title 7 of the Elko City Code, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **NRS 490 allows cities and/or counties to designate paved roadways for limited Off Highway Vehicle (OHV) use. Information has been included in the agenda packet for review. CC**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of *In-City OHV Use of Roads, Approved Off Highway Vehicle City/County Codes in Nevada*, and a letter from Ms. Jenny Scanland, Nevada Off-Highway Vehicles Program**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

IN-CITY OHV USE OF ROADS

PARAMETERS

NRS 490.090: No operation of OHV on paved highway

unless:

- Crossing of paved highway
- On paved highway for loading/unloading
- Emergency
- If paved highway is designated as trail
Connector
- Government entity

NRS 490.100: Allows city or county to designate any portion of highway within jurisdiction to allow reaching off-road areas. Approval from NDOT required.

Cannot be for any other purpose than travel to or from the private/public area.

PROS

-some public appreciation for ease in getting to public OHV areas

CONS

-difficult to enforce reasons for travel (coming from Last Chance area to tree streets vs. Idaho Maverik to tree streets)

-maximum speed limit of 25 mph, issues in 35 mph zones (CO)

- 15 mph speed limit within 500 feet of residential
- state law requirements only of reflector to the rear, no requirements for brake lights, which is likely to contribute accidents
- citizen complaints of noise/careless/reckless (SCA, "Don't do it", #1 source of complaints for the association, most people who drive OHV's are not following SCA codes)
- lack of turn signals, lighting equipment
- OHV's able to evade police by going off-road
- County and SCA encourage whip flags for safety, not followed
- increased noise from off-road mufflers
- differing registration methods for vehicles versus OHV's.
- creates a new area of enforcement which law enforcement is not familiar with, new bail schedule items, city codes, also adding cost
- Less protection for passengers, current NRS does not require eye protection as it does for street motorcycles, lack of windshields, seatbelts, crumple zones, etc.
- OHV class includes snowmobiles, what about golf carts? Questions for city code to reclassify vehicles differently than state and county.

APPROVED OFF HIGHWAY VEHICLE CITY/COUNTY CODES IN NEVADA

	Mesquite	Ely	Wells	West Wendover	Elko County	Mineral County	White Pine County
Definition Includes:	<p>An all-terrain vehicle (including a four-wheeler);</p> <p>An all-terrain motorcycle;</p> <p>A dune buggy; and</p> <p>Any motor vehicle used on public lands for the purpose of recreation.</p>	<p>Did not include Definitions</p>	<p>An all-terrain motor vehicle,</p> <p>An all-terrain motorcycle,</p> <p>A dune buggy,</p> <p>A snowmobile,</p> <p>A four-wheeler,</p> <p>Any motor vehicle used on public lands for the purpose of recreation,</p> <p>Mopeds, Go-Peds, minibikes, go-carts, golf carts and the like.</p>	<p>An all-terrain motor vehicle,</p> <p>An all-terrain motorcycle,</p> <p>A dune buggy,</p> <p>A snowmobile,</p> <p>A four-wheeler or three-wheeler,</p> <p>Any motor vehicle used on public lands for the purpose of recreation,</p> <p>Mopeds, go-peds, minibikes, go-carts and the like.</p>	<p>(A) Large all-terrain vehicle whether or not the large all-terrain vehicle is registered with the Nevada department of motor vehicles;</p> <p>(B) All-terrain motor motorcycle;</p> <p>(C) Dune buggy;</p> <p>(D) Snowmobile; and</p> <p>(E) Any other motor vehicle used on public lands for purposes of recreation.</p>	<p>1. An all-terrain vehicle;</p> <p>2. An all-terrain motorcycle;</p> <p>3. A dune buggy;</p> <p>4. Utility terrain vehicles;</p> <p>5. A snowmobile; and</p> <p>6. Any motor vehicle used on public lands for the purpose of recreation</p>	<p>Neighborhood vehicle: A motorized vehicle, propelled by electric motor or gasoline engine, consisting of three (3) or four (4) wheels with a top speed of less than twenty (20) miles per hour, of a type generally operated on golf courses</p>
Definition does NOT include:	<p>A motor vehicle designed primarily for use in water;</p> <p>A motor vehicle that is registered by the department of motor vehicles;</p> <p>A "low speed vehicle" as defined in Nevada Revised Statutes</p>	<p>Off highway vehicle does not include any vehicle excluded by law under Nevada Revised Statutes chapter 490.060(2) or any other chapter of the Nevada Revised Statutes.</p>	<p>Off highway vehicle does not include any vehicle excluded by law under Nevada Revised Statutes chapter 490.060(2) or any other chapter of the Nevada Revised Statutes.</p>	<p>Off highway vehicle does not include any vehicle excluded by law under Nevada Revised Statutes chapter 490.060(2) or any other chapter of the Nevada Revised Statutes.</p>	<p>Off highway vehicle does not include any vehicle excluded by law under Nevada Revised Statutes chapter 490.060(2) or any other chapter of the Nevada Revised Statutes.</p>	<p>1. A motor vehicle designed primarily for use in water;</p> <p>2. A motor vehicle that is registered by the department of motor vehicles; or</p> <p>3. A low speed vehicle as defined in Nevada Revised</p>	

APPROVED OFF HIGHWAY VEHICLE CITY/COUNTY CODES IN NEVADA

	Mesquite	Ely	Wells	West Wendover	Elko County	Mineral County	White Pine County
	<p>484B.637 and/or section <u>6-6-2</u> of this title;</p> <p>A neighborhood electric vehicle as defined in section <u>6-6-2</u> of this title; or</p> <p>A "golf cart" as defined in section <u>6-8-2</u> of this title.</p>					Statutes 484B.637.	
Operator Requirements	Sixteen Drivers license Registration	Sixteen Helmet Traffic laws	Sixteen	Sixteen	Nevada Revised Statutes 490.090 through 490.130	Sixteen	Same Requirements as a drivers liscense
General Rules and Regulations	travel to or from a private or public area that is open for use by OHVs purpose of crossing the highway Loading or unloading	Speed of 15 MPH Registered 30 minutes prior to sunset/after sunrise	Speed 25 MPH Approved # of occupants Lighting on Traffic laws Vehicle insurance	Speed 5 MPH Helmet Approved # occupants Sunrise to sunset Within 500 feet of a home or business Lights On	Speed 25 MPH on highway Speed 15 MPH on unincorporated, by home or business, public street Approved # of occupants Sunrise to Sunset	Paved Roads: Mineral County authorizes the use of paved county roads for the use of OHVs for the sole purpose of driving to private or public areas that are open for use by off highway vehicles. OHVs may not be used for general transportation within the townships of Mineral County. Unpaved Road 35 MPH	Neighborhood vehicles may be operated on White Pine County general, standard and minor roads, within the unincorporated areas of the county and within the townships of Baker, Lund, McGill and Ruth and on all county paved roadways where the speed limit is posted twenty five (25) miles per hour or less Neighborhood vehicles must be

APPROVED OFF HIGHWAY VEHICLE CITY/COUNTY CODES IN NEVADA

	Mesquite	Ely	Wells	West Wendover	Elko County	Mineral County	White Pine County
							equipped with a rearview mirror, a slow vehicle triangle, red reflectors and a neighborhood vehicle permit displayed on the back of the unit, which permit shall be issued by the sheriff's office
Designated Routes and Trails	HVs shall be used and operated within the city of Mesquite only over such public streets, roads, or highways that are designated by resolution of the city council as open to such OHV use and operation. All streets, roads, or highways that are not open for OHV use in the city of Mesquite shall be posted with signs indicating that OHV use is not permitted	The following roads and highways within the City of Ely are designated as permissible for the operation of off highway vehicles for the limited purpose of allowing off highway vehicles ingress and egress to private or public areas that are open for the use of off highway vehicles. Off highway vehicles shall not be operated on designated highways or roads for any purpose other than travel to or from (ingress and egress) the private or public area open for the use of off highway vehicles	Off highway vehicles shall be used and operated within the city of Wells only over such public lands, trails, streets, roads or highways that are designated by ordinance or resolution of the city council as open to such off highway vehicle use and operation. The city council shall adopt by resolution appropriate map(s) or in writing the designated roadways which describe where off highway vehicle use is permitted under this chapter	ATVs shall be used and operated within the city of West Wendover only over such public lands, trails, streets, roads or highways that are designated by ordinance or resolution of the city council as open to such ATV use and operation. All designated routes shall be posted by signs authorizing ATV use and operation as provided in this chapter. Unless specifically otherwise posted, ATV operation is prohibited on any public land, trail, street or highway of the city. Further, to	Off highway vehicles may be used and operated within Elko County only over such ways, trails, streets, roads or highways that are recognized and/or maintained by Elko County including any town streets recognized and/or maintained by the official town board of any unincorporated town. To the fullest extent possible, off highway vehicles shall be operated only on the outer		The White Pine County sheriff shall issue a permit for the use of neighborhood vehicles on county roadways. The permit shall be affixed permanently to the rear area of the vehicles so that the permit is readily visible to other vehicles. The permit shall identify the driver authorized to operate the neighborhood vehicle. The sheriff is authorized, in his sole discretion, to deny a permit or revoke a permit at any time to any

APPROVED OFF HIGHWAY VEHICLE CITY/COUNTY CODES IN NEVADA

	Mesquite	Ely	Wells	West Wendover	Elko County	Mineral County	White Pine County
				the fullest extent possible, ATVs shall be operated only on the outer four feet (4') of streets or gravel/dirt roads within West Wendover city limits and shall not be operated on sidewalks where present.	edge of streets and roads and shall not be operated on sidewalks. Nothing in this chapter shall be construed as giving operators of off highway vehicles permission to ride on highways controlled and/or maintained by other entities unless expressly allowed.		citizen or any neighborhood vehicle for any reason the sheriff deems constitutes a risk to the motoring public. Permits will be issued after payment of a fee of ten dollars (\$10.00) valid for one year, from January 1 to December 31.

Department of Conservation and Natural Resources
Bradley Crowell, Director
James Lawrence, Deputy Director
Dominique Etchegoyhen, Deputy Director



BRIAN SANDOVAL
Governor

STATE OF NEVADA
Off-Highway Vehicles Program
901 South Stewart Street, Suite 1003
Carson City, Nevada 89701
Telephone (775) 684-2794
ohv.nv.gov

Nevada Commission on Off-Highway Vehicles
Greg McKay, Chair
Sue Baker, Vice Chair



Let your voice be heard: Input sought to enhance Nevada's off-road adventures

July 2, 2018

To whom it may concern:

The Nevada Department of Conservation and Natural Resources and the Nevada Commission on Off-Highway Vehicles are pleased to offer Nevada municipalities and residents the opportunity to provide input and help shape the future of Nevada's vast off-highway recreational experiences. By completing a quick online survey, you can help guide recommendations for upcoming off-highway vehicle (OHV) legislation, and assist in prioritizing projects to be funded by OHV registration fees. Please take a moment to complete the survey at: <https://www.surveymonkey.com/r/L58NBY7>. The survey results and recommendations will be available online at ohv.nv.gov by January 1, 2019.

In Nevada, numerous OHV recreationists and law enforcement professionals have expressed that the current language in NRS 490 is confusing and often misinterpreted. As part of our dedication to engaging and empowering our residents and municipalities, in every corner of Nevada, the survey results will help us understand if and how Nevada's OHV laws should be revised to better serve the needs of our communities. In addition to taking the survey, if the following statutes are of special interest to your town, county, and/or department/office, please send written comments on how you feel the statutes should be revised and/or clarified to: (insert address and/or email address)

In 2017, the 79th Session of the Nevada Legislature passed Assembly Bill 29, , directing the Commission on Off-Highway Vehicles to evaluate the presumption set forth in NRS 490.090 to NRS 490.130 inclusive, "that the operation of an off-highway vehicle on a paved highway is prohibited unless authorized by a governmental entity." (See attached Exhibits A and B).

Please take the opportunity to consider the question of statute revision as it relates to economic vitality for our rural communities. Here, we've provided additional information on the concept of OHV-friendly communities:

"If you're familiar with the ATV community, you may have heard of the Paiute Trail System in Utah," states Jenny Scanland, Nevada Off-Highway Vehicles Program. "Riders frequently travel to these communities, spend the night at local hotels, dine at local restaurants, and spend money in these rural OHV destinations. We have the unique opportunity to make OHV tourism a hallmark in Nevada. Visitors from around the nation can enjoy hundreds of miles of vibrant OHV trails statewide, and stay at our hotels or camp at a Nevada State Park. Our municipalities and counties can help bring this vision to life by identifying how and where OHVs can travel safely and legally within their jurisdictions. It's important that these routes are mapped and available to the local residents and out-of-state visitors."

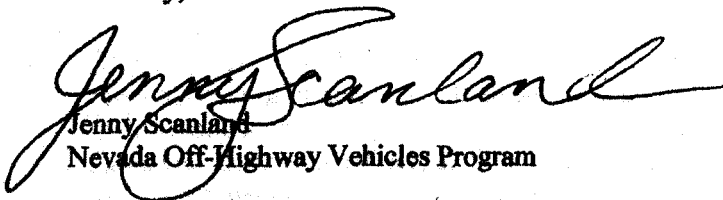
Several towns and counties in Nevada are passing resolutions to make their communities more "OHV Friendly". Examples of materials from western OHV Friendly Communities, including the Moapa Valley area, are attached to this letter.. These municipal resolutions by local municipalities specify which roads are

open and closed to OHVs. . Through planning and passing resolutions, municipalities can enable OHV riders to better understand where they can and cannot ride. If municipalities do not complete planning and resolutions, the confusion concerning the presumption that all paved highways in their jurisdictional area are prohibited for use by OHVs remains an issue.

As you may know, the opportunity exists for Nevada OHV registration dollars to assist communities in their efforts to become OHV Friendly Communities through the Nevada Off-Highway Vehicles Program. The Commission on Off-Highway Vehicles has voted to include Economic Integration as a criteria for selecting future grant recipients and requests applications for projects that develop outdoor recreation opportunities that help local, regional, and/or state economies grow and thrive. Eligible tasks include the planning, mapping, purchase, installation, and maintenance of signs for implementing resolutions.

If you have any questions or would like further information, please contact Jenny Scanland at (775-684-2794) or email at jscanland@ohv.nv.gov). Thank you for supporting Nevada's extraordinary off-highway recreational opportunities, which will continue to benefit our residents and visitors for generations to come.

Sincerely,



Jenny Scanland
Nevada Off-Highway Vehicles Program

Attachments:

EXHIBIT A – NV-AB29 Sec. 11.5.

EXHIBIT B – NRS 490, exhibit B Rules of Operation

EXHIBIT C – Resolution example

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, discussion, and possible action to donate \$1,000 from the Community Support Account/General Fund for the Elko High School Homecoming Parade, for the purpose of paying for the 2018 Homecoming Parade Permit, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Annually, the City of Elko donates money to various organizations through the Community Support Account. Although the Homecoming Parade was not included in the FY 2018/2019 Budget, adequate revenues exist to cover the expenditure. A budget augmentation will be required prior to the end of the fiscal year. CC**
6. Budget Information:

Appropriation Required: N/A
Budget amount available: N/A
Fund name: N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **City of Elko Parade Permit Application, City of Elko Staff Flow Sheet, Map of Parade Route, Internal Revenue Service Letter Dated December 21, 2001**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:



CITY OF ELKO PARADE PERMIT
1751 COLLEGE AVE.
ELKO, NV 89801
PHONE: 777-7138 FAX: 777-7129
EMAIL: buslic@elkocitynv.gov

In accordance with Elko City Code 7-2-30, a permit is required for all parades which will occupy any street, alleyway or highway within the city.

The attached map includes the standard parade route. If this is the first time for this parade or there has been a change to the parade, it will be necessary to obtain prior approval from the City Council at least one month before the parade is scheduled to take place.

Please complete the application and answer the questions on the attached questionnaire and contact the departments shown on the flow sheet for their approval. You must also attach a copy of a liability insurance policy in the amount of \$1,000,000 to include all of the represented vendors along with the City of Elko as additional insured. Return the application to the Business License Department at the address shown above. If Council approval is required the item will be placed on the Council agenda when the completed application is turned in to the City.

Name of Parade: Elko High School Homecoming Parade

Date of Parade: Oct. 5th, 2018

Time of Parade: Start: 2:00 Finish: 2:40

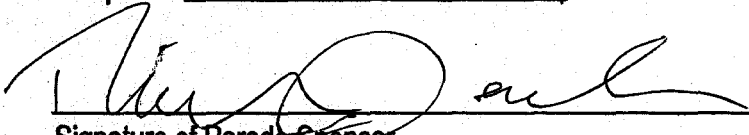
Parade Route: Standard Route: Different Route X

(General Description) See attached map and directions

Sponsor of Parade: Boys & Girls Clubs of Elko

Sponsor Address: 782 Country Club Drive, Elko NV 89803

Telephone: 775-738-2759


Signature of Parade Sponsor

Date Approved (for new parades): \$1,000.00 Fee Paid (Please see attached 501C-3)

This permit is valid for 24 hours under the times specified on the application unless otherwise indicated.

CITY OF ELKO PARADE APPLICANT QUESTIONNAIRE

Name of Parade: Elko High School Homecoming Parade

The purpose of this worksheet is to assist city personnel in coordinating our efforts with parade organizers.

Please answer all questions in as much detail as possible:

Estimated number of attendees: 1,200 students @ EHS and 100 bystanders downtown

Will this event affect normal traffic patterns and parking? What actions will be needed to mitigate these problems? Will City Personnel be needed? No, normal traffic will still be able to use all roads. 11. Pathway, 5 SRO's, and a couple more adm. staff will help w/ traffic flow.

What are the safety concerns for the participants of this event? What are the safety concerns for the spectators for this event? What actions are needed to minimize the safety problems? Will City personnel be needed? What stipulations have been made for emergency access? There are no safety concerns with this event.

Will there be any street closures? If yes, what are your emergency access plans? No streets will be closed. Intersections will be blocked for less than 2-3 mins.

What area will this event effect? Do you have permission from the property owners who may be effected?

See attached map and we will only be driving by.

If a street closure is occurring present us with a plan and equipment list.

No streets will be closed.

Will the closure include any use of Nevada State right-of-way? No streets will be closed.

What other logistical problems may be encountered? How can the City help? We don't foresee any other logistical problems at this time.

Will traffic signals be affected by the event? 5th & Idaho & 9th & Idaho for 2-3 minutes as the parade passes through.

Will electricity be needed for the event, please explain? No.

Will this event create a litter problem? How will that problem be mitigated? No.

What provisions will be made for public restrooms for the attendees? N/A

Will horses be present? No

Will a City street sweeper be required if so when? No.

CITY OF ELKO STAFF FLOW SHEET

The sponsor of the event shall present their entire application to each of the departments below for their comments and approval. The comments made by City Personnel are intended to assist in the approval process only, by signing they are acknowledging and agreeing to the requirements of their department should the parade take place. Denials by any of the Departments may result in denial of the parade. **Please call to arrange an appointment with each department.**

NAME OF PARADE: Elko High School Homecoming Parade

For Official Use Only

Police Department, 1448 Silver St.: ☒ Approved ☐ Denied

Date AUG 27 2018

Phone: 775-777-7310

Comments/Conditions: COORDINATE WITH LT. PALHEGYI.

Signature: [Signature]

Fire Department, 911 W. Idaho St.: ☒ Approved ☐ Denied

Date 8/27/18

Phone: 775-777-7345

Comments/Conditions: _____

Signature: [Signature]

Street Department, 232 S. 10th St.: ☒ Approved ☐ Denied

Date 8-27-18

Phone: 775-777-7241

Comments/Conditions: _____

Signature: [Signature]

Parks & Recreation Dept., 1435 Idaho St. (behind Sherman Station): ☒ Approved ☐ Denied Date 8.27.2018

Phone: 775-777-7261

Comments/Conditions: HAVE FUN!!

Signature: [Signature]

Nevada Department of Transportation (if applicable), 1951 Idaho St.: ☒ Approved ☐ Denied

Date 8/27/2018

Phone: 775-777-2725

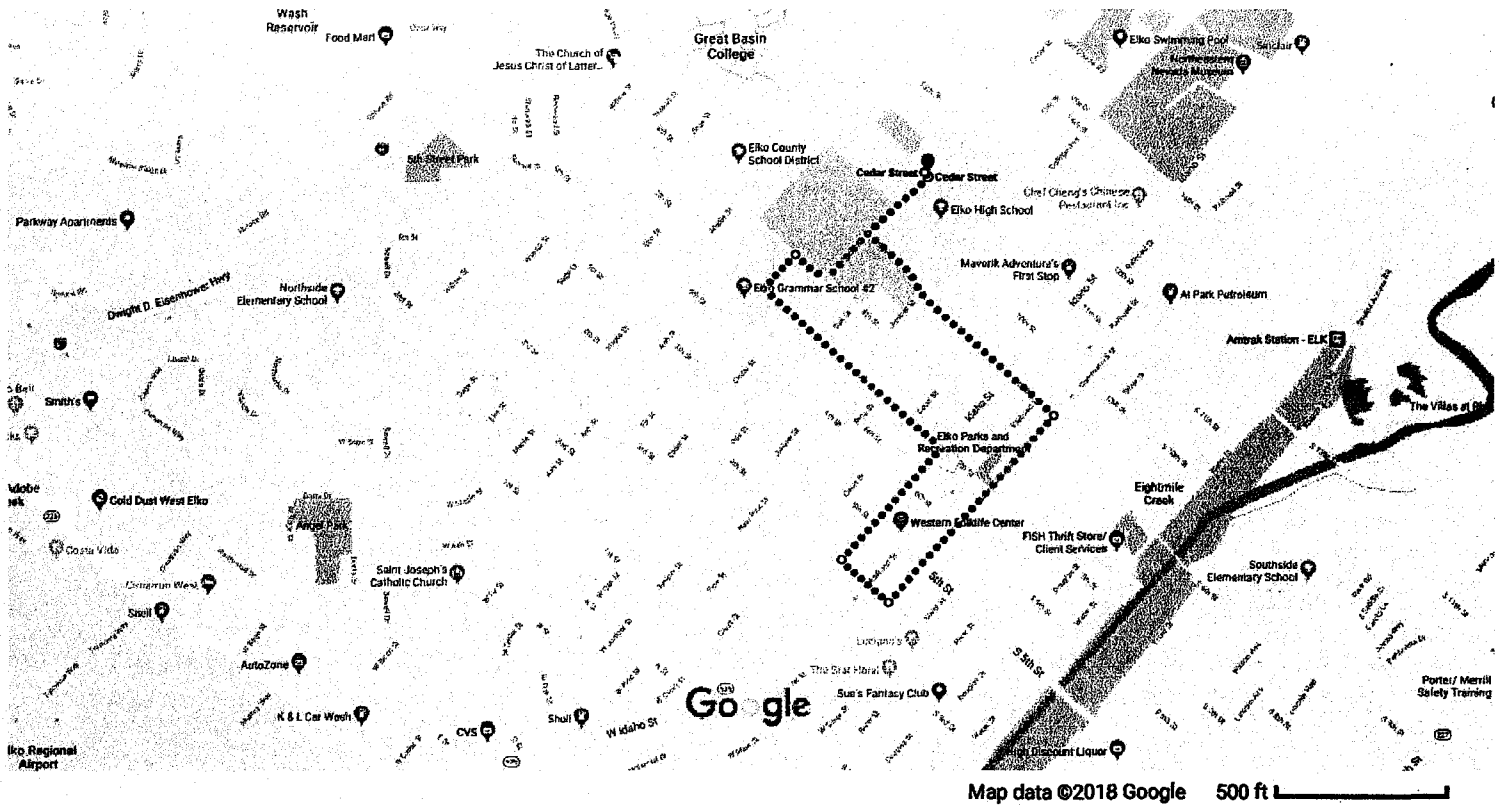
Comments/Conditions: _____

Signature: [Signature]

KARIM YOUSUF

MANAGER - DIST. TRAFFIC
NDOT DISTRICT

Google Maps Cedar St, Elko, NV 89801 to Cedar St, Elko, NV 89801 Walk 1.8 miles, 37 min



Cedar St

Elko, NV 89801

Use caution—walking directions may not always reflect real-world conditions

1. Head southwest on Cedar St toward Burns Rd 0.2 mi
2. Turn right onto 8th St 302 ft
3. Turn left onto Fir St 354 ft
4. Fir St turns left and becomes 7th St 0.3 mi
5. Turn right onto Idaho St 0.2 mi
6. Turn left onto 4th St 482 ft
7. Turn left onto Commercial St 0.4 mi
8. Turn left onto 9th St 0.4 mi
9. Turn right onto Cedar St 0.1 mi

Cedar St

Elko, NV 89801

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: DEC 21 2001

ELKO BOYS & GIRLS CLUBS INC
C/O AL BERNARDA
PO BOX 2610
ELKO, NV 89803

Employer Identification Number:
86-0858401

DLN:

17053335702001

Contact Person:

GLENN W COLLINS

ID# 31392

Contact Telephone Number:

(877) 829-5500

Our Letter Dated:

July 23, 1997

Addendum Applies:

No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

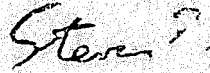
Letter 1050 (DO/CG)

ELKO BOYS & GIRLS CLUBS INC

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Steven T. Miller".

Steven T. Miller
Director, Exempt Organizations

Letter 1050 (DO/CG)

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a request from the Elko City Recreation Department to close the parking lot between the City Pool and Ernie Hall Field for the Trunk or Treat Event. The event will be held on October 26, 2018 from 5 p.m. to 8 p.m., and related matters thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **The Recreation Department is having their second annual Trunk or Treat Event and would like to utilize the parking lot to set up the event. KW**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Application**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **James Wiley, Tobey Hancock**

City of Elko Parks & Recreation



723 Railroad Street • Elko, Nevada 89801 • Phone: 775-777-7260 • ~~Fax: 775-777-7264 • recdir@ci.elko.nv.us~~

The City of Elko Recreation Trunk or Treat Event Description

The City of Elko Recreation Department is requesting approval to close the parking lot located in between the City Swimming Pool and Ernie Hall baseball field for the second annual Trunk or Treat event. During the night of October 26, 2018 from 5pm to 8pm businesses, non-profits and individuals are invited to enter their decorated trunk to provide giveaways/candy for 1000-1500 participants. Along with the trunk walk, the department will also be selling pictures in our "pumpkin patch" and offering small carnival style games. As a fun competition, the department will be awarding participants of the trunk walk the trunk walk the opportunity to win Best Decorated Trunk and the People's Choice Award. If any member of the council would like to step-forward to be a judge for this event we would be happy to have them. The trunk walk is a free event to the public, (with the exception of pictures and carnival games). A representative of the Recreation Department will be present during the approval of this event for any questions or concerns.

Mandiee Ferguson
Recreation Coordinator
City of Elko Recreation Department

ELKO SPECIAL EVENT/VENDOR APPLICATION
(When the Event Includes a Closure of City Property)

(A)

Pursuant to Elko City Code 8-16-1 to 8-16-8, the undersigned hereby applies for a Special Event/Vendor License.

Name of Event: Parks & Recreation Trunk or Treat

Sponsor of Event: City of Elko Parks & Recreation

Location of Event: Parking lot between City Swimming pool & Ernie Hall field

Date of Event: October 26, 2018

Time of Event: 5p-8p

If you are requesting a closure indicate the dates, time and place of the closure 8/26 12p-10p

Parking lot next to city swimming pool & Ernie Hall field

Number of Vendors 0 x \$34.50 per vendors on City Property
0 x \$6.00 per day per vendor on Private Property

**No fee shall be charged to businesses physically located within the City of Elko with a current Elko City Business License. No charge to non-profit vendors.

Please list all vendors (including those that will not be charged) on next page.

The City prefers a primary contact person to deal with regarding the issues concerning the event. Although the primary contact person may have others assisting with the safety, security, traffic and parking of the event, the primary contact person will be the only person the City will contact regarding the event. If at any time the primary contact person changes, they must submit a letter stating who will become the main contact. Please list all numbers in which the primary contact person will be available.

Primary Contact Person: Mandie Ferguson

24 Hour Phone/Cellular: 775) 397-2213

Under penalties of perjury, the undersigned declares that he/she is the applicant/authorized agent of the applicant in the foregoing application for license and knows the contents thereof that those items contained in the application are true of his/her own knowledge except as to those matters stated on information and belief and as to such matters he/she believes it to be true.

Applicant Name: Mandie Ferguson (please print)

Mandie Ferguson
Signature of Applicant

773 Railroad St ELKO, NV 89801
Mailing Address

Date: 9.5.18

Phone Number: 775) 777-7260 / 775) 397-2213

NA/NOT
Type of verification from Nevada Taxation

NA/NOT
Nevada State Health Dept. (food vendors)
1020 Ruby Vista Dr. Ste. 103
775-753-1138



CITY OF ELKO
FACILITY/EQUIPMENT USE FEES PERMIT

(B)

This application includes fees for special events held within the City of Elko on property under the ownership and/or control of the City of Elko. The sponsor of such event must complete this form and include all fees necessary for the event. The sponsor will be responsible for any other City fees incurred during the event and not listed on this form.

Name of Event: Parks + Recreation Trunk or Treat

Sponsor of Event: City of Elko Parks + Recreation

Date of Event: 10-26-18 Time of Event: 5p-8p

If you are requesting a closure indicate the dates, times and place of the closure: _____

Parking lot between Swimming Pool + Ernie Hall Ball field 12 (noon - 10p)
on 10/26/18

Facility Use Fees:

Street Closures: \$100 per lineal block _____ blocks @ \$100 Amount _____

Parking Corridor Closures: 1/4 corridors @ \$200 Amount 50.00

\$200 per corridor, or \$50.00 per quarter _____ 1/4 corridor @ \$50 Amount _____

corridor (A parking corridor is a full block of parking between Railroad and Commercial Streets)

Barricades: \$5 each _____ barricades @ \$5

Electrical Fees: \$50 per service panel _____ panels @ \$50 Amount _____

\$10 per distribution box _____ boxes @ \$10 Amount _____

Cones: no charge _____

Total Amount Due: 50.00

All consumption fees based on power used throughout the event will be the responsibility of the sponsor.

Public Safety Fees: All fees associated with the Elko Fire Department assessed pursuant to Elko City Code Title 6, Chapter 5.

The special event organizer shall pay for additional law enforcement services where warranted. This fee shall be negotiated in advance of the event, and shall be specifically approved by the City Council as part of their approval of the closure of the street or parking corridor.

The following list of equipment must be reserved and paid through the Elko City Parks/Recreation Department at 723 Railroad Street.

Picnic Tables
Serving Tables
Trash Cans
Bleachers
Stages

CITY OF ELKO SPECIAL EVENTS APPLICANT QUESTIONNAIRE

(C. 1 of 2)

Name of Event: Parks + Recreation Trunk or Treat

The purpose of this worksheet is to assist city personnel in coordinating our efforts with event organizers.

Please answer all questions in as much detail as possible:

Estimated number of attendees: 400

Will this event affect normal traffic patterns and parking? What actions will be needed to mitigate these problems?

Will City Personnel be needed? NO

What are the safety concerns for the participants of this event? What are the safety concerns for the spectators for this event? What actions are needed to minimize the safety problems? Will City personnel be needed? What stipulations have been made for emergency access? NONE

Will there be any street closures? If yes, what are your emergency access plans? NO

What area will this event effect? Do you have permission from the property owners who may be effected?

Swimming pool; Ernie Hall Baseball field. YES

If a street closure is occurring present us with a plan and equipment list. N/A

Will the closure include any use of Nevada State right-of-way? N/A

What other logistical problems may be encountered? How can the City help? N/A

Will traffic signals be affected by the event? N/A

Will electricity be needed for the event, please explain? N/A

Will this event create a litter problem? How will that problem be mitigated? N/A

What provisions will be made for public restrooms for the attendees? yes Portables

Will horses be present? NO

Will a City street sweeper be required if so when? NO

ACCESSIBILITY PLAN

The City of Elko has the following checklist which is intended to serve as a planning guideline and may not be inclusive of all City, County, State and Federal Disability Access requirements. It is important that you plan for the safe arrival and departure of event attendees, participants and vendors.

- Accessibility parking and/or shuttle accommodations will be provided for the event.
- There will be a clear path of travel for accessibility purposes throughout the event.
- A minimum of 10% of portable restrooms provided at the event will be accessible.
- All food, beverage and vending areas will be accessible.
- If an information center is located at the event, attendants will be available to assist disabled individuals.

CITY OF ELKO STAFF FLOW SHEET

(C. 2 of 2)

The sponsor of the event shall present their entire application to each of the departments below for their comments and approval. The comments made by City Personnel are intended to assist in the approval process only, by signing they are acknowledging and agreeing to the requirements of their department should the event take place. Denials by any of the Departments may result in denial of the event.

Please call to arrange an appointment with each department.

NAME OF EVENT: City of Parks + Recreation Trunk or Treat

For Official Use Only

Police Department, 1448 Silver St.:

Approved

Denied

Date 9/5/18

Phone: 775-777-7310

Comments/Conditions: _____

Signature: _____

Fire Department, 911 W. Idaho St.:

Approved

Denied

Date 9/4/2018

Phone: 775-777-7345

Comments/Conditions: _____

Signature: _____

Street Department, 232 S. 10th St.:

Approved

Denied

Date 9-5-18

Phone: 775-777-7241

Comments/Conditions: _____

Signature: _____

Parks & Recreation Dept., 723 Railroad St.:

Approved

Denied

Date 9-5-18

Phone: 775-777-7261

Comments/Conditions: _____

Signature: _____

Nevada Department of Transportation (if applicable), 1951 Idaho St.:

Approved

Denied

Date _____

Phone: 775-777-2725

Comments/Conditions: N/A

Signature: _____

**Elko City Council
Agenda Action Sheet**

1. Title: **Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Hunt Convenience Stores, located at 275 12th St, Elko, NV 89801, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **N/A**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **N/A**
9. Recommended Motion: **Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Hunt Convenience Stores, located at 275 12th St, Elko, NV 89801.**
10. Prepared By: **Police Chief Ben Reed, Jr.**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Joshua Hunt
759 Grandview Drive
Folsom, CA 95630

Joseph Hunt
5011 Jardin Lane
Carmichael, CA 95608**



ELKO POLICE DEPARTMENT

Ben Reed, Jr.
Police Chief

1448 Silver Street
Elko, Nevada 89801
775.777.7310
775.738.1415 Fax
www.elkocity.com

DATE: August 27, 2018
TO: Curtis Calder, City Manager
FROM: Ben Reed, Jr., Police Chief *BR*
SUBJECT: Packaged Liquor License Application in the name of Hunt Convenience Stores, located at 275 12th Street, Elko, Nevada 89801

On August 15, 2018, Joshua M. Hunt and Joseph W. Hunt made application to modify a Packaged Beer and Wine License in the name of Hunt Convenience Stores, located at the above address. Joshua and Joseph are applying to modify their current Packaged Beer and Wine License to a Packaged Liquor License.

Joshua and Joseph Hunt have successfully completed the required background investigation.

We are requesting the Elko City Council approve the request to modify the current Packaged Beer and Wine License to a Packaged Liquor License, provided the applicants comply with all the conditions set forth in Elko City Code 4-5-6 (a).

BR/tle

CC: Mayor Chris Johnson

**Elko City Council
Agenda Action Sheet**

1. Title: **Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Idaho Street Station, LLC, located at 1600 Idaho St, Elko, NV 89801, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **N/A**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
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10. Prepared By: **Police Chief Ben Reed, Jr.**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Joshua Hunt
759 Grandview Drive
Folsom, CA 95630

Joseph Hunt
5011 Jardin Lane
Carmichael, CA 95608**



ELKO POLICE DEPARTMENT

Ben Reed, Jr.
Police Chief

1448 Silver Street
Elko, Nevada 89801
775.777.7310
775.738.1415 Fax
www.elkocity.com

DATE: August 27, 2018
TO: Curtis Calder, City Manager
FROM: Ben Reed, Jr., Police Chief *BR*
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Agenda Action Sheet**

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