

**RESOLUTION NO. 4416**

**A RESOLUTION ESTABLISHING CITY OF MILES CITY PERSONNEL POLICIES REGARDING POLICY DRUG AND ALCOHOL TESTING**


*WHEREAS*, the City of Miles City has established certain personnel policies for employees of the City of Miles City, which are set forth in the City of Miles City Personnel Manual;

*AND WHEREAS*, the City Council finds that certain revisions to such policies should be adopted;

**NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**


1. That the following new policy: Drug and Alcohol Testing attached as Exhibit "A"
2. Such policy shall become effective June 22, 2021 upon the passage of this resolution.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 22<sup>nd</sup> DAY OF JUNE, 2021.**

  
\_\_\_\_\_  
John Hollowell, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Rowe, City Clerk

 <p style="text-align: center;"><b>EXHIBIT "A"</b> <b>CITY OF MILES CITY</b> <b>PERSONNEL POLICY</b></p>	Section #: 6	Employment Standards
	Effective:	02/01/2007
	Last Revised:	06/22/2021
<b>Drug and Alcohol Testing</b>		
<b>Resolution #4416</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

## **PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of alcohol and prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs. The Federal Highway Administration of the U.S. Department of Transportation has enacted 49 CFR Part 382, 391, 392 and 395, as amended, that mandate urine drug testing and breath alcohol testing for persons who are subject to Commercial Drivers License requirements and perform safety-sensitive functions.

This policy is also intended to comply with the Montana Workforce Drug and Alcohol Testing Act §39-2-205 through 39-2-211, MCA.

## **POLICY**

Our employees are our most valuable resource. Therefore, it is our goal to prevent accidents and injuries resulting from the misuse of alcohol and prohibited substances, as well as to provide a healthy and safe working environment.

In meeting these goals, it is our policy to:

- A. Assure employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
- B. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances;
- C. Create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse;
- D. Recognize drug and alcohol abuse as a treatable illness and encourage employees to seek professional assistance any time alcohol or drug dependency adversely affects their ability to perform their duties;

- E. Maintain a work environment and promote work habits that foster public confidence; and,
- F. Strive to continually improve the service we provide the public and recognize the key role our city plays in public safety.

**Applicability**

Effective January 1, 1996, this policy applies to all employees who are subject to commercial driver's license requirements and perform safety-sensitive functions (hereafter referred to as covered positions). It applies to on-duty time as well as off-site breaks and lunch periods when an employee is scheduled to return to work. (See Attachment II)

**Designated Employer Representative (DER)**

Name: Linda J. Wilkins  
Physical Address: 17 S 8<sup>th</sup> Street  
Mailing Address: P. O. Box 910  
Miles City, MT 59301

**Alternate Designated Employer Representative (DER)**

Name: N/A  
Physical Address: N/A  
Mailing Address: N/A

**Collection Facility**

Name: Checkers, Inc.  
Physical Address: 223 N. Central Ave  
Mailing Address: P. O. Box 899  
Sidney, MT 59270

**Medical Review Officer (Chief MRO)**

Name: A. A. Armstrong, MD  
Company: Western Pathology Consultants, Inc. (WPCI)  
Physical Address: 1124 Broadway, Suite A  
Mailing Address: P. O. Box 1936  
Scottsbluff, NE 69363

**Consortium/Third Party Administrator (C/TPA)**

Name: Western Pathology Consultants, Inc. (WPCI)  
Physical Address: 1124 Broadway, Suite A  
Mailing Address: P. O. Box 1936  
Scottsbluff, NE 69363

**Prohibited Substances**

- A. Prohibited substances" addressed by this policy include the following:
- a. Illegally Used Controlled Substances or Drugs
  - b. Illegal use of controlled substances or drugs, which include marijuana, amphetamines, opiates, phencyclidine, and cocaine is prohibited.
  - c. Illegal use also includes the misuse of legally prescribed drugs and use of illegally obtained prescription drugs.

B. Marijuana, Including Medical Marijuana

C. The City of Miles City acknowledges marijuana as an illegal drug which is identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812). Therefore, it will not accommodate Marijuana, including Medical Marijuana.

D. Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected must be reported to the supervisor, and medical advice should be sought, as appropriate, before performing safety-sensitive functions.

A legally prescribed drug means that the employee has a prescription or other written approval, from a physician for the use of a drug in the course of medical treatment; and, the physician advises the employee that the substance does not affect the driver's ability to safely operate a commercial motor vehicle. It must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.

E. Alcohol

The use of beverages or substances, including medication, containing alcohol while performing safety-sensitive functions is prohibited. No employee shall perform safety-sensitive functions within four (4) hours after using alcohol. No employee shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. An employee who possesses alcohol will be subject to disciplinary action and will be removed from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours. The employee will also be referred to the Substance Abuse Professional (SAP), with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02. Follow-up testing may be required. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device (EBT). See CFR Part 40, as amended.

**Pre-Employment Testing**

The successful applicant for a covered position will be required to undergo urine drug testing and breath alcohol testing after an offer of employment has been made. The employment offer must be conditioned on receipt of a negative drug test and a confirmed alcohol test indicating alcohol concentration of less than 0.02.

Prior to hire, the prospective employee must provide a written release so that the City of Miles City can obtain from previous employers for the last two (2) years the required information as provided in 49 CFR Part 382, Section 382.413. This information must be obtained from employers for whom the prospective employee operated a commercial motor vehicle. If this information is not provided to the City of Miles City within fourteen (14) calendar days from the date the employment begins, the employee must be removed from performing safety-sensitive functions unless the City of Miles City can document contact was made with the previous employer, the results of that contact, and why the information was not obtained.

A prospective employee with a confirmed positive drug or alcohol test will be disqualified from consideration for the position being filled. This will not prevent this individual from being considered for any subsequent vacancy.

A prospective employee with a confirmed alcohol test result of 0.02 up to 0.04 must complete a second (2nd) test within twenty-four (24) hours with an alcohol concentration test result of less than 0.02. Failure to achieve these test results will disqualify the person for consideration for the position.

### **Reasonable Suspicion Testing**

Employees in covered positions may be subject to a fitness-for-duty evaluation which includes urine and breath testing when there is reason to believe that drug or alcohol use is a potential factor in affecting job performance.

A reasonable suspicion determination will be made by a supervisor who has been trained in reasonable suspicion and who believes that the employee has violated the prohibitions of these regulations based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Reasonable suspicion determinations must be documented within twenty-four (24) hours of observation and by test results received. A description of the behaviors that led to the determination must be signed by the person who made the determination.

### **Post-Accident Testing**

Employees in covered positions will be required to undergo urine and breath testing if they are involved in an accident with a commercial motor vehicle which occurs on a public road and, EITHER

- involves a fatality; OR,
- a moving violation is issued to the commercial motor vehicle driver; AND,
- EITHER involves injury to a person who, as a result of injury, immediately receives medical treatment away from the scene of the accident; OR,
- one or more of the motor vehicles incur disabling damage as a result of the accident, requiring the vehicle to be towed away by a tow truck or other vehicle because, if it were to be driven it would incur additional damage.

(Note: Disabling damage means that which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It does NOT include damage to tires (even if a spare is unavailable), headlight or taillight, turn signal, horn or windshield damage.)

The employee will be tested within two (2) hours of the accident. If this cannot be done, reasons for non-testing must be documented. Attempts to test will cease after eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing.

Any employee in a covered position involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate explanation prior to submission to drug and alcohol testing will be considered to have refused the test. This will be considered a positive test.

### **Random Testing**

Employees in covered positions will be subject to random, unannounced testing.

The selection for random testing will be made by a scientifically valid method, and each employee shall have an equal chance of being tested each time selections are made. A random number of those tested for drugs will also be subject to alcohol testing.

Drug testing may occur at any time during on-duty time. Alcohol testing will be performed before, during, or after the employee is performing safety-sensitive functions. In accordance with the regulations, the minimum annual percentage rate for alcohol testing will be completed for twenty-five percent (25%) of the average number of covered positions. Drug testing will be completed for fifty percent (50%) of the average number of covered positions. The City of Miles City is in a pool with other employers; the actual percentage of City employees may be higher or lower.

### **Return-to-Duty and Follow-Up Testing**

Employees who previously had a confirmed positive on a drug or alcohol test must have a negative test and be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to perform safety-sensitive functions for the City of Miles City.

Employees will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the Substance Abuse Professional (SAP). This will consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the employee's return to duty.

Additionally, employees with a second (2nd) occurrence of a confirmed alcohol concentration test of 0.02 or greater will be required to complete a return to-duty test and also be evaluated by the Substance Abuse Professional (SAP) before returning to work as indicated in Section 6 above.

### **Employee Requested Drug Testing**

An employee who questions the results of a confirmed positive drug test may request an additional test be conducted. This test must be conducted at a different certified testing laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a re-test must be made to the medical review officer within seventy-two (72) hours of notice of the initial test result. Requests after the seventy-two (72) hours

will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. All costs for a retest on the split sample will be paid by the employee unless the second (2nd) test invalidates the original test.

### Testing Compliance Requirements

Employees in covered positions will be subject to urine drug testing and breath alcohol testing.

Any employee or prospective employee who refuses to sign any required release(s) for release of information relative to test results or required follow-up evaluations by the Substance Abuse Professional (SAP), fails to comply with a request for testing, provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be considered as having a positive test.

Refusal includes an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. (Note: If the employee or prospective employee is unable to provide the required amount of urine for drug testing, he/she will be instructed to drink not more than twenty-four (24) ounces of fluids and, after a period of up to two (2) hours, again attempt to provide a complete sample using a fresh collection container with the original insufficient specimen discarded.) Refusal to submit to testing and not being available for post-accident testing, unless injury prevents testing, will be considered insubordination and a positive test. Disciplinary action will be taken, which could include termination.

### Testing for Prohibited Substances

Employees in covered positions will be subject to the following tests: pre-employment; post-accident; random; reasonable suspicion; return-to-duty and follow-up. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities that have been approved by the U.S. Department of Health and Human Services. All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. The City of Miles City will protect individual dignity, privacy and confidentiality throughout the testing process.

### Drug Testing

Drug testing may occur at any time during on-duty time. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines (including methamphetamines) and phencyclidine.

An initial drug screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds in 49 CFR Part 40, as amended.

The following actions will occur as a result of a confirmed positive drug test:

- **First Occurrence** - removal from performing safety-sensitive functions; and subject to long-term disciplinary suspension without pay (ten (10) or more working days), disciplinary demotion, or recommendation to the supervisor for termination. Unless a recommendation is

made to the supervisor for termination, the employee will be referred to the Substance Abuse Professional (SAP) for evaluation and a determination of what assistance, if any, the employee needs in resolving problems associated with controlled substances use; released to duty by the Substance Abuse Professional (SAP); and completion of a return-to-duty controlled substances test with a verified negative result for controlled substances use.

- **Second Occurrence** - removal from performing safety-sensitive functions; suspension without pay; and recommendation made to the supervisor for termination.

If the City of Miles City determines that an employee will undergo reasonable suspicion testing, the employee shall be removed from performing safety-sensitive functions until the City is notified of acceptable test results.

### Alcohol Testing

Alcohol testing shall be performed only when the employee is performing safety-sensitive functions, or immediately prior to performing or immediately after performing safety-sensitive functions. (See the six numbered items under the definition of on-duty time.)

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT).

If the initial-test indicates an alcohol concentration of 0.02 or greater, a second (2nd) test will be performed to confirm the results of the initial test.

A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test, and is prohibited conduct under 49 CFR 382.

The following actions will occur:

A. Confirmed alcohol concentration of 0.02 up to 0.04:

- **First Occurrence** - Removal from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test; and completion of a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02.
- **Second and any Additional Occurrences** - Removal from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. The employee will be referred to the Substance Abuse Professional (SAP) for evaluation to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and be released to duty by the Substance Abuse Professional (SAP), with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02.

B. Confirmed alcohol concentration of 0.04 up to 0.10 (positive test):

- **First Occurrence** - Removal from performing safety-sensitive functions, and subject to long-term disciplinary suspension without pay (ten (10) or more working days), disciplinary demotion or a recommendation to the supervisor for termination. Unless a recommendation is made to the supervisor for termination, the employee will be referred to the Substance Abuse Professional (SAP) for evaluation to determine what assistance, if any, the employee needs in



resolving problems associated with alcohol misuse and be released to duty by the Substance Abuse Professional (SAP), with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02 and subject to follow-up testing as outlined in Section 6, Paragraph G, below.

- **Second Occurrence** - Removal from performing safety-sensitive functions; suspension without pay; and recommendation to the supervisor for termination.
- C. Confirmed alcohol concentration of 0.10 or greater (positive test):
- **First Occurrence** - Removal from performing safety-sensitive functions suspension without pay, and recommendation made to the supervisor for termination.

### **Employee Assessment**

Any employee who has a confirmed positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended will be evaluated by the Substance Abuse Professional (SAP) designated by the City of Miles City. The employee must sign a release so that the City can obtain information on the rehabilitation program duration, completion and follow-up requirements.

The Substance Abuse Professional (SAP) will evaluate the employee to determine what assistance, if any, the employee needs in resolving problems associated with the prohibited use or abuse of drugs or alcohol, recommended a rehabilitation program and follow-up schedule and determine if the rehabilitation program has been successfully completed. The Substance Abuse Professional (SAP) will also determine if and when the employee can be released to return to duty.

If an employee is released to return to duty, he/she must properly follow the rehabilitation program prescribed by the Substance Abuse Professional (SAP) and have a verified confirmed negative return-to-duty test result as indicated in Section 6 above. Failure to follow the program will result in a recommendation to the supervisor for termination of employment.

### **Proper Application of Policy**

The City of Miles City is dedicated to assuring fair and equitable application of this policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and Impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to a subordinate, shall be subject to disciplinary action up to and including termination.

### **System Contact**

Any questions regarding this policy or any other aspects of the drug-free and alcohol-free City of Miles City program should contact the Mayor of the City of Miles City.

ADOPTED this 22<sup>ND</sup> day of JUNE, 2021.

CITY OF MILES CITY COUNCIL

## ATTACHMENT I

### Definitions

**Accident** - An occurrence involving a City of Miles City commercial motor vehicle operating on a public road: AND EITHER involves a fatality; OR a moving violation is issued to the commercial motor vehicle driver; AND EITHER involves injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; OR one (1) or more motor vehicles incurs disabling damage as a result of the accident, requiring the vehicle to be towed away by a tow truck or other vehicle because if it were to be driven, it would incur additional damage. (Note: Disabling damage means that which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It does NOT include damage to tires (even if a spare is unavailable), headlight or taillight, turn signal, horn or windshield damage.)

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

**Alcohol Concentration** - 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.

**Alcohol Use** - The drinking or swallowing of any beverage, mixture, or preparation, including any medication containing alcohol.

**Breath Alcohol Technician (BAT)** - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.

**Chain of Custody** - Procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, the procedures shall require that an appropriate drug testing custody form (see CFR 49 part 40.23(a)) be used from time of collection to receipt by the laboratory and that upon receipt the laboratory an appropriate laboratory chain of custody forms account for the sample within the laboratory.

**Collection Site** - A place designated by the employer where individuals present themselves for the purpose of providing specimen of their urine to be analyzed for the presence of drugs.

**Commercial Driver's License** - A license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, authorizing an individual to operate a class of commercial motor vehicle (CMV). The individuals required to have a CDL under 49 CFR part 383 are subject to controlled substances and alcohol testing. Individuals who are required to possess CDLs by virtue of State or local law or by employer policy, but not by Federal regulation, are not subject to the provisions of 49 CFR parts 382 and 383.

**Commercial Motor Vehicle (CMV)** - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- has a gross combination weight of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight (GVW) rating of more than 101000 pounds; or
- has a gross vehicle weight rating of 26,001 or more pounds; or

- is designed to transport 16 or more passengers, including the driver; or is of any size and is used in the transportation of hazardous materials requiring placards.

**Confirmation Test** - For alcohol testing, this means a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration.

For controlled substances testing, this means a second analytical procedure to identify the presence of a specific drug or metabolite determined by Gas Chromatography/Mass Spectrometry (GC/MS) which is independent of the screen

test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

**Consortium/Third Party Administrator** – A service agent that provides or coordinates one or more drug and/or alcohol testing services to employers. C/TPAs typically provide or coordinate the provision of a number of such service and 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 that join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not employers.

**Controlled Substance** – Any drug or other substance that impairs the ability or alertness of an employee performing a safety-sensitive function, regardless of whether the substance is legal or illegal. Legally, a controlled substance is a drug or other substance, or immediate precursor, listed in 21USC 812 (Controlled Substance Act). The term does not include distilled spirits, wine, malt beverages, or tobacco.

**Covered Positions** - Positions that are subject to Commercial Driver's License (CDL) requirements and perform safety-sensitive functions. (See ATTACHMENT II).

**Designated Employer Representative (DER)** – An individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the City. Service agents cannot serve as DERs.

**Driver** - Any person (volunteer or paid) who operates a CMV and is required to have a CDL. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.

**Employee** – An individual designated in law or regulation as subject to drug testing and/or alcohol testing. As used in this policy, "employee" includes an applicant for employment.

**Evidential Breath Testing Device (EBT)** - A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's September, 1993, or later "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the NHTSA, Office of Alcohol and State Programs. As of October 1, 1997, EBTs are considered evidentiary

**Medical Review Officer (MRO)** - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program, who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an

individual's confirmed positive test result, together with his or her medical history, and any other relevant biomedical information.

**Negative Test** - For drugs, a test with the amounts present that are at or below the minimum thresholds in 49 CFR Part 40, as amended. For alcohol, a concentration below 0.04.

**On-duty Time** - All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. On-duty time shall include:

1. All time at the city shop, city facilities or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the city.
2. All time inspecting to make sure that the parts, accessories and emergency equipment are in good working order and ready for use or otherwise inspecting, servicing, or conditioning any commercial vehicle.
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 shipment loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Performing a Safety-Sensitive Function** - Means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function. See items 1-6 above in the definition of on-duty time.

**Positive Test** - For a drug test, an amount above the minimum thresholds in 49 CFR Part 40, as amended. For an alcohol test, a breath alcohol concentration at 0.04 or greater.

**Refuse to Submit** - (to an alcohol or controlled substances test) means that a driver:

- Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
- Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part, or,
- Engages in conduct that clearly obstructs the testing process.

**Reasonable Suspicion** - Belief that the employee has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

***Safety-Sensitive Functions*** -. Employees who exercise a Commercial Driver's License (CDL employees), who also have additional regulations which apply to them, Employees who operate City Vehicles?

***Screening Test*** - (Also known as initial test) - in alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

***Substance Abuse Professional (SAP)*** - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism, and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**ATTACHMENT II**

City of Miles City Positions Requiring a Commercial Driver's License

All employees who are, or may, operate equipment in excess of 26,000 pounds gross vehicle weight (GVW.)

**ATTACHMENT III**

**EMPLOYEE ACKNOWLEDGMENT**

Of Receipt of Drug and Alcohol Policy

The undersigned, an employee of the City of Miles City, hereby certifies that he/she has received a copy of the City of Miles City's Drug and Alcohol Policy. The undersigned also certifies that he/she has reviewed and read said policy, understands the contents thereof and agrees to abide by its terms.

\_\_\_\_\_  
EMPLOYEE

\_\_\_\_\_  
Employee's Signature  
(Print Name)

\_\_\_\_\_  
Witness' Signature  
(Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date