

**TOWN OF VIENNA, VIRGINIA
ADMINISTRATIVE REGULATIONS**

Subject:

**ALCOHOL & CONTROLLED
SUBSTANCES TESTING
CDL HOLDERS**

Regulation No:

2.34

Effective Date:

September 15, 2010

Supersedes: December 8, 1995

I. PURPOSE

To provide procedures for alcohol and controlled substances testing of all Town employees and for applicants for positions where possession of a Commercial Driver's License (CDL) is required. Testing requirements herein comply with the regulations of the Federal Department of Transportation (DOT) and the Federal Highway Administration (FHWA).

II. POLICY

The Town has established an alcohol and controlled substances testing program for all employees whose duties require the possession of a CDL. The overall goals of this testing program are to ensure a safe and drug-free transportation environment, to reduce the potential for vehicle accidents and casualties and to participate with DOT and the transportation industry in efforts to eliminate illegal use or abuse of alcohol and controlled substances.

A. All Town employees who are required to possess a CDL are required to be drug and alcohol tested as stipulated in the federal regulations. This requirement includes Town employees who are required to possess a CDL in order to perform their duties.

In addition, this policy shall apply to all employees who meet the criteria established in the definition of a *safety sensitive function*. Within the Town of Vienna, these positions include, but are not limited to all Maintenance Worker I, II, III, and IV jobs wherein the individual holds a commercial driver's license, Mechanic, Senior Mechanic, Vehicle Maintenance Supervisor, Street Maintenance Supervisor, Water and Sewer Operations Supervisor, Meter Reading Supervisor, Operations Superintendent and Vehicle Maintenance Superintendent.

B. The federal laws that provide for a drug free workplace and alcohol and controlled substances testing standards are: (1) Drug Free Workplace Act of 1988 and (2) Omnibus Transportation Employee Testing Act of 1991.

C. A Town employee who performs a safety sensitive function as defined in Appendix A shall not:

1. Report for duty or remain on duty to perform a safety sensitive function while having an alcohol concentration of 0.04 or greater.
2. Drive a Town-owned vehicle within four (4) hours after using alcohol.

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3. Use alcohol for eight (8) hours following an accident or until the driver has undergone a post-accident alcohol/controlled substances test, whichever is first.
4. Operate or continue to operate a vehicle for a twenty-four (24) hour period if he or she is found to have an alcohol concentration of 0.02 or greater, but less than 0.04.
5. Refuse to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements.
6. Report for duty or remain on duty requiring the performance of a safety sensitive function when the driver uses any controlled substances except when 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 operate the vehicle safely.

Drivers of commercial motor vehicles taking over-the-counter or prescribed medications shall be responsible for knowing the effects of such medication. They shall not drive or perform other duties under the influence of prescription or over-the-counter drugs that could impair their ability to perform their duties safely. They shall be responsible for not working when under prescribed or over-the-counter medication which might impair their ability to perform their duties safely.

7. Report for duty, remain on duty or drive a Town vehicle if the driver tests positive for controlled substances.

D. The only exception to the foregoing pertains to employees who are **not on an official on-call roster** and who are contacted and requested to come to work outside their normal duty hours to perform emergency or unscheduled work. If the employee reports that he/she has consumed any substance that may affect the employee's ability to perform safety sensitive functions, the supervisor shall not require the employee to report to work to perform safety sensitive functions.

If the employee is required to report to work to perform non-safety sensitive functions, the employee will not be disciplined for off-duty consumption of alcohol. In the event an employee continues not to be available when called for duty after hours due to alcohol consumption and supervision has normally advised the employee that extra duty hours will be required from time to time, disciplinary action will be taken up to and including termination for the employee's inability to perform assigned job duties.

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III. DEFINITIONS FOR PURPOSES OF THIS REGULATION

Accident - Any incident in which:

1. There is a loss of human life; or
2. The driver receives a citation under State or local law for a moving violation arising from the accident; and
 - a. Any involved vehicle sustains disabling damage (the vehicle cannot be driven from the scene or would be damaged further if driven); or
 - b. Anyone receives bodily injury which requires immediate medical attention away from the accident scene.

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

Alcohol Concentration (or Content) - 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 consumption 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 (EBT).

Certified Laboratory - A laboratory which has been certified by the State of Virginia and by the U.S. Department of Health and Human Services to perform job-related forensic testing for drugs and alcohol.

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

1. has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. has a gross vehicle weight rating of 26,001 or more pounds; or

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

Confirmatory Test - (a) for alcohol testing, 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; (b) for controlled substances testing, means a second analytical procedure to identify the presence of a specific drug or metabolite 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.

Controlled Substances - Marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamine)

Driver - Any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle. This includes, but is not limited to: full-time, part-time, and limited term employees. In every position requiring a CDL, the employee is either driving or in a state of readiness and on-call if required to drive.

Drug/Alcohol Test - A procedure to determine if a blood, breath, or urine specimen contains drugs, alcohol, or the metabolites of drugs or alcohol.

Employee Assistance Program (EAP) - A program for employees which offers confidential assessment, counseling services and referral to other resources for treatment. Employees do not pay any fee for the services of EAP counselors. Employees may obtain EAP services on their own or be referred to the EAP by their supervisor. The EAP serves as the Town's Substance Abuse Professional (SAP).

Employer - Any person (including the United States, a State, the District of Columbia, or a political subdivision of a State) who owns or leases a commercial motor vehicle, including agents, officers, and representatives of the employer.

Evidential Breath Testing Device (EBT) - A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath. The device must be placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices".

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.

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Performing (A Safety-Sensitive Function) - Any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive function.

Omnibus Transportation Employees Testing Act of 1991 - The federal law that requires drug and alcohol testing of drivers in various industries. By the authority of this Act, the Office of the Secretary of Transportation, U.S. Department of Transportation, on February 15, 1994, published rules requiring employers to test for the illegal use of alcohol and controlled substances for drivers who are required to obtain commercial drivers' licenses. Compliance with the law commenced January 1, 1995.

Reasonable Suspicion - The evidentiary standard which must be met before a "for cause" controlled substance/alcohol test is required of an employee in a safety-sensitive driving position. In order to meet this standard, the appointing authority or designee must determine, based on specific objective facts and reasonable inferences drawn from those facts, that there is a reasonable basis to suspect that a test would show the employee has a controlled substance/alcohol in his/her body.

Refusal to Submit (to an alcohol or controlled substance test) - A driver will be considered to have refused to submit to the test if he/she (a) 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; (b) 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; or (c) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Function - Any of those on-duty functions as listed below:

1. All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time loading or unloading a commercial motor 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.

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6. All time spent performing the driver requirements associated with an accident.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening Test (aka 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.

Split Sample Testing - In controlled substance testing, division of the urine specimen into two separate containers, the primary specimen being used for the screening test and the split specimen being used if the employee requests a second test after being informed of a verified positive screening test.

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 and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

IV. TESTS REQUIRED

Employees who as part of their normal duties are required to possess a CDL shall be subject to pre-employment, random, reasonable suspicion, post-accident, return-to-duty, and follow-up testing for alcohol and controlled substances. All test results must be in compliance with Section VII of this procedure. Testing will be conducted under the following circumstances:

A. PRE-EMPLOYMENT TESTING

1. The top applicant(s) for jobs where possession of a CDL is required must undergo testing for alcohol and controlled substances and the results must be evaluated prior to hire or prior to the first day in a duty status in a safety sensitive function.
2. If the applicant is a current employee seeking promotion, demotion or transfer to a position or assignment requiring a CDL, testing must occur before the employee assumes the new position or assignment.
3. Applicants offered positions requiring a CDL must give written consent to permit the Town to contact all previous employers over the past two years to:

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- a. determine if the applicant has participated in alcohol and/or controlled substance testing programs that meet DOT guidelines;
- b. obtain the date last tested;
- c. verify that the employee has not refused to submit to an alcohol or controlled substance test;
- d. obtain the results of any controlled substances or alcohol tests administered in the previous six months; and
- e. obtain the record of any violations of the alcohol or controlled substances rules.

Whenever possible, departments will obtain the applicant's signature on the release form and send the form to the Administrative Services Office for processing.

4. Offers of employment for positions requiring possession of CDL's are contingent upon the applicant:
 - a. demonstrating an alcohol test with an indication of less than 0.02 and a verified negative controlled substances test; and
 - b. reports from previous employers (Section IV,A,3), Tests Required, indicating compliance with testing programs and DOT regulations.

Applicants who have met the requirement of Section IV, A, above, may perform safety sensitive functions for a period of fourteen (14) days prior to receipt of reports from previous employers. After fourteen (14) days, the employee must be removed from safety sensitive duties until the information is received.

B. POST-ACCIDENT TESTING

1. Applicants offered positions, as well as current employees, must provide **advanced** written consent for post-accident testing and release of test results to the Town.
2. If a CDL employee is injured in an accident and is unable to provide a breath sample or urine specimen, the Town will obtain hospital reports, if available, that would indicate alcohol or controlled substances use.

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3. As soon as possible following an accident involving a commercial vehicle, the Town driver(s) involved in the accident must be tested for alcohol and controlled substances. This includes events described Section III, Definitions, Accident plus under all conditions except unavoidable accidents.

4. An alcohol test under this section should be administered within two (2) hours following the accident, but in no case more than eight (8) hours after the accident.

5. A controlled substances test under this section must be administered within thirty-two (32) hours following the accident.

6. A driver who is subject to post-accident testing shall remain readily available for such testing. If the driver is not available for any reason, except temporarily leaving the accident scene to obtain assistance in responding to the accident or obtaining necessary emergency medical care, he or she will be deemed to have refused to submit to testing. Without supervisor approval, an employee may not ingest food or drink during the period prior to testing.

7. Supervisors are responsible for providing written documentation to include the amount of time taken between the accident and testing and the reason for the delay any time alcohol testing has not been performed within two (2) hours and drug testing has not been performed within thirty-two (32) hours and forward the information to the Administrative Services Office.

C. RANDOM TESTING

A designated percentage of CDL holders will be subject to random alcohol and controlled substances testing each year. The minimum annual percentage is 25% of the average number of CDL holder positions for alcohol testing and 50% of the average number of CDL holders for controlled substance testing. Selection of CDL holders to be tested shall be done by a scientific validated random method which ensures that each CDL holder has an equal chance of being selected each time that selections are made.

1. Random tests will be conducted periodically on an unannounced basis throughout the calendar year.

2. Upon notification of random selection for testing, a CDL holder will be required to report immediately to the collection site to provide the required urine and/or breath sample. Refusal to, or delay in, reporting immediately and directly to the test site will be considered a refusal to test and the employee may be subject to discipline, up to and including discharge, for failure to take a screening. The employee is expected to return to the work site immediately

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after leaving the collection site unless instructed otherwise. Actual time involved in transportation to and from the test site as well as the time for the actual test is considered time worked. At the point the Medical Review Officer (MRO) or Breath Alcohol Technician (BAT) advises the Town that an employee's test is positive, the employee will immediately be placed on administrative leave without pay.

3. Random tests for the presence of alcohol shall be conducted immediately before, during, or immediately after the employee's scheduled shift in a safety sensitive position. Random tests for the presence of controlled substances can be done at any time.

4. CDL holders who refuse to provide a urine or breath sample, fail to proceed immediately to the collection site or attempt to tamper with or provide an adulterated sample will be removed immediately from all safety sensitive duties and shall be subject to disciplinary action, to include but not be limited to transfer or demotion into a non-safety sensitive position or dismissal.

5. Any employee who, after being notified to report for random testing, voluntarily acknowledges a chemical dependency shall be transported by a supervisor to the collection site for testing.

The employee must be removed from safety sensitive functions until the employee is evaluated by the Employee Assistance Program (EAP) and the employee complies with the guidelines for return to duty listed in Section VIII, Positive Test Results. The employee's job security and/or promotional opportunities will not be jeopardized as a result of such a request for help. However, in order to preserve employment, the employee must comply with recommendations of the EAP regarding treatment and referral.

D. REASONABLE SUSPICION TESTING

1. CDL holders shall be required to submit immediately to an alcohol and/or a controlled substances test when a supervisor trained to recognize signs of alcohol use or controlled substance use observes behavior or appearance that is characteristic of alcohol and/or controlled substances use.

Whenever possible, the Town recommends that a witness (another trained supervisor) should be found before confronting the impaired employee. The witness should make independent notes on the employee's condition and the effect of the impairment on job performance.

2. In the event that an employee suspects that a supervisor is impaired, the employee

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should locate another supervisor and notify him/her of their suspicions. It is then the responsibility of that second supervisor to make notes on the condition of the individual and effect of the impairment on job performance. In the event that another supervisor cannot be located, the employee should contact the Administrative Services Office. Appropriate action will then be taken in the same manner as for all other CDL holders.

3. If a supervisor determines that reasonable suspicion exists, the employee shall be directed to submit to testing and be transported by the supervisor to the test site where the tests will be conducted. An employee directed to submit to an alcohol or drug test shall be informed of the reason(s) for the test and the fact that refusal to provide the specimen constitutes failure to obey a direct order and shall be subject to disciplinary action to include but not be limited to transfer or demotion into a non-safety sensitive position or dismissal. The supervisor shall document the information communicated to the employee and the evidence which constituted reasonable suspicion within 24 hours of the observed behavior or report of the incident or before the results of the tests are released, whichever is earlier. All testing will be administered by an official from a designated medical facility in accordance with established medical standards.

4. The employee should be placed on paid administrative leave while undergoing a test for drugs or alcohol and should not be allowed to resume safety sensitive functions until the MRO or BAT has verified a negative result. The department may temporarily assign the employee to a non-safety sensitive function or leave the employee on paid administrative leave until test results are received. In the event the test is positive, the leave time will be coded unpaid.

5. The employee who refuses to be tested will be subject to disciplinary action for failure to comply with supervisory instructions and this policy.

6. In the event that an employee is using, distributing, selling or possessing illegal drugs on the job, the Vienna Police Department must be called to the scene. The above action, as well as the consumption of alcohol while on duty, may be grounds for dismissal.

7. Any employee who voluntarily acknowledges a chemical dependency may not preserve employment and avoid discipline for violation of this regulation by participating in a treatment program unless he or she does the following:

- a. Volunteers for such treatment prior to being confronted by a manager or supervisor with the violation of this regulation.
- b. Reports to the EAP (after being referred by the supervisor) for assessment,

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treatment and referral. The employee successfully adheres to requirements of and completes the prescribed treatment program.

c. Does not hereafter engage in conduct violating this regulation regarding use of alcohol, illegal drugs and unauthorized prescription drugs. The employee must (1) cooperate fully with the EAP and receive recommended treatment and (2) comply with the procedures listed under Section VIII, Positive Test Results.

d. In the case of employees returning to work after successful completion of a treatment program, the Town reserves the right to test for alcohol and/or controlled substances on a random or periodic basis in accordance with the procedures for return to duty in Section VIII of this regulation.

e. The confidentiality of this information will be respected and the employee's job security and/or promotional opportunities will not be jeopardized as a result of such a request for help.

E. RETURN TO DUTY TESTING AND FOLLOW-UP TESTING

Before a CDL holder returns to duty in a safety sensitive position after testing positive or reporting a problem with alcohol or controlled substance, the CDL holder must comply with Section VIII of the procedures. After return to duty, the employee is subject to follow-up testing as stated in Section VIII.

V. REFUSAL TO TAKE ALCOHOL AND/OR CONTROLLED SUBSTANCES TEST

A. An applicant who refuses to be tested will be disqualified for the position for which he/she applied.

B. A refusal from an employee to be tested will be considered the equivalent of a positive test result and constitute grounds for dismissal.

Such employees will be removed immediately from all safety sensitive duties and will be placed on leave without pay until a decision has been made regarding disciplinary action including but not limited to transfer or demotion into a non-safety sensitive position or dismissal.

VI. TESTING PROCEDURES

A. All alcohol and controlled substances testing shall be performed by a laboratory approved by the National Institute of Drug Abuse (NIDA).

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- B. Tests shall be conducted as specified in DOT regulations, Title 49 CFR Part 40.
- C. Under these regulations, testing will be conducted for alcohol and five specific drugs: Marijuana; Cocaine; Opiates; Amphetamines; and Phencyclidine (PCP).
- D. All testing will be conducted from urine specimens or breath tests administered by qualified contractor personnel. Urine specimen collection procedures require:
1. a designated collection site;
 2. security of the collection site;
 3. chain-of-custody documentation;
 4. privacy during collection;
 5. integrity and identity of specimen; and
 6. transportation of specimen to a designated laboratory.
- E. Alcohol Breath Testing requires elements listed in D above as well as the use of an appropriately certified Evidential Breath Testing (EBT) device operated by a certified Breath Alcohol Technician (BAT).
- F. Contractor personnel and laboratories used for the analysis of the specimens must meet the federal requirements set forth by NIDA and follow the guidelines established by the U. S. Department of Health and Human Services (DHHS).
- G. Upon entering the test location, the employee will be asked to provide positive identification with photograph to the BAT. The employee and the BAT will complete the Breath Testing Form distributed at the test site (Attachment A) and follow required testing procedures. Providing incomplete information, engaging in conduct that obstructs the testing process, or failing to sign the required certifications may be regarded as a refusal to take the test and may constitute just cause for dismissal from employment. At the completion of the screening test, the results will be shown to the employee. If the result of the screening test shows evidence of detectable alcohol concentration, a confirmation test will be performed within specified time limits. If detectable amounts of alcohol of 0.02 blood alcohol content (BAC) or higher are verified in the confirmation test, the employee will be in violation of this regulation.

Prior to return to duty, the CDL holder who tests positive must comply with the guidelines in Section VIII for return to duty.

At the conclusion of testing, copies of the BAT form will be retained by the testing location, provided to the employee, and transmitted in a confidential manner to the Administrative Services Office.

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If a screening or confirmation test cannot be completed, or an event occurs that would invalidate the test, the BAT will conduct a new screening or confirmation test as applicable.

For controlled substances testing, employees report to a specified test location where a urine sample is collected and subject to the split sample testing procedure. If the employee is unable to provide the specified quantity of urine, the employee will be instructed to drink not more than 24 ounces of fluid and wait up to two (2) hours to provide another sample. If a complete sample still cannot be provided, the employee will return to the work site, but will not be allowed to perform safety sensitive functions until the Town has consulted with the Medical Review Officer (MRO). The information about the incomplete test will be sent to the MRO. The MRO will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test; then the MRO will report the findings in writing to the Administrative Services Office.

VII. TEST RESULTS

A. ALCOHOL TEST RESULTS

1. If the results of the first test are negative, the BAT will inform the employee of the **NEGATIVE** report and no further testing of the specimen will be conducted. The BAT shall forward the results of all alcohol tests to the Administrative Services Office.
2. If the result of the screening test is an alcohol concentration of 0.02 or greater, the BAT shall perform a confirmatory test within twenty (20) minutes, but not less than fifteen (15) minutes, after the completion of the screening test.
3. If the result of a BAC test, **is equal to or exceeds 0.02, but less than 0.04**, the employee and his/her supervisor will be notified. The CDL holder shall not be permitted to perform safety sensitive functions for 24 hours following the administration of the tests or until the start of the driver's next regularly scheduled workday, whichever is later. The employee may perform non-safety sensitive duties, if available, or placed on administrative leave without pay. Every effort must be made to discourage the employee from driving any personal vehicles.
4. If the result of a BAC test is **0.04 or greater**, the employee and his/her supervisor will be notified and the employee will be removed from safety sensitive functions. The employee shall be immediately suspended without pay from all duties until the employee is evaluated by the EAP and the employee complies with the guidelines for return to duty lists in Section VIII. Every effort must be made to discourage the employee from driving any personal vehicles. If the supervisor is unable to drive the employee home after the exam, he/she should try to

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contact a family member, friend, or co-worker to drive the employee home. Any expenses incurred on the part of the co-worker are reimbursable by the Town. The employee is subject to the following consequences:

- a. The employee shall be evaluated by a Substance Abuse Professional (SAP) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse. The employee must satisfactorily complete the course of action prescribed by the SAP.
- b. Before a CDL holder can return to duty requiring performance of a safety-sensitive function, he/she shall undergo a return-to-duty alcohol test with results indicating a breath alcohol level of less than 0.02.
- c. The employee shall be subject to unannounced follow-up alcohol testing. The number and frequency of such follow-up testing shall be as directed by the SAP and consist of at least six (6) tests in the first twelve (12) months.

5. MRO evaluation is not required for BAC tests.

B. CONTROLLED SUBSTANCES TEST RESULTS

1. The driver will urinate into a collection cup or a specimen bottle providing at least a forty-five (45) ml. urine specimen. The collector will subdivide the urine specimen into two bottles in front of the driver. The two bottles of the driver's urine will be sealed and labeled by the collector and initialed by the employee before the collector packages the two bottles for shipment to the laboratory.
2. If the result of the first test is **NEGATIVE**, the testing laboratory will forward the results to the MRO and no further testing of the specimen will be conducted. The MRO will "administratively review" the records and report the results to the Administrative Services Office.
3. If the result of the first test is **POSITIVE**, a second, confirmative test will be performed. The laboratory will forward the results to the MRO for review.
4. The MRO reviews and interprets confirmed **POSITIVE** test results. The MRO shall examine alternate medical explanations for any **POSITIVE** test results. This may include, but is not limited to, conducting a medical interview and review of the employee's medical history, or review of any other relevant biomedical factors. If the first sample is suspected of

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adulteration, the MRO shall recommend that the Town obtain and analyze another sample from the employee.

5. The MRO shall afford the employee the opportunity to discuss a **POSITIVE** test result before reporting the result to the Administrative Services Office.

The MRO shall inform the CDL holder of his or her right to request that the split specimen be tested in a different NIDA approved laboratory for presence of the drug(s) for which a positive result was obtained. The MRO shall honor the driver's request if it is made with seventy-two (72) hours of the driver having been informed of a verified positive test result.

6. After contacting the driver, but in no case more than three (3) business days after completing the review, the MRO shall provide the Administrative Services Office with the following information:

- a. The controlled substances test being reported was conducted in accordance with DOT/FHA Regulations 49 CFR Part 40, Alcohol/Drug Procedures;
- b. The name of the driver for whom the test results are being reported;
- c. The reason for the test (e.g., pre-employment, random, post-accident, etc.);
- d. The date and location of the test collection;
- e. The identities of the persons or entities performing the collection, analysis of specimens and serving as the MRO for the specific test; and
- f. The verified results of a controlled substances test, either positive or negative, and, if positive, the identity of the controlled substance(s) for which the test was verified positive.

7. If the MRO is not able to contact the CDL holder, the MRO shall report to the Administrative Services Office that he or she has made and documented all reasonable efforts to contact the driver. The Administrative Services Office shall, as soon as practicable, ask the appropriate department director or his/her designee to direct the employee to contact the MRO before again driving a Town Commercial Motor Vehicle (CMV), or within twenty-four (24) hours, whichever is earlier.

8. Without communicating with the CDL holder, the MRO may verify a test as positive to the Administrative Services Office if:

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- a. The employee declines the opportunity to discuss the results of the test with the MRO; or
- b. More than five (5) days have passed since the driver was instructed to contact the MRO; or
- c. Other circumstances specified in the DOT regulations permit.

The Administrative Services Office will so notify the appropriate department director.

9. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO shall report the results as **NEGATIVE**.

VIII. POSITIVE TEST RESULTS

A. In the event of a positive alcohol or controlled substances test result, the employee may be assigned to a non-safety sensitive position or may be placed on personal leave or leave without pay until a determination is made regarding discipline and/or treatment. The supervisor must discuss individual cases with staff from the Administrative Services Office.

B. An employee who is relieved of his or her duties should be discouraged from operating a personal motor vehicle. Every attempt should be made to locate a family member or friend to transport the employee home. If this is unsuccessful, a co-worker may drive the employee or a taxi may be called. Any expenses incurred on the part of the co-worker are reimbursable by the Town.

C. A thorough review of the circumstances will be conducted prior to taking disciplinary action. The disciplinary action taken will depend upon the severity of the offense and the employee's work history.

D. Prior to returning to safety sensitive duties, the CDL holder must:

- 1. Undergo a return-to-duty alcohol and/or controlled substances test, as applicable. An alcohol test must indicate an alcohol concentration of less than 0.02 and a controlled substances test must indicate a verified negative result.
- 2. Be evaluated by the Town SAP and participate in any treatment program prescribed.

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3. Be re-evaluated by the SAP after completion of the treatment program. The SAP will provide verification of professional evaluation and the employee's participation, if required, in any recommended rehabilitation program.

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E. FOLLOW-UP TESTING

1. Following an employee's return to duty after a positive alcohol or controlled substances test result, or a determination that a CDL holder is in need of assistance in resolving problems associated with alcohol abuse and/or use of controlled substances, the CDL holder shall be subject to unannounced follow-up alcohol and/or controlled substances testing. A **minimum** of six (6) controlled substances and/or alcohol tests will be conducted during the first twelve (12) months following the employee's return to duty or until authorized by a SAP, whichever is the longer period of time. Both tests for alcohol and controlled substances may be required if recommended as a part of the prescribed follow-up by the SAP.

2. Alcohol and controlled substances follow-up testing shall be performed immediately before, during, or immediately after the driver's scheduled shift in a safety-sensitive position.

IX. TEST RECORDS

A. The records pertaining to the alcohol and controlled substances testing program shall be maintained by the Administrative Services Office. Access to these records shall be limited to designated staff in the Administrative Services Office and other "need-to-know" staff.

Both positive and negative drug test information shall be maintained by the Administrative Services Office. **POSITIVE** drug test results must be maintained for five (5) years in the employee's personnel record. **NEGATIVE** test results shall be maintained separate from employee personnel records by the Administrative Services Office for a minimum of twelve (12) months.

B. Records and report data shall be maintained as specified in DOT regulations, Title 49 CFR, Part 382.

C. Except as required by law or expressly authorized or required by DOT regulations, Title 49 CFR, Part 382, test information maintained under the alcohol and controlled substances testing program will be released only to the CDL holder, on written request, or to an identified person as directed by the specific written consent of the driver authorizing the release of the information.

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X. DRIVER INFORMATION AND TRAINING

A. Each employee covered by this policy shall receive a copy of this Administrative Regulation which complies with Title 49 CFR, Part 382, and shall be required to sign a receipt that he or she has received these materials.

Every employee is expected to be aware of the regulation and its requirements and to abide by the requirements. Division superintendents have the responsibility to ensure that all employees are made aware of this regulation. In addition, division superintendents should schedule annual meetings with their respective staffs to review the provisions and requirements of this regulation.


B. All supervisors of employees covered by this policy shall receive training on alcohol misuse and controlled substances use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

XI. PROGRAM ADMINISTRATION

This program will be administered through the Administrative Services Department with the Administrative Services Director responsible for its operation.

XII. ATTACHMENTS

Employment Agreement for Holders of Commercial Drivers License (AS 2.34-1)
Records Release Authorization Form (AS 2.34-2)

<i>Signature of Town Manager:</i>	<i>Date:</i>
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