11.07	Drug & Alcohol Testing Policy	
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Special Instructions:		

PURPOSE OF POLICY

The City of Kenosha recognizes that the use and/or abuse of alcohol or controlled substances by drivers of commercial vehicles presents a serious threat to the safety and health of the driver and the general public. It is the policy of the City of Kenosha that its drivers should be free of drugs and alcohol. In order to further our goal of obtaining a drug-free and alcohol-free transportation system, and to come into compliance with the Omnibus Transportation Employee Testing Act of 1991, the City of Kenosha has implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to our employees and the public, to discourage substance and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

The Department of Transportation (DOT) and the Federal Highway Administration (FHWA) have issued Federal Regulations (49 CFR Parts 40 and 382) implementing the provisions of the Federal Omnibus Transportation Employee Testing Act of 1991 which requires alcohol and controlled substance testing of drivers who are required to have a Commercial Driver's License. These Regulations include detailed procedures for urine drug testing and breath alcohol testing of employees in safety-sensitive positions. The purpose of this policy, then, is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by drivers of commercial motor vehicles. Consequently, the City of Kenosha has established the following alcohol misuse prevention program and anti-drug program as well as the subsequent enforcement of violations for its employees conducting safety-sensitive job functions. Employees should also refer to the City's "**Drug Free Workplace Policy**" which addresses the strict enforcement of workplace controlled substances and alcohol usage.

POLICY

Coverage

For purposes of this policy, the City of Kenosha and the DOT strictly prohibit the use of alcohol and/or controlled substances by its employees who possess a Commercial Driver's License and/or are regularly or occasionally operating a commercial motor vehicle, including mechanics and supervisors who are required to have a CDL license.

Prohibited Conduct

Federal Regulations prohibit employees from engaging in the following conduct:

1. Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater;

2. Being on duty or operating a commercial motor vehicle while possessing alcohol, or using alcohol while performing safety-sensitive functions.

   Note: Federal Regulations include non-prescription and prescription medications containing alcohol in the substances banned from use or possession in the workplace. Therefore, employees should not report for duty while using or possessing prescription medication if such medication contains any measurable amount of alcohol;

3. Reporting for duty or remaining on duty or performing safety-sensitive functions within four (4) hours after using alcohol;

4. Using alcohol within eight (8) hours following an accident, if the employee was required to be tested, unless an earlier test results in a reading of less than 0.02;

5. Reporting for duty or remaining on duty or performing safety-sensitive functions when using any controlled substance, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;

6. Reporting for duty, remaining on duty or performing a safety-sensitive function if the employee tests positive for controlled substances; or

7. Refusing to submit to any alcohol or drug testing required by this Policy.

In addition, City of Kenosha Policies prohibit employees from engaging in the following conduct:

1. Dispensing, distributing or receiving alcohol and controlled substances while on duty;

2. Possession of controlled substances while on duty;

3. Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 but less than 0.04;

4. Deliberately misusing this policy in regard to subordinates; and

5. Providing false information in connection with a test, or who are suspected of falsifying test results through tampering, contamination, adulteration, or substitution.

DEFINITIONS

A "safety-sensitive function" means any of the following on-duty functions:

a) All time waiting to be dispatched;

b) All time inspecting, servicing or conditioning any commercial motor vehicle;

c) All driving time, i.e., all time spent at the driving controls of a commercial motor vehicle in operation;

d) All time, other than driving time, in or upon any commercial motor vehicle;

e) 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;

f) All time spent making reports and other activities in an accident scene in which the driver was involved; and

g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

DISCUSSION

Required Tests

Refusal to take a required test will result in removal of that employee from the employee's assignment(s) which, in turn, may result in discipline up to and including discharge.

Testing must be conducted in the following situations:

1. **Pre-employment** - Any individual not currently employed by the City who is applying for a safety-sensitive position shall be required to undergo drug and alcohol testing after a conditional offer of employment has been made.

   Prior to the first time an existing employee performs safety sensitive functions for the department (i.e. new position, job transfer, promotion, new duties, etc.), the employee shall be required to undergo testing for alcohol and controlled substances.

   A positive test will result in a disqualification from further consideration for employment in that safety-sensitive position.

   Any applicant or existing employee who refuses to undergo such alcohol or drug testing will also be disqualified from further consideration for the vacancy or eligibility list.

2. **Reasonable Suspicion Testing** - Reasonable suspicion means suspicion based on a specific, contemporaneous, articulable observation by a trained supervisor or other trained City of Kenosha representative concerning the appearance, behavior, speech or body odors of an employee, including indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion drug or alcohol testing will only occur under these rules if the supervisor's observations are made during, just before, or just after the time the employee is performing work in a safety-sensitive position.

   (a) In a situation where an employee is either acting in an impaired manner or the trained supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another trained supervisor or manager prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.

   (b) Once the employee has been removed from the job, the supervisor is to contact the Personnel Department. If contact cannot be made at that time, the supervisor is to proceed through the next step of this procedure and make contact with the Personnel Department as soon thereafter as possible.

(c) The supervisor is to then transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours for an alcohol test or 24 hours for a drug test, of having determined that there is reasonable suspicion to believe that the employee is using or is under the influence of alcohol or drugs. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes such reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor is to wait at the clinic with the employee until the breath test has been completed or the urine sample has been taken. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.

(d) Once the alcohol testing has been completed and a positive confirmatory test result has been received (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. The employee must make alternative transportation arrangements in order to leave the collection site or employment site. The supervisor may, but is neither required nor encouraged to drive the employee home under this policy.

(e) The employee is to be advised not to report for work as s/he will be placed on administrative leave without pay. If a blood alcohol or urine test has been administered, the City, or MRO, if applicable, will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.

(f) The results of the drug or alcohol testing will be sent directly to the Personnel Department. When the results are obtained, the employee's supervisor and department head will meet with Personnel to determine the appropriate course of action to be taken in accordance with the progressive discipline as outlined in Appendix A of this policy. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.

(g) Once the test has been completed and the employee has been sent home, the supervisor must submit a written report to the Personnel Director outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of the testing. This information will assist the department in assessing the appropriate discipline to be considered.

3. **Random Testing** - Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of their job. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

The minimum annual percentage rate for random alcohol testing shall be 25 percent and the minimum annual percentage rate for random drug testing shall be 50 percent of the average number of employees in the testing pool. The City reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing based upon the reported violation rate for the entire industry as determined by

the Federal Highway Administration and the Federal Regulations implementing drug and alcohol testing in the transportation industry.

The selection of employees for random testing shall be administered by MetPath laboratories using a scientifically valid method. This method will be a random number table of a computer-based random number generator that is matched with employee's social security numbers or payroll identification numbers. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

Collection site testing will be conducted at the Kenosha Occupational Medicine Clinic located on Hwys 165 and H in Pleasant Prairie.

In the event an employee tests positive for either alcohol or controlled substances, the employee will be subject to disciplinary action up to and including discharge.

4. **Post-Accident Testing** - As soon as practicable following an accident involving a commercial motor vehicle, the City of Kenosha shall test an employee driver for alcohol and controlled substances in the following situations:

   a. the accident involved the loss of human life; or
   b. the employee receives a citation under State or local law for a moving traffic violation arising from an accident; and
      (1) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
      (2) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

   The alcohol breath test must be administered as soon as possible, but no later than eight (8) hours following the accident, and the drug test must be administered within thirty-two (32) hours of the accident. If the alcohol test is not administered within two (2) hours of the accident, the supervisor will complete a report explaining the reasons for the delay in conducting the test. If the alcohol test is not administered within eight (8) hours of the accident or if the drug test is not administered within thirty-two (32) hours of the accident, the supervisor will complete a report explaining why the test was not conducted.

   An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City of Kenosha to have refused to submit to testing.

5. **Return-to-Duty/Follow-Up Testing** - The City of Kenosha will ensure that before an employee returns to duty requiring their scheduled job functions after engaging in conduct prohibited by Federal Regulations in Part IV above, the driver shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 and a verified negative result for controlled substance use. In any event, an employee will not be allowed to return to duty without first having been evaluated by the City of Kenosha's EAP provider in order to determine the employee's fitness-for-duty.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, as determined by a substance abuse professional, the City of Kenosha will ensure that the employee is subject to unannounced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the employee will be given at least six (6) random tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the employee returns to duty.

PROCEDURE

Testing Procedures

The City has currently entered into an alcohol and drug testing agreement with the Kenosha Occupational Medical Clinic (hereinafter referred to as KOMC). Testing may be done on both urine and breath (blood alcohol may also be required). All drug and alcohol testing will be conducted in conformance with the procedures and rules established by the Federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations. KOMC will handle taking the sample (in standard collection kits) from the regular hours of 8:00 A.M. until 5:00 P.M. (Mon. thru Fri.) and will also be available during non-regular business hours and days. KOMC will be responsible for seeing that the samples are sent to MetPath laboratories, certified laboratory, assisting in the interpretation of the results. Specimen collection is not to be done anywhere but at KOMC unless specifically authorized by the Personnel Department.

Alcohol Testing

Employees will be required to submit to breath testing using an approved evidential breath testing (EBT) device. A state-certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City will take action based only upon the positive results of the confirmation test, 0.03 percent or greater). All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and federal regulations.

1. Preparation For Breath Alcohol Testing

   The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug and alcohol testing under the federal law. These procedures are binding and are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees.

   a. When the employee enters the collection site, the BAT will require him or her to provide positive identification (i.e. photo I.D. or employer identification).

   b. The BAT will explain the test procedure.

   c. Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.

   d. Employees will be instructed to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.

e. If an employee tests positive during the screening test, the employee shall not eat, drink, put any object or substance in his or her mouth and, to the extent possible, not belch during the 20 minute waiting period before the confirmation test is conducted.

f. Refusal by an employee to complete and sign the test form, to provide breath, to provide an adequate amount of breath, or other failure to cooperate with the testing process in a way that prevents the completion of the test will subject the employee to discipline, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. Blood Alcohol Testing

Blood alcohol testing is authorized only in the following circumstances:

a. When policy rules require a post-accident or reasonable suspicion test, and an Evidence Blood Testing (EBT) is not readily available for either a screening or confirmation test, or if there is an EBT available only for a screening test.

b. When an employee attempts and fails to provide an adequate amount of breath, blood alcohol testing may be used for both screening and confirmation test purposes.

Upon the conclusive finding of a positive (0.04 percent or greater) blood alcohol test result, the employee has 72 hours in which to request a test of the split specimen. (For explanation of "split specimen," refer to the TESTING CONTROLLED SUBSTANCES section below). An employee who fails to notify the Medical Review Officer (MRO) within 72 hours of receiving the results of a positive test of the employee's desire to have the split specimen tested, shall be deemed to have waived the employee's right to seek testing of the split specimen.

Pending receipt of the result of the analysis of the split specimen, the employee shall not perform safety-sensitive functions, unless the employee has met conditions set forth in this policy for a return to safety-sensitive functions following a test result of 0.04 percent or greater.

All blood alcohol testing will be conducted in conformance with the procedures established by the Federal Regulations.

3. Results of Positive Test

Any employee who tests positive for alcohol concentrations of 0.02 or higher is subject to discipline, up to and including discharge. (Refer to Appendix A)

If a confirmation alcohol test measures 0.04 or greater, the City of Kenosha is required to:

a. Remove the employee from the safety-sensitive position;
b. Before returning the employee to employment:

(i) refer the employee to the City of Kenosha's EAP for assessment of an alcohol problem and a determination of whether participation in a treatment program is necessary;
(ii) Obtain verification from a substance abuse professional that the employee has complied with any required rehabilitation or treatment program' and
(iii) re-test to verify that the employee's alcohol concentration is below 0.02.

c. The employee will subsequently be given at least six (6) random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from the safety-sensitive position for a minimum of 24 hours following the administration of the test.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purposes of this Policy, if the testing officer is a qualified BAT and the EBT that was used for the test has been certified by the State of Wisconsin or a local law enforcement agency.

Testing for Controlled Substances
The City of Kenosha has established its anti-drug program through its Drug Free Workplace Policy which strictly prohibits the unlawful manufacture, distribution, dispensing, possession or unauthorized use of a controlled substance in the workplace. Furthermore, any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the "Reasonable Suspicion Testing" section described previously in this Policy.

For purposes of this Policy and the Federal Regulations, the City of Kenosha will utilize, a 5-panel drug screen consisting of the following drugs:

a. Tetrahydrocannabinol (Marijuana drug)
b. Cocaine
c. Amphetamines
d. Opiates (including heroin)
e. Phencyclidine (PCP)

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the City reserves the right to test for additional drugs under the City's own authority using standard laboratory testing protocols.

Drug testing is conducted by analyzing an employee's urine specimen (through a certified testing lab). This procedure will include use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the "primary" specimen bottle is opened and used for the urinalysis. The split specimen bottle will remain sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be re-tested at the same lab or be sent to another certified laboratory for analysis, at the employee's expense. In the event that the split specimen sample reveals no confirmation of a controlled substance, the City of Kenosha will reimburse the employee for the cost of the split sample test. An employee who

fails to notify the Medical Review Officer (MRO) within 72 hours of receiving the results of the positive test of the employee's desire to have the split specimen tested shall be deemed to have waived the employee's right to seek testing of the split specimen.

In some cases the employee may be unable to provide a urine specimen. After a reasonable waiting period (not to exceed one hour) the supervisor may terminate the testing procedure. The City of Kenosha will proceed with laboratory testing based upon blood specimen alone.

1. Preparation For Drug Testing

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug testing under the federal law. These procedures are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

a. When the employee enters the collection site, the employee will be required to provide positive identification (i.e. photo I.D. or employer identification).

b. The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.

c. The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).

d. If the test result of the primary specimen is positive, the employee may request within 72 hours of receiving the positive test result, that the medical review officer (MRO) direct that the split specimen be tested in the same or a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.

e. An employee will be removed from the safety-sensitive position pending the result of the test of the split specimen.

f. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.

g. Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.

h. Refusal by an employee to complete and sign the test and chain of custody forms, to provide an adequate amount of urine (to be decided on a case-by-case basis), or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. Results of a Positive Test

Any employee who tests positive for controlled substances is subject to discipline, up to and including discharge. (Refer to Appendix A)

As with an alcohol misuse violation, the City of Kenosha is required to act upon a positive drug test result in the following manner:

a. Remove the employee from the safety-sensitive position. This removal will only take place after the employee has been allowed to meet or speak with a Medical Review Officer (MRO) in order to determine that the positive drug test did not result from the authorized use of a controlled substance;

b. Refer the employee to the City of Kenosha's EAP for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made;

c. Employee must be evaluated by a substance abuse professional or MRO and determined to be fit to return to work prior to their release of the employee;

d. Employee must have a negative result on a return-to-duty drug test. Follow-up random testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation as specified by a substance abuse professional.

Prescription Drugs

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug which contains any measurable amount of alcohol or which carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication. A written report of this notification is to be filed by the supervisor with the Personnel Department. It is the responsibility of the employee to inform his/her physician of the type of safety-sensitive function that the employee performs in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of the employee's duties or operation of City equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol will be removed from his/her position, and be subject to the provisions of this Alcohol and Controlled Substance Policy, even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription 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 City business is prohibited by City Policy.

Confidentiality of Records

The City respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this Policy and the identity of any employee participating in the City's EAP or other assessment or treatment program will not be revealed by the City to anyone except as required by law. The City will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. However, the lab or

testing agency will disclose information related to a positive drug or alcohol test of an individual to the City. The City may disclose this information to the employee or to the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

The Medical Review Officer (MRO) will not reveal individual test results to anyone except the City of Kenosha, unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the City of Kenosha relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The City may disclose this information to the employee or to the decision maker in a lawsuit, grievance or other proceeding on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders and subpoenas; or upon the tested employee's written authorization and consent.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those City employees who have a legitimate need to review the records of a particular employee.

Questions: Any employee having questions with respect to the scope of this policy and its contents, may contact the Risk Manager in the Personnel Department at 653-4130.

APPENDIX A

PROGRESSIVE DISCIPLINE FOR DRUG AND ALCOHOL ENFORCEMENT

Pursuant to the Federally mandated Omnibus Transportation Employee Testing Act of 1991, the City of Kenosha has developed and implemented a drug and alcohol testing program that is aimed at protecting the safety of the employee and his/her co-workers. The following progressive discipline is specifically outlined in order to ensure a fair and consistent application of this policy. Unless specified to the contrary, all discipline will be removed from the personnel file after five (5) years from the last occurrence.

ALCOHOL

Alcohol Concentration $\geq$ 0.02 < 0.04

Beginning of work shift

1st offense — Assign to non-safety sensitive function for 24 hours post-test (removed from file after 18 months with no further violations).

2nd offense — Assign to non-safety sensitive function for 24 hours post-test + mandatory EAP assessment (removed from file after 18 months with no further violations.

3rd offense — Suspension for balance of day + 1 day suspension + mandatory EAP assessment.

4th offense — Review facts on a case by case basis (possible discharge after review)

During or end of work shift

1st offense — Assign to non-safety sensitive function for work performed within 24 hours of positive post-test.

2nd offense — Suspension for balance of day + 1 day suspension + mandatory EAP assessment.

3rd offense — Suspension for balance of day + 5 day suspension

4th offense — Discharge

Alcohol Concentration $\geq$ 0.04

Beginning of work shift

1st offense — Suspension for balance of day + mandatory EAP assessment.

2nd offense — Suspension for balance of day + 3 day suspension + 1 year random drug testing in addition to required follow up testing.

3rd offense — Discharge

During or end of work shift

1st offense — Suspension for balance of day + 5 day suspension + mandatory EAP assessment + 1 year random testing in addition to required follow up testing.

2nd offense — Discharge

REFUSAL TO COMPLY WITH POLICY REQUIREMENTS

1st offense	Suspension for balance of day + 5 day suspension + mandatory EAP assessment + 1 year random testing in addition to required follow up testing.
2nd offense	Discharge

CONTROLLED SUBSTANCES

1st offense	Suspension for balance of day + 3 day suspension + mandatory EAP assessment + 1 year random testing in addition to required follow-up testing.
2nd offense	Review on a case by case basis (possible discharge after review)

APPENDIX B

COVERED JOB CLASSIFICATIONS FOR THE DRUG AND ALCOHOL TESTING POLICY

Airport Maintenance Technician
Assistant Plant Operator
Arborist I
Arborist II
Construction and Maintenance Worker I
Construction and Maintenance Worker II
Construction and Maintenance Worker III
Electrical Repairer
Equipment Operator
Field Supervisor
Mechanic II
Nursery Worker II
Senior Skilled Maintenance Repairer
Sewage Plant Operator I*
Skilled Maintenance Repairer
Supervisor of Operations - Airport
Waste Collector
Water Equipment Operator
Water Utility Mechanic II
Water Construction and Maintenance Worker II

* All employees within these job class may not be subject to the Drug and Alcohol Testing Policy as their job duties do not warrant coverage.

This list is for informational purposes and is subject to change by action of City.

APPENDIX C

DRUGS AND THEIR EFFECTS

ALCOHOL

A. Review BAL Wheel
B. Alcohol as a mood altering substance

Effects:

a. CNS depressant, but in small dose it acts as a stimulant.

b. Increase use leads to memory loss, confusion, slow reaction time, impaired ability for abstract and problem solving thinking.

c. Long-term effects include inability to concentrate, loss of speed to process information, brain and nervous system damage, liver damage (includes fatty and scarred liver), diseases of kidneys and pancreas.

d. What are the effects? Do others drink like me?

Occupationally:

a. Slow reaction and poor concentration lead to poor judgements, increased accidents, cannot steer vehicle as well, even with small amounts of alcohol.

b. Reduced concentration leads to daydreaming, forgetting sequence procedures, cannot learn new procedures.

c. False sense of security leads to increased risk taking.

d. Easily angered by co-workers, motorists.

e. Sluggish performance once stimulated effects wear off.

f. Visual distortion and blurriness.

g. Fatigue - disrupted sleep pattern, tired continuously.

h. Impaired social functioning, mood swings, relationship difficulties, low frustration tolerance, oversensitive, isolates from family and friends.

DRUGS UNDER THE D-O-T

Marijuana
A crude drug made from the plant cannabis sativa. Marijuana is addictive, although many believe it is not. Common names are grass, weed, pot, reefer, joint, loco weed, mary jane, and roach.

- Rapid loud talking
- Forgetfulness in conversation (I.e., "What was I saying?" or may simply trail off)
- Appears intoxicated but has no smell of alcohol
- Appears sleepy or stuporous in the latter stages
- Inflammation in whites of eyes; pupils unlikely to be dilated
- Increase in appetite especially after smoking
- Odor similar to burnt rope on clothing or breath
- Excessive laughter or inappropriate happiness
- Distorted sense of time passage, tendency to over-estimate time intervals
- Tendency to drive cars slowly, below speed limit
- Presence of roach clips (e.g. paper clips, bobby pins, hemostats or tweezers)
- Bongs or water pipes
- Use of eye drops to hide bloodshot eyes

Marijuana - Effects of driving

- Thinking and reflexes slowed, making it hard to respond to sudden, unexpected events.
- Ability to "track" through curves, brake quickly, maintain speed and proper following distance is affected. Tracking can be affected up to 10 hours after use.
- Driving skills are impaired for at least 4-6 hours after use.
- Visual and depth perception are distorted. Can create confusion about traffic movement and appropriate driving response.
- Overestimates time intervals.
- Difficulty with complex decisions. Performance impeded when the task is complex. Inability to display continuous attention or to digest information processing.

- Less likely to control vehicle speed and proper positioning in response to wind gusts and driving through curves. Over concentration and shortened memory span will prevent detection of warning signals.

- Lengthened glare recovery. Recovery time after driving into bright headlights is significantly lengthened.

Cocaine
A drug extracted from the leaves of the coca plant. Cocaine is a central nervous stimulant and highly addictive. Common names are coke, snow, and crack.

- Runny nose; reddened and sore nose, cold or chronic sinus/nasal problems, nosebleeds

- White powder in container and/or around nose

- Unexplained bursts of energy.

- Free basing instruments such as ether, small torch, mixing plates or containers

- Use or possession of paraphernalia including small spoons, razor blades, mirror, little bottles of white powder, and straws

- Restlessness or nervousness

- Irritability and anxiety

- Repetitive and nonpurposeful behavior

- Long periods without eating or sleeping, likely to be emaciated

- Dilated pupils

- Respiratory problems

Cocaine - Effects on Driving

- Too quick to compensate in acceleration, braking and shifting.

- Feeling overly confident in driving judgment and skills.

- Small (social) amounts of cocaine/crack can produce lapses in attention and concentration. Driver is unable to display continuous attention to driving.

- Cocaine is short acting, therefore within an hour, the person feels less alert and is extremely fatigued and sleepy. Frequently drivers fall asleep at the wheel.

- After euphoria, driver exhibits restlessness, irritability and anxiety. Driver demonstrates anger and hostility toward other drivers as well as being impatient and taking more risks.

- False sense of security, overly confident in driving judgment and skills. Inability to see impending danger.

- Extreme danger of convulsions, seizures, cardiac arrest and/or stroke. Involuntary muscles simply do not work; Possible collision. Usually no warning of impending danger.

- Distorted vision-difficulty in seeing. The pupils are so dilated that sunlight or bright headlights may cause much pain and discomfort.

- Erratic muscle movement producing muscle spasms.

- Overstimulated reflexes.

- Drivers may suffer from auditory and visual hallucinations as well as cocaine psychosis in which they lose sight of where they are going-lose touch with reality.

Amphetamines/Stimulants
Stimulants used to increase alertness and physical activity. In pure form they are yellowish crystals that are manufactured into tablets or capsules. Amphetamines include three closely related drugs-amphetamine, dextroamphetamine, and methamphetamine. Common names are speed, meth, hearts, pep pills, beenies, uppers, peaches, cartwheels, and sky-rockets.

- Unusual energy, accelerated movements and activities

- Lack of sleep, insomnia

- Dryness of mucous membranes (e.g. dry mouth and lips)

- Possible loss of appetite

- Dilated pupils

- Irritability, anxiety, aggressiveness, panic and nervousness

- Excessive sweating and shakiness

- Talkative but conversation often lacks continuity; changes subjects rapidly

Amphetamines/Stimulants - Effects on driving

- Studies reveal that small doses of amphetamines given to subjects for a limited time, generally improve performance of several driving skills. However, these subjects tend to overestimate their performance and take more risks.

- Actual driving records indicate that people who take amphetamines are more accident prone

- Stimulants combat fatigue and keep drivers awake, but also make the driver edgy, less coordinated and more likely to be involved in traffic collisions. Drivers who use stimulants may be four times as likely to be involved in collisions than non-users.

- Extreme fatigue experienced by drivers both physically and mentally during the down period. Inability to concentrate and make sound judgments.

- Drivers experience severe mental depression, fatigue and irritability. Drivers tend to be more aggressive on the road.

- Use of amphetamines causes food and sleep deprivation which can lead to speed or amphetamine psychosis in which the driver is out of touch with reality and does not know where he is going.

Opiates
Sometimes referred to as narcotics, opiates are a group of drugs which are used medically to relieve pain. Some opiates come from a resin taken from the seed pod of the Asian Poppy, e.g., opium, morphine, heroin, and codeine. Other opiates are synthesized or manufactured. Common names are horse, smack, junk, H. morpho, dollies, heroin, opium, morphine, and codeine.

- Mental dullness

- Loss of appetite

- Slurred speech

- Short lived euphoria or feeling good effects

- Pinpoint pupils that fail to respond to light

- Scars ("tracks") on inner arms or parts of body from needle injections

- Drowsiness and lethargy

- Apathy and decreased physical activity

- Nausea and vomiting

- Respiratory depression

- Overdose can result in coma and death

- Use or possession of paraphernalia including syringes, bent spoons, bottle caps, eye droppers, rubber tubing, cotton and needles

Opiates - Effects on Driving

- False sense of security, driver may take more risks.

- Euphoric high followed by a period of stuporous inactivity in which driver may spend time daydreaming.

- Difficulty in focusing. Because pupils are constricted to pinpoint size, vision is impaired.

- Blurred and/or double vision is also experienced with opiate use just as it would be with any other depressant drug.

- Extreme fatigue and drowsiness-leading to falling asleep at the wheel.

- Driver could easily go into a coma with the use of opiate drugs.

Phencyclidine
This drug was first developed as an anesthetic in the 1950's and taken off the market because it sometimes caused hallucinations. It is available in various forms - a white crystal-like powder, a tablet or capsule. Common names are PCP and angel dust.

- Hallucinations

- Irrational speech or unpredictable behavior; mood swing from passiveness to violence for no apparent reason

- Symptoms of intoxication

- Disorientation; agitation and violence if exposed to excessive sensory stimulation

- Fear and terror

- Rigid muscles, strange gait

- Deadened sensory perception (may experience severe injuries while appearing not to notice)

- Pupils may appear dilated or floating pupils (appear to follow a moving object)

- Mask-like facial appearance

- Subject to flashbacks

- Comatose (unresponsive) if large amount consumed; eyes may be open or closed

Phencyclidine - Effects of Driving

- The driver using this drug is extremely dangerous on the road. PCP's effects are so varied and so bizarre that one cannot predict the dangers involved.

- User feels they are the superior being on the road. Sense of invulnerability and power causing driver to take more risks on the road.

- Drug would contribute to a very aggressive, hostile and violent driver with very little patience and no fear of death.

- Driver would tend to anger very quickly.

- Subject to auditory and visual hallucinations; would react to something not there and be involved in a collision.
- Visual distortion-blurred and/or double vision.
- Lack of paranoia such as found with LSD users. Driver feels that it is okay to use this drug and drive because it can't hurt him as he is invulnerable.
- As the driver may experience convulsions, coma, and/or death the possibility exists for a collision.
- Loss of perception of time. Time appears to slow down.
- Driver's impulses are dulled and coordination fails.

Signs and Symptoms of Other Substances
Although not specifically named on the D-O-T regulations, you should watch for other signs and symptoms that may indicate substance abuse. Abuse of the following can create the same problems as the regulated substances.

Alcohol
Common names are booze and juice

- Mental slowdown, inability to grasp the meaning of facts
- Chronic fatigue
- Weight loss
- Facial changes, skin slack and unhealthy looking
- Difficulty in getting to sleep at night
- Odor on the breath
- Use of breath sweeteners
- Difficulty focusing, glazed appearance of the eyes
- Impairment in social functioning; low frustration tolerance, impulsiveness, anxiety, over-sensitivity, isolation, defiance, violent mood swings and manipulation of others; uncharacteristic passive behavior
- Absenteeism, particularly at the beginning of the week
- Unexplained bruises and accidents
- Loss of memory (black outs)
- Availability and consumption of alcohol becomes the focus of social or professional activities

Depressants
Common names are downers, goof balls, yellows, yellow jackets, red devils, peanuts, pines, and red birds.

- Loss of motor coordination
- Drowsiness
- Drifting off or inattention
- Slurred speech
- Dilated pupils
- Effects are similar to alcohol intoxication
- Lack of facial expression or animation; flaccid appearance
- Overdose can result in coma and death

Prescription Drugs
Used to reduce stress, these drugs can be abused.

- Sluggishness or hyperactivity
- Impaired reflexes
- Numbs emotions
- Addiction and brain damage

APPENDIX D

DRUG AND ALCOHOL FREE WORKPLACE POLICY

It is the policy of the City of Kenosha to provide a drug-free workplace for all of its employees. The City requires that employees neither use nor be under the influence of drugs, intoxicants, alcohol, narcotics or any other controlled substance(s) and that a zero tolerance standard shall prevail in the workplace. The City recognizes the importance of maintaining a safe, efficient and healthful workplace, as well as the social responsibility to provide assistance to its employees to the extent possible. Therefore, employees are expected to report to work free from any alcohol or controlled substances that could inhibit their ability to perform their duties.

REPORTING OF DRUG CONVICTION

As required by the Drug Free Workplace Act, Public Law 100-690, Title V, Subtitle D, all City employees are hereby notified that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, alcohol or drug paraphernalia is strictly prohibited in the workplace. Furthermore, this law makes it a condition of employment that all City employees abide by the Drug and Alcohol Free Workplace Policy and notify the City (your immediate supervisor or the Personnel Director) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Within ten (10) days of receiving such notice of conviction, the City will notify the appropriate federal contracting or granting agency as required. This is required by the federal law. Within thirty (30) days of notice of a workplace drug conviction, the City will, at it's discretion, take the following action: (1) require the employee to satisfactorily participate in a Drug or Alcohol Assistance or Rehabilitation Program that is approved by the City, or (2) take appropriate personnel action as identified below.

An employee's failure to abide by the terms of the above paragraph will result in disciplinary action up to and including termination of employment. The actual action taken will be based upon the seriousness of the offense, the employee's past employment record, and the employee's willingness to participate in drug or alcohol abuse assistance or rehabilitation.

PREVENTION AND REHABILITATION

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City provides access to drug and alcohol counseling, rehabilitation and the Employee Assistance Program (EAP) for all of its regular employees. The City's group health insurance provides benefits for rehabilitation services, and the City treats drug and alcohol addiction the same as other illnesses and provides for a leave of absence if required by the Family and Medical Leave Act (FMLA) for treatment of drug-related or alcohol-related illnesses. The City also recognizes drug and alcohol abuse as a potential health and safety problem. Employees needing help in dealing with such problems are encouraged to use the Employee Assistance Program and health insurance plans as appropriate. Employees may phone the City EAP provider, CNR Health, Inc. at 1-800-437-0096 for additional information. Conscientious efforts to seek such help will not jeopardize any employee's job; and contacts with the EAP, initiated only by the employee, will not be known nor noted in any personnel record.

LEAVE OF ABSENCE PRIOR TO TESTING

An employee shall be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to a Drug or Alcohol Assistance or Rehabilitation Program approved by the City for drug and alcohol addiction. The leave of absence must be requested prior to the commission of any act subject to disciplinary action.

RESPONSIBILITY OF THE CITY

Because drug and alcohol use can seriously jeopardize the health and safety of employees and the public, it is the responsibility of the City to attempt to maintain a drug-free and alcohol-free workplace at all times. As part of this effort, the City will continue to provide access to an Employee Assistance Program for current regular City employees, will administer pre-employment drug and alcohol testing where appropriate; will conduct post-accident, reasonable suspicion, random and return-to-work drug and alcohol tests as required by federal law; and will provide training and education to inform employees of the dangers of drug and alcohol abuse in the workplace. It is the responsibility of all City employees to abide by the terms of this policy as a condition of employment.

APPENDIX E

DISCLOSURE INFORMATION

I acknowledge that I have been informed that the alcohol or drug test that I am to undergo is being administered pursuant to the Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations. I understand that my test results are confidential, but also recognize that my results will be forwarded directly to my employer and may be used in a lawsuit, grievance or other proceeding arising from the results of my alcohol or drug test, as permitted by federal law. I further understand that I may be subject to discipline, up to and including termination, for a positive result on a drug or alcohol test.

In the event that I may have been selected for random drug and alcohol testing, I understand that I am prohibited from eating, drinking and/or putting any object or substance into my mouth until such time that I have completed all required tests. Furthermore, I understand that I am required to transport myself directly to the collection site and return directly to my supervisor upon completion of my required tests.

Dated this _____ day of _____20 _____.

Patient's Name: _____

Patient's Signature: _____

Date of Birth: _____ Soc. Sec. Number:_____

Supervisor: Time Left: _____

Collection Site: Time Arrived: _____ Time Left: _____

Signed: _____

EMPLOYEE ACKNOWLEDGMENT FORM

Detach and return this page to the Personnel Department after you have read and understood this Policy.

I acknowledge that I have received and read the City of Kenosha Drug and Alcohol Free Workplace Policy and the City of Kenosha Drug and Alcohol Testing Policy and the provisions contained therein on the date indicated below. I understand that the terms describe in the Drug and Alcohol Testing Policy may be altered, amended or changed by the City to comply with the Federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations, with or without prior notice.

Signature _____ Date_____

11.08	Drug and Alcohol Testing Guidelines for Supervisors	
Issue Date: September 9, 1994	Revision Update(s):	Total Pages: 5
Policy Source: Personnel Department		
Special Instructions:		

PURPOSE OF POLICY

Supervisors are responsible for taking appropriate action whenever an employee's observed behavior or performance raises any question about the employee's physical or psychological condition and fitness to perform the job safely. Supervisors are responsible for deciding if an employee is using alcohol, drugs, is on prescribed medication, has some other condition, or is just plain having a "bad day", only if the supervisor has been trained to detect manifestations of drug or alcohol use or abuse. Supervisors should not describe an employee as being "drunk", "on drugs", "a junkie", or use any other general characterizations.

Supervisors should never try to diagnose a condition. This is a medical determination. Supervisors should stick to a description of what they observe and record these observations on the proper form. Whenever possible, the supervisor should consult a second supervisor to corroborate the first supervisor's reasonable suspicion that an employee is under the influence of alcohol or drugs or is otherwise misusing alcohol or controlled substances. Because of the nature of these problems, supervisors should not discuss individual cases with other employees, unless there is a business reason to do so.

The performance of each employee is important to the City of Kenosha. Supervisors should be aware that ignoring or avoiding a performance problem may also be contrary to the best interests of the employee.

GUIDELINES

The following guidelines are to assist supervisors in dealing with these issues.

When an employee appears unfit to work, the following procedures should be followed:

1. Take the employee off the job. This should be done immediately if the condition involves the safety of the employee or others or if the employee is assigned to a safety-sensitive position. If safety is not involved or the position is not a safety-sensitive one, this may be deferred until another supervisor has had a chance to observe the employee's behavior at work.

2. Do not ask about or accuse the employee of drug or alcohol use.

3. The Personnel Department or Supervisor, in appropriate situations, may order that testing for the presence of drugs, alcohol or other substances be undertaken and request that the results of such tests be released to the Personnel Director. However, before such testing may be undertaken, the testing facility must have obtained written consent from the employee for the

tests and for the release of the results to the Personnel Director. If the employee refuses to give consent, the employee should be advised that such refusal to cooperate will be treated the same as a positive test result, subjecting the employee to discipline, up to and including discharge. If the employee continues to refuse, a memo documenting this refusal should be written while the employee is present and read to the employee.

Appropriate situations for drug or alcohol testing are: those situations where the employee exhibits abnormal behavior, appears confused, shows marked personality changes, has unusual difficulties in interacting with other employees, uses slurred speech, exhibits irrational or unsafe behavior, or exhibits breath or body odor or other physical symptoms or impaired behavior. The supervisor's determination that the above conditions exist must be based on specific, contemporaneous, articulable observations by a trained supervisor. In addition, testing may take place following job related accidents, serious incidents, or non-serious repeat incidents where there is a reason to question the physical or emotional condition of the employee.

4. When an employee's continuing performance is unsatisfactory or shows deterioration, including absenteeism, reduced efficiency, tendency to take excessive risks, continual problems with co-workers, difficulty concentrating, accidents and poor quality, the supervisor should discuss these performance problems with the employee, writing a record of the discussion. If this discussion does not result in improvement, the supervisor should contact the Personnel Director to determine whether there is a cause for the unsatisfactory performance or behavior and to decide jointly what course of action should follow. ***Under no circumstances should an employee be restrained or should physical force be used.***

5. Law enforcement authorities may be consulted for assistance in solving a suspected problem; however, great care must be taken before informing law enforcement authorities of suspicions concerning named individuals. Law enforcement authorities should never be requested to arrest an employee without prior consultation with the Personnel Director.

6. If the sale of drugs on the City of Kenosha's premises is suspected, have witnesses, if any, sign statements describing what they observed. If that is not possible, assistance from the Personnel Director should be sought prior to arranging for surveillance or other methods of investigating the suspected problem.

7. Suspected illegal substances should not be moved. Law enforcement authorities should be called to take possession. If such suspected illegal substances do come into the supervisor's possession, such substances should be immediately turned over to law enforcement authorities for testing and a chain of custody must be established in the following manner: the employee who took possession of the substance should place it in a container which should be sealed, labeled and turned over to law enforcement authorities. The employee should write a memo of the circumstances of the findings of the substance. A receipt should be obtained from the law enforcement authorities who should be requested to take appropriate precautions to safeguard the chain of custody while the substance is in their possession. Until the substance is identified as illegal, no accusations should be made.

8. It is essential that referrals to the EAP, if available, results of testing procedures, ongoing investigations, and the results of those investigations be kept as confidential as possible. Information concerning these subjects may only be shared among members of management on a need to know basis.

Supervisor's Report of Reasonable Suspicion

Name: _____ Date: _____

Location: _____ Time: _____

Observations					
Breath: Odor of alcohol		( ) Strong	( ) Faint	( ) Moderate	( ) None
Eyes:	( ) Bloodshot ( ) Heavy Lids	( ) Glassy ( ) Fixed Pupil	( ) Normal ( ) Dilated	( ) Watery ( ) Normal	( ) Clear
Speech:	( ) Confused ( ) Fair ( ) Cotton Mouth	( ) Stuttered ( ) Slurred ( ) Other	( ) Thick Tongued ( ) Good	( ) Accent ( ) Mush Mouthed	( ) Mumbled ( ) Could Not Understand
Attitude:	( ) Excited ( ) Insulting ( ) Profane	( ) Combative ( ) Carefree ( ) Polite	( ) Hilarious ( ) Cocky ( ) Other	( ) Indifferent ( ) Sleepy	( ) Talkative ( ) Cooperative
Unusual Action:	( ) Hiccuping ( ) Laughing	( ) Belching ( ) Other	( ) Vomiting	( ) Fighting	( ) Crying
Balance:	( ) Falling	( ) Needs Support	( ) Wobbling	( ) Swaying	( ) Other
Walking:	( ) Falling	( ) Staggering	( ) Stumbling	( ) Swaying	( ) Other
Turning:	( ) Falling ( ) Other	( ) Staggering	( ) Stumbling	( ) Swaying	( ) Hesitant
Indicate any other unusual actions, statements or observations:					
Signs or complaints of illness or injury:					
Safety sensitive function? Y or N Describe:					
Apparent effects of drug/alcohol use:		( ) None	( ) Slight	( ) Obvious	( ) Extreme
Additional Comments:					

Supervisor: _____ Witnesses: _____

Nature: _____ _____

Date/Time: _____ _____

Covered Job Classifications for the Drug & Alcohol Testing Policy

Airport Maintenance Technician
Assistant Plant Operator *
Arborist II
Arborist I
Construction & Maintenance Worker I
Construction & Maintenance Worker II
Construction & Maintenance Worker III
Electrical Repairer
Equipment Operator
Field Supervisor
Mechanic II
Nursery Worker II
Senior Skilled Maintenance Repairer
Sewage Plant Operator I *
Skilled Maintenance Repairer
Supervisor of Operations - Airport
Waste Collector
Water Equipment Operator
Water Utility Mechanic II
Water Construction & Maintenance Worker II

* All employees within these job classes may not be subject to the Drug and Alcohol Testing Policy as their job duties do not warrant coverage.

This list is for informational purposes, and is subject to change by action of the City.

11.09	Drug and Alcohol Testing Administration Modification	
Issue Date: April 8, 1996	Revision Update(s):	Total Pages: 1
Policy Source: Personnel Department		
Special Instructions:		

POLICY

1. All City employees possessing a Commercial Driver's License will be subject to both drug and alcohol testing as required under the City's guidelines for random testing. Testing shall be required regardless of whether or not an employee is performing safety sensitive job function(s).

2. "City employees", as stated in #1 above, shall be defined as those non-represented and represented employees possessing a CDL.

3. The Personnel Department shall continue to administer the drug and alcohol testing on an unannounced random basis as before.

4. The provisions of this Agreement shall commence on Wednesday, May 1, 1996.